2019 HTC
Full Application

Part 1 Tab 1a

Application Certification

(Part 1 Tab 1b required for 4%Tax Exempt Bond Developments only)
2019 Multifamily Uniform Application Certification

Development Name:  Everly Plaza

The undersigned hereby makes an Application to Texas Department of Housing and Community Affairs. The Applicant affirms that they have read and understand, as applicable, Title 10, Texas Administrative Code ("10 TAC"), Chapters 1, 8, 11, 12, and 13. Specifically, the undersigned understands the requirements under 10 TAC §11.101 of the Qualified Allocation Plan ("QAP"), Site and Development Requirements and Restrictions, as well as Internal Revenue Code Section 42. By signing this document, Applicant is affirming that all statements and representations made in this certification and application, including all supporting materials, are true and correct under penalty of law, including Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification and subject to criminal penalties as defined by the State of Texas. Applicant is also affirming understanding of 10 TAC §11.1(i) of the QAP, relating to Public Information Requests, specifically that the filing of an Application with the Department is deemed as consent to release any and all information contained therein.

The undersigned further certifies that he/she has the authority to execute this certification.

Everly Plaza, LLC

By: ____________________________

Signatures of Authorized Representative

Lisa M. Stephens

Printed Name

President

Title

2/13/2019

Date

Sworn to and subscribed before me on the 14th day of February, 2019

by Lisa M. Stephens

(Personalized Seal)

KATHERINE E JOHNSON
Notary ID # 130604693
My Commission Expires March 29, 2020

Notary Public, State of Texas

County of Tarrant

My Commission Expires:

March 29, 2020

Date

2/11/2019
2019 HTC
Full Application

Part 1 Tab 2

Development Owner Certification, Acknowledgement, and Consent
The Certification, Acknowledgement, and Consent of Development Owner is included behind this tab.

**The form should be executed, notarized, and included in the full application document.**

The form for the certification will be posted to the Department's website at [http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm](http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm)

Please indicate whether any of the following required disclosure on the Certification, Acknowledgement, and Consent of Development Owner (to be used for data capture for application processing):

- [ ] 10 TAC §11.101(a)(2) - Undesirable Site Features
- [ ] 10 TAC §11.101(a)(3) - Neighborhood Risk Factors
- [ ] 10 TAC §11.202(1)(M) - Termination of Relationship in an Affordable Housing Transaction
- [ ] 10 TAC §11.202(1)(N) - Voluntary Compliance Agreement
  (or any similar agreement resulting from negotiations regarding noncompliance)
- [ ] 10 TAC §11.901(16) - Unused Credit or Penalty Fee

Note: If any disclosures are indicated regarding 10 TAC §11.101(a)(3), submit the Neighborhood Risk Factors Report Packet (NRFR) located on the Department's website:

[http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm](http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm)
Development Owner Certification, Acknowledgement and Consent

All defined terms used in this certification and not specifically defined herein have the meanings ascribed to them in Chapter 2306 of the Tex. Gov’t Code, §42 of the Internal Revenue Code, and § 11.1(d) of the Qualified Allocation Plan.

The undersigned, in each and all of the following capacities in which it may serve or exist -- Applicant, Development Owner, Developer, Guarantor of any obligation of the Applicant, and/or Principal of the Applicant and hereafter referred to as “Applicant” or “Development Owner,” whether serving in one or more such capacities, is hereby submitting its Application to the Department for consideration of Department funding.

Applicant hereby represents, warrants, acknowledges and certifies to the Department and to the State of Texas that:

The Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or, if no local building codes are in place, then to the most recent version of the International Building Code.

This Application and all materials submitted to the Department constitute records of the Department subject to Tex. Gov’t Code, Chapter 552. All persons who have a property interest in the Application, along with all plans and third-party reports, acknowledge that the Department may publish them on the Department’s website, release them in response to a request for public information, and make other use of the information as authorized by law. This includes all Third Party reports, which will be posted in their entirety on the Department’s website, as they constitute a part of the Application. The Application is in compliance with all requirements related to the eligibility of an Applicant, Application and Development as further defined in 10 TAC §§11.101 and 11.202 of the Qualified Allocation Plan. Any issues of non-compliance have been disclosed.

All representations, undertakings and commitments made by Applicant in the Application process for Development assistance expressly constitute conditions to any Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment for such Development which the Department may issue or award, and the violation of any such condition shall be sufficient cause for the cancellation and rescission of such Commitment, Determination Notice, Carryover Allocation, or Direct Loan Award Letter, Commitment or Contract by the Department. To the extent allowed under Tex. Gov’t Code §2306.6720, if any such representations,
undertakings and commitments concern or relate to the ongoing features or operation of the Development, they shall each and all be enforceable even if not reflected in the Land Use Restriction Agreement. All such representations, undertakings and commitments are also enforceable by the Department and the residents of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the Land Use Restriction Agreement.

When providing a Pre-Application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant’s competitive posture, an Applicant must disclose in accordance with the Department’s rules those aspects of the Development that may not have been determined or selected or may be subject to change, such as changes in the amenities ultimately selected and provided.

The Development Owner is and will remain in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), the Fair Housing Amendments Act of 1988 (42 U.S.C. §§3601 et seq.), the Civil Rights Act of 1964 (42 U.S.C. §§2000a et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. §§701 et seq.), Fair Housing Accessibility, the Texas Fair Housing Act; and the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, and the Texas Accessibility Standards. (§2306.257; §2306.6705(7))

The Development Owner has read and understands the Department’s fair housing educational materials posted on the Department’s website as of the beginning of the Application Acceptance Period.

All Applications proposing Rehabilitation (including Reconstruction) will be treated as substantial alteration, in accordance with 10 TAC Chapter 1, Subchapter B.

The Development Owner will establish a reserve account consistent with Tex. Gov’t Code §2306.186, and as further described in §11.302(d)(2)(I) of the Qualified Allocation Plan, relating to Replacement Reserve Account requirements.

The Development will operate in accordance with the applicable compliance monitoring requirements found in Chapter 10, Subchapter F.

The Development Owner agrees to implement a plan to use Historically Underutilized Businesses (HUB) in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas. The Development Owner will be
required to submit a report of the success of the plan as part of the cost certification documentation, in order to receive IRS Forms 8609 or, if the Development does not have Housing Tax Credits, release of retainage.

The Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as further described in Tex. Gov’t Code §2306.6734.

The Development Owner will specifically market to veterans through direct marketing or contracts with veteran’s organizations. The Development Owner will be required to identify how they will specifically market to veterans and report to the Department in the annual housing report on the results of the marketing efforts to veterans. Exceptions to this requirement must be approved by the Department.

Accessibility Requirements

The Development Owner understands that in accordance with Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8, if the Development includes the New Construction or substantial rehabilitation of multifamily units (4 or more units per building), at least five percent (5%) of all dwelling units will be designed and built to be accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise compliant with the 2010 ADA Standards with the exceptions listed in “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities” (Federal Register 79 FR 29671) meets this requirement. In addition, at least two percent (2%) of all dwelling units will be designed and built to be accessible for persons with hearing or vision impairments.

The Development Owner understands that regardless of building type, all Units accessed by the ground floor or by elevator (“affected units”) must meet the requirements at 10 TAC §11.101(b)(8)(B).

The Development Owner certifies that all accessible Units under 10 TAC Chapter 1, Subchapter B, will be dispersed throughout the Development.

The Development Owner certifies that representations made in the Architect Certification are true and correct and understands that the Department evaluation of architectural drawings may not include an assessment of accessibility. The Development Owner is responsible for any modifications necessary to meet accessibility requirements identified at the final construction inspection.
Unused Credit or Penalty Fee (select one box as applicable)

_____ The Applicant returned a full credit allocation after the Carryover Allocation deadline required for that allocation and is subject to the Unused Credit or Penalty Fee pursuant to §11.901(16) of the Qualified Allocation Plan.

____ X The Applicant certifies that no disclosure regarding §11.901(16) of the Qualified Allocation Plan is necessary.

Termination of Relationship in an Affordable Housing Transaction (select one box as applicable)

_____ The Applicant has disclosed, in the Application, any Principal or any entity or Person in the Development ownership structure who was or is involved as a Principal in any other affordable housing transaction that has terminated, voluntarily or involuntarily, within the past 10 years or plans to or is negotiating to terminate their relationship with any other affordable housing development. The disclosure identified the person or persons and development involved, the identity of each other development and contact information for the other Principals of each such development, a narrative description of the facts and circumstances of the termination or proposed termination, and any appropriate supporting documents. The Applicant has read and understands §11.202(1)(M) of the Qualified Allocation Plan related to such disclosure.

____ X The Applicant certifies that no disclosure regarding §11.202(1)(M) of the Qualified Allocation Plan is necessary.

Voluntary Compliance Agreement with any Governmental Agency (select one box as applicable)

_____ The Applicant has disclosed, in the Application, any Principal or any entity or Person in the Development ownership structure who was or is involved as a Principal in any other affordable housing transaction that entered into a voluntary compliance agreement (or similar agreement) with any governmental agency that is the result of negotiation regarding noncompliance of any affordable housing Development with any requirements. The disclosure identified the person or persons and development involved, the identity of each other development, contact information for the other Principals of each such development, a narrative description of the facts and circumstances of the agreement or proposed agreement, and any appropriate supporting documents. The Applicant has read and understands §11.202(1)(N) of the Qualified Allocation Plan related to such disclosure.
The Applicant certifies that no disclosure regarding §11.202(1)(N) of the Qualified Allocation Plan is necessary.

The Applicant certifies that, for any Development proposing New Construction or Reconstruction and located within the one-hundred (100) year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, the Development Site will be developed in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. The Applicant certifies that, floodplain maps will be used and the Development Site will comply with regulations as they exist at the time of commencement of construction. Applicant further certifies that, for any Development proposing Rehabilitation (excluding Reconstruction) that is not a HUD or TRDO-USDA assisted property, the Development Site is not located in the one-hundred year floodplain unless the existing structures already meet the requirements for New Construction or Reconstruction, as certified to by a Third Party engineer, or unless the state or local government has undertaken and can substantiate sufficient mitigation efforts and such documentation is submitted in the Application.

Undesirable Site Features (select one of the boxes as applicable)

- The Development is not located in an area with undesirable site features as further described in §11.101(a)(2) of the Qualified Allocation Plan.
- The proposed Development is Rehabilitation (excluding Reconstruction) with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (“VA”) and an exemption was requested prior to the filing of an Application or is being requested with the Application in accordance with §11.101(a)(2) of the Qualified Allocation Plan.
- The proposed Development is Historic Preservation pursuant to §11.9(e)(6) of the Qualified Allocation Plan, is located in an area with an undesirable site feature and an exemption was requested prior to the filing of an Application or is being requested with the Application.
- The proposed Development is New Construction, is located in an area with an undesirable site feature and a copy of the local ordinance that regulates the proximity of such feature to a multifamily development is included in the Application.
- The proposed Development is located in an area with an undesirable site feature and mitigation to be considered by staff and the Board is included in the Application.
Neighborhood Risk Factors *(select one of the main boxes as applicable)*

X The Development Owner certifies that the Development is not located in an area with any of the neighborhood risk factors described in §11.101(a)(3) of the Qualified Allocation Plan and that no disclosure is necessary;

X The Development Owner certifies that the Development is located in an area with the following neighborhood risk factors and the Neighborhood Risk Factors Report is submitted with the Application (select all that apply):

- in a census tract with a poverty rate above 40% for individuals (or 55% for Developments in regions 11 and 13);
- in a census tract (or for any adjacent census tract with a boundary less than 500 feet from the proposed Development Site that is not separated from the Development Site by a natural barrier such as a river or lake, or an intervening restricted area, such as a military installation) in an Urban Area and the rate of Part I violent crimes is greater than 18 per 1,000 persons (annually) as reported on neighborhoodscout.com;
- is located within 1,000 feet of a blighted or abandoned area as further described in §11.101(a)(3)(B)(iii) of the Qualified Allocation Plan;
- is located in the attendance zones of an elementary, middle, or high school that does not have a 2018 Met Standard rating by the Texas Education Agency, unless the school is “Not Rated” because it meets the TEA Hurricane Harvey Provision, in which case the 2017 rating will apply. Elderly Developments are exempt from the requirement to disclose the presence of this characteristic.

The Development will include all of the mandatory Development amenities required in §11.101(b)(4) of the Qualified Allocation Plan at no charge to all residents (market rate and low-income) and written notice of such amenities will be provided to the residents.

The Development will satisfy the minimum point threshold for common amenities as further described in §11.101(b)(5) of the Qualified Allocation Plan. These amenities must be for the benefit of all residents (market rate and low-income), meet accessibility standards, be sized appropriately to serve the proposed Target Population, be made available throughout normal business hours, and be maintained throughout the Affordability Period. The residents must be provided written notice of the amenity elections made by the Development Owner.

The Development will meet the minimum size of Units as further described §10.101(b)(6)(A) of the Qualified Allocation Plan.
The Development (excluding competitive Housing Tax Credit Applications) will include enough unit and development construction features to meet the minimum number of points as further described in §11.101(b)(6)(B) of the Qualified Allocation Plan.

The Development (excluding competitive Housing Tax Credit Applications) will include enough resident supportive services, at no charge to the residents, be accessible to all residents (market rate and low-income), and maintained throughout the Affordability Period, to meet the required minimum number of points as further described in §11.101(b)(7) of the Qualified Allocation Plan, and offered in accordance with §10.619 of the Uniform Multifamily Rules. The tenant must be provided written notice of the elections made by the Development Owner.

If income averaging is elected, Unit Designations for all units identified as 20%, 30%, 40%, 50%, 60%, 70% and 80% Units will be dispersed across all Unit Types in a manner that does not violate fair housing laws, as required by 10 TAC §10.605(c), effective February 28, 2019.

If the Applicant is applying for Multifamily Direct Loan funds and the Development consists of New Construction, the Applicant further certifies that the Development meets the Construction Site Standards in 24 C.F.R §983.57(e).

If the Development has an existing LURA with the Department, the Development Owner will comply with the existing restrictions.

The Development Owner will comply with any and all notices required by the Department.

None of the criteria in subparagraphs (A) – (N) of §11.202(1) of the Qualified Allocation Plan, related to ineligible Applicants, applies to those identified on the organizational chart for the Applicant, Developer and Guarantor.

The individual whose name is subscribed hereto, in his or her individual capacity, on behalf of Applicant, and in all other related capacities described above, as applicable, expressly represents, warrants, and certifies that all information contained in this certification and in the Application, including any and all supplements, additions, clarifications, or other materials or information submitted to the Department in connection therewith as required or deemed necessary by the materials governing the multifamily funding programs are true and correct and the Applicant has undergone sufficient investigation to affirm the validity of the statements made. Further, the Applicant hereby expressly represents, warrants, acknowledges and certifies that the individual whose name is subscribed hereto has read and understands all the information contained in this form of the Application.

By signing this document, the undersigned, in their individual capacity, on behalf of Applicant, whether formed or to be formed, and in all other related capacities described above, is
affirming under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification, and subject to criminal penalties as defined by Tex. Penal Code §§37.01 et seq., and subject to any and all other state or federal laws regarding the making of false statements to governmental bodies or the providing of false information in connection with the procurement of allocations or awards, that the Application and all materials relating thereto constitute government documents and that the Application and all materials relating thereto are true, correct, and complete in all material respects.
By:

Lisa M. Stephens
Printed Name
President
Title
2-18-19
Date

THE STATE OF Texas
COUNTY OF Tarrant

Before me, a notary public, on this day personally appeared Lisa M. Stephens, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared and certified that the statements therein contained are true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of February 2019
Everly Plaza
Undesirable Site Features

This Development is located within 500 ft of an active railroad track. In accordance with the 2019 QAP, please find the following certification that certifies that the Applicant has engaged a qualified Third Party to perform a noise assessment and the Applicant commits to perform sound mitigation in accordance with HUD standards as if they were directly applicable to the Development.
Everly Plaza

The Development Site is located within 500 feet of active railroad tracks. Per Section 11.101(a)(2)(E)(ii), the Applicant has engaged a qualified Third Party to perform a noise assessment and the Applicant commits to perform sound mitigation in accordance with HUD standards as if they were directly applicable to the Development.

Lisa M. Stephens

0+06+7
Date
Development Owner Certification, Acknowledgement and Consent

All defined terms used in this certification and not specifically defined herein have the meanings ascribed to them in Chapter 2306 of the Tex. Gov’t Code, §42 of the Internal Revenue Code, and § 11.1(d) of the Qualified Allocation Plan.

The undersigned, in each and all of the following capacities in which it may serve or exist -- Applicant, Development Owner, Developer, Guarantor of any obligation of the Applicant, and/or Principal of the Applicant and hereafter referred to as “Applicant” or “Development Owner,” whether serving in one or more such capacities, is hereby submitting its Application to the Department for consideration of Department funding.

Applicant hereby represents, warrants, acknowledges and certifies to the Department and to the State of Texas that:

The Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or, if no local building codes are in place, then to the most recent version of the International Building Code.

This Application and all materials submitted to the Department constitute records of the Department subject to Tex. Gov’t Code, Chapter 552. All persons who have a property interest in the Application, along with all plans and third-party reports, acknowledge that the Department may publish them on the Department’s website, release them in response to a request for public information, and make other use of the information as authorized by law. This includes all Third Party reports, which will be posted in their entirety on the Department’s website, as they constitute a part of the Application. The Application is in compliance with all requirements related to the eligibility of an Applicant, Application and Development as further defined in 10 TAC §§11.101 and 11.202 of the Qualified Allocation Plan. Any issues of non-compliance have been disclosed.

All representations, undertakings and commitments made by Applicant in the Application process for Development assistance expressly constitute conditions to any Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment for such Development which the Department may issue or award, and the violation of any such condition shall be sufficient cause for the cancellation and rescission of such Commitment, Determination Notice, Carryover Allocation, or Direct Loan Award Letter, Commitment or Contract by the Department. To the extent allowed under Tex. Gov’t Code §2306.6720, if any such representations,
undertakings and commitments concern or relate to the ongoing features or operation of the Development, they shall each and all be enforceable even if not reflected in the Land Use Restriction Agreement. All such representations, undertakings and commitments are also enforceable by the Department and the residents of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the Land Use Restriction Agreement.

When providing a Pre-Application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant’s competitive posture, an Applicant must disclose in accordance with the Department’s rules those aspects of the Development that may not have been determined or selected or may be subject to change, such as changes in the amenities ultimately selected and provided.

The Development Owner is and will remain in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), the Fair Housing Amendments Act of 1988 (42 U.S.C. §§3601 et seq.), the Civil Rights Act of 1964 (42 U.S.C. §§2000a et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. §§701 et seq.), Fair Housing Accessibility, the Texas Fair Housing Act; and the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, and the Texas Accessibility Standards. (§2306.257; §2306.6705(7))

The Development Owner has read and understands the Department’s fair housing educational materials posted on the Department’s website as of the beginning of the Application Acceptance Period.

All Applications proposing Rehabilitation (including Reconstruction) will be treated as substantial alteration, in accordance with 10 TAC Chapter 1, Subchapter B.

The Development Owner will establish a reserve account consistent with Tex. Gov’t Code §2306.186, and as further described in §11.302(d)(2)(I) of the Qualified Allocation Plan, relating to Replacement Reserve Account requirements.

The Development will operate in accordance with the applicable compliance monitoring requirements found in Chapter 10, Subchapter F.

The Development Owner agrees to implement a plan to use Historically Underutilized Businesses (HUB) in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas. The Development Owner will be
required to submit a report of the success of the plan as part of the cost certification documentation, in order to receive IRS Forms 8609 or, if the Development does not have Housing Tax Credits, release of retainage.

The Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as further described in Tex. Gov’t Code §2306.6734.

The Development Owner will specifically market to veterans through direct marketing or contracts with veteran’s organizations. The Development Owner will be required to identify how they will specifically market to veterans and report to the Department in the annual housing report on the results of the marketing efforts to veterans. Exceptions to this requirement must be approved by the Department.

**Accessibility Requirements**

The Development Owner understands that in accordance with Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8, if the Development includes the New Construction or substantial rehabilitation of multifamily units (4 or more units per building), at least five percent (5%) of all dwelling units will be designed and built to be accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise compliant with the 2010 ADA Standards with the exceptions listed in “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities” (Federal Register 79 FR 29671) meets this requirement. In addition, at least two percent (2%) of all dwelling units will be designed and built to be accessible for persons with hearing or vision impairments.

The Development Owner understands that regardless of building type, all Units accessed by the ground floor or by elevator (“affected units”) must meet the requirements at 10 TAC §11.101(b)(8)(B).

The Development Owner certifies that all accessible Units under 10 TAC Chapter 1, Subchapter B, will be dispersed throughout the Development.

The Development Owner certifies that representations made in the Architect Certification are true and correct, and understands that the Department evaluation of architectural drawings may not include an assessment of accessibility. The Development Owner is responsible for any modifications necessary to meet accessibility requirements identified at the final construction inspection.
Unused Credit or Penalty Fee (select one box as applicable)

_____ The Applicant returned a full credit allocation after the Carryover Allocation deadline required for that allocation and is subject to the Unused Credit or Penalty Fee pursuant to §11.901(16) of the Qualified Allocation Plan.

X The Applicant certifies that no disclosure regarding §11.901(16) of the Qualified Allocation Plan is necessary.

Termination of Relationship in an Affordable Housing Transaction (select one box as applicable)

_____ The Applicant has disclosed, in the Application, any Principal or any entity or Person in the Development ownership structure who was or is involved as a Principal in any other affordable housing transaction that has terminated, voluntarily or involuntarily, within the past 10 years or plans to or is negotiating to terminate their relationship with any other affordable housing development. The disclosure identified the person or persons and development involved, the identity of each other development and contact information for the other Principals of each such development, a narrative description of the facts and circumstances of the termination or proposed termination, and any appropriate supporting documents. The Applicant has read and understands §11.202(1)(M) of the Qualified Allocation Plan related to such disclosure.

X The Applicant certifies that no disclosure regarding §11.202(1)(M) of the Qualified Allocation Plan is necessary.

Voluntary Compliance Agreement with any Governmental Agency (select one box as applicable)

_____ The Applicant has disclosed, in the Application, any Principal or any entity or Person in the Development ownership structure who was or is involved as a Principal in any other affordable housing transaction that entered into a voluntary compliance agreement (or similar agreement) with any governmental agency that is the result of negotiation regarding noncompliance of any affordable housing Development with any requirements. The disclosure identified the person or persons and development involved, the identity of each other development, contact information for the other Principals of each such development, a narrative description of the facts and circumstances of the agreement or proposed agreement, and any appropriate supporting documents. The Applicant has read and understands §11.202(1)(N) of the Qualified Allocation Plan related to such disclosure.
The Applicant certifies that no disclosure regarding §11.202(1)(N) of the Qualified Allocation Plan is necessary.

The Applicant certifies that, for any Development proposing New Construction or Reconstruction and located within the one-hundred (100) year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, the Development Site will be developed in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. The Applicant certifies that, floodplain maps will be used and the Development Site will comply with regulations as they exist at the time of commencement of construction. Applicant further certifies that, for any Development proposing Rehabilitation (excluding Reconstruction) that is not a HUD or TRDO-USDA assisted property, the Development Site is not located in the one-hundred year floodplain unless the existing structures already meet the requirements for New Construction or Reconstruction, as certified to by a Third Party engineer, or unless the state or local government has undertaken and can substantiate sufficient mitigation efforts and such documentation is submitted in the Application.

**Undesirable Site Features** *(select one of the boxes as applicable)*

- X The Development is located in an area with undesirable site features as further described in §11.101(a)(2) of the Qualified Allocation Plan.

- The proposed Development is Rehabilitation (excluding Reconstruction) with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (“VA”) and an exemption was requested prior to the filing of an Application or is being requested with the Application in accordance with §11.101(a)(2) of the Qualified Allocation Plan.

- The proposed Development is Historic Preservation pursuant to §11.9(e)(6) of the Qualified Allocation Plan, is located in an area with an undesirable site feature and an exemption was requested prior to the filing of an Application or is being requested with the Application.

- The proposed Development is New Construction, is located in an area with an undesirable site feature and a copy of the local ordinance that regulates the proximity of such feature to a multifamily development is included in the Application.

- X The proposed Development is located in an area with an undesirable site feature and mitigation to be considered by staff and the Board is included in the Application.
Neighborhood Risk Factors (select one of the main boxes as applicable)

X The Development Owner certifies that the Development is not located in an area with any of the neighborhood risk factors described in §11.101(a)(3) of the Qualified Allocation Plan and that no disclosure is necessary;

_____ The Development Owner certifies that the Development is located in an area with the following neighborhood risk factors and the Neighborhood Risk Factors Report is submitted with the Application (select all that apply):

_____ in a census tract with a poverty rate above 40% for individuals (or 55% for Developments in regions 11 and 13);

_____ in a census tract (or for any adjacent census tract with a boundary less than 500 feet from the proposed Development Site that is not separated from the Development Site by a natural barrier such as a river or lake, or an intervening restricted area, such as a military installation) in an Urban Area and the rate of Part I violent crimes is greater than 18 per 1,000 persons (annually) as reported on neighborhoodscout.com;

_____ is located within 1,000 feet of a blighted or abandoned area as further described in §11.101(a)(3)(B)(iii) of the Qualified Allocation Plan;

_____ is located in the attendance zones of an elementary, middle, or high school that does not have a 2018 Met Standard rating by the Texas Education Agency, unless the school is “Not Rated” because it meets the TEA Hurricane Harvey Provision, in which case the 2017 rating will apply. Elderly Developments are exempt from the requirement to disclose the presence of this characteristic.

The Development will include all of the mandatory Development amenities required in §11.101(b)(4) of the Qualified Allocation Plan at no charge to all residents (market rate and low-income) and written notice of such amenities will be provided to the residents.

The Development will satisfy the minimum point threshold for common amenities as further described in §11.101(b)(5) of the Qualified Allocation Plan. These amenities must be for the benefit of all residents (market rate and low-income), meet accessibility standards, be sized appropriately to serve the proposed Target Population, be made available throughout normal business hours, and be maintained throughout the Affordability Period. The residents must be provided written notice of the amenity elections made by the Development Owner.

The Development will meet the minimum size of Units as further described §10.101(b)(6)(A) of the Qualified Allocation Plan.
The Development (excluding competitive Housing Tax Credit Applications) will include enough unit and development construction features to meet the minimum number of points as further described in §11.101(b)(6)(B) of the Qualified Allocation Plan.

The Development (excluding competitive Housing Tax Credit Applications) will include enough resident supportive services, at no charge to the residents, be accessible to all residents (market rate and low-income), and maintained throughout the Affordability Period, to meet the required minimum number of points as further described in §11.101(b)(7) of the Qualified Allocation Plan, and offered in accordance with §10.619 of the Uniform Multifamily Rules. The tenant must be provided written notice of the elections made by the Development Owner.

If income averaging is elected, Unit Designations for all units identified as 20%, 30%, 40%, 50%, 60%, 70% and 80% Units will be dispersed across all Unit Types in a manner that does not violate fair housing laws, as required by 10 TAC §10.605(c), effective February 28, 2019.

If the Applicant is applying for Multifamily Direct Loan funds and the Development consists of New Construction, the Applicant further certifies that the Development meets the Construction Site Standards in 24 C.F.R §983.57(e).

If the Development has an existing LURA with the Department, the Development Owner will comply with the existing restrictions.

The Development Owner will comply with any and all notices required by the Department.

None of the criteria in subparagraphs (A) – (N) of §11.202(1) of the Qualified Allocation Plan, related to ineligible Applicants, applies to those identified on the organizational chart for the Applicant, Developer and Guarantor.

The individual whose name is subscribed hereto, in his or her individual capacity, on behalf of Applicant, and in all other related capacities described above, as applicable, expressly represents, warrants, and certifies that all information contained in this certification and in the Application, including any and all supplements, additions, clarifications, or other materials or information submitted to the Department in connection therewith as required or deemed necessary by the materials governing the multifamily funding programs are true and correct and the Applicant has undergone sufficient investigation to affirm the validity of the statements made. Further, the Applicant hereby expressly represents, warrants, acknowledges and certifies that the individual whose name is subscribed hereto has read and understands all the information contained in this form of the Application.

By signing this document, the undersigned, in their individual capacity, on behalf of Applicant, whether formed or to be formed, and in all other related capacities described above, is
affirming under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification, and subject to criminal penalties as defined by Tex. Penal Code §§37.01 et seq., and subject to any and all other state or federal laws regarding the making of false statements to governmental bodies or the providing of false information in connection with the procurement of allocations or awards, that the Application and all materials relating thereto constitute government documents and that the Application and all materials relating thereto are true, correct, and complete in all material respects.
By: [Signature]

Lisa M. Stephens
Printed Name

President
Title

2-18-19
Date

THE STATE OF Texas

COUNTY OF Tarrant

Before me, a notary public, on this day personally appeared Lisa M. Stephens, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared and certified that the statements therein contained are true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of February, 2019.

[Notary Public Signature]

KATHERINE E. JOHNSON
Notary Public ID # 130604632
My Commission Expires March 29, 2020
2019 HTC Full Application

Part 1 Tab 3

Applicant Eligibility Certification
The Applicant Eligibility Certification(s) is included behind this tab.

10 TAC §11.202 of the Qualified Allocation Plan identifies situations in which an Application or Applicant may be ineligible for Department funding. Applicants must provide disclosure of all potential instances of ineligibility, along with evidence of appropriate corrective action taken and accepted by the Department or mitigating factors to be considered. Documentation should be attached behind this tab.

Disclosure of all potential instances of ineligibility, along with evidence of appropriate corrective action is included behind this tab.
Applicant Eligibility Certification

All defined terms used in this certification and not specifically defined herein have the meanings ascribed to them in Chapter 2306 of the Tex. Gov’t Code, §42 of the Internal Revenue Code, and § 11.1(d) of the Qualified Allocation Plan.

The undersigned, in each and all of the following capacities in which it may serve or exist or be contemplated to bring a new entity into existence—Applicant, Development Owner, Developer, Guarantor of any obligation of the Applicant, and/or Principal of the Applicant and hereafter referred to as “Applicant,” whether serving in one or more such capacities, is hereby submitting its Application to the Department for consideration of multifamily funding.

Applicant hereby represents, warrants, agrees, acknowledges and certifies to the Department and to the State of Texas that:

It has obtained all necessary consents and approvals, and conducted all necessary diligence to enable it to make these certifications and to perform any all agreements and to give all consents provided for or made herein.

All representations, undertakings and commitments made by Applicant in the Application process for a Development, whether with respect to Threshold Criteria, selection criteria or otherwise, expressly constitute conditions to any Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment for such Development which the Department may issue or award, and the violation of any such condition shall be sufficient cause for the cancellation and rescission of such Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment by the Department. To the extent allowed under §2306.6720 Tex. Gov’t Code, if any such representations, undertakings and commitments concern or relate to the ongoing features or operation of the Development, they shall each and all shall be enforceable even if not reflected in the Land Use Restriction Agreement. All such representations, undertakings and commitments are also enforceable by the Department and/or the tenants of the Development, including but not limited to enforcement by assessment of administrative penalties for failure to perform, in accordance with the Land Use Restriction Agreement, the entry of orders by the Department’s Governing Board requiring strict performance, or the obtaining of injunctive relief.

Neither Applicant nor any other member of the Development Team has been or is barred, suspended, or terminated from procurement in a state or Federal program or listed in HUD’s System for Award Management (SAM).

Neither Applicant nor any other member of the Development Team has been convicted of a
state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen (15) years preceding the Application submission.

Neither Applicant nor any other member of the Development Team is, at the time of Application, subject to an enforcement or disciplinary action under state or federal securities law or by the NASD; is subject to a federal tax lien; and/or is the subject of a proceeding in which a Governmental Entity has issued an order to impose penalties, suspend funding, or take adverse action based on an allegation of financial misconduct or uncured violation of material laws, rules, or other legal requirements governing activities considered relevant by the Governmental Entity.

Neither Applicant nor any other member of the Development Team has breached a contract with a public agency and failed to cure that breach within the timeframe provided or allowed by contract. If such breach is permitted to be cured under the contract, notice of the breach has been given and a reasonable opportunity to cure.

Neither Applicant nor any other member of the Development Team has misrepresented to a subcontractor the extent to which the Developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Developer's participation in contracts with the agency and the amount of financial assistance awarded to the Developer by the agency.

Neither Applicant nor any other member of the Development Team has been found by the Board to be ineligible based on a previous participation review performed in accordance with 10 TAC Chapter 1 Subchapter C.

Neither Applicant nor any other member of the Development Team is delinquent in any loan, fee, or escrow payments to the Department in accordance with the terms of the loan, as amended, or is otherwise in default with any provisions of such loans.

Neither Applicant nor any other member of the Development Team has failed to cure any past due fees owed to the Department within the timeframe provided by notice from the Department and at least ten (10) days prior to the Board meeting at which the decision for an award is to be made.

Neither Applicant nor any other member of the Development Team is in violation of a state revolving door or other standard of conduct or conflict of interest statute, including §2306.6733 of the Tex. Gov’t Code, or a provision of Chapter 572 of the Tex. Gov’t Code, that would prohibit the Person from participating in the Application in the manner and capacity they are participating.
Neither Applicant nor any other member of the Development Team has previous Contracts or Commitments that have been partially or fully de-obligated during the twelve (12) months prior to the submission of the Application and through the date of final allocation due to a failure to meet contractual obligations, and the Person is not on notice that such de-obligation results in ineligibility under 10 TAC Chapter 11.

Neither Applicant nor any other member of the Development Team has provided false or misleading documentation or made other intentional or negligent material misrepresentations or omissions in or in connection with an Application (and certifications contained therein), Commitment, or Determination Notice for a Development.

Neither Applicant nor any other member of the Development team has been the owner or Affiliate of the owner of a Department assisted rental development for which the federal affordability requirements were prematurely terminated and the affordability requirements have not re-affirmed or Department funds repaid.

Neither Applicant nor any other member of the Development Team has participated in the dissemination of misinformation about affordable housing and the persons it serves or about a competing Applicant that would likely have the effect of fomenting opposition to an Application where such opposition is not based on substantive and legitimate concerns that do not implicate potential violations of fair housing laws.

The Applicant will not violate §2306.1113 of the Tex. Gov’t Code relating to Ex Parte Communication and further explained in §11.202(2)(A) of the Qualified Allocation Plan.

For any Development utilizing Housing Tax Credit or Tax-Exempt Bonds, at all times during the two-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is not or has not been a member of the Board or employed by the Department as the Executive Director, Chief of Staff, General Counsel, a Deputy Executive Director, the Director of Multifamily Finance, the Chief of Compliance, the Director of Real Estate Analysis, a manager over the program for which an Application has been submitted, or any person exercising such responsibilities regardless of job title; or in violation of §2306.6733 of the Tex. Gov’t Code.

For any Development utilizing Housing Tax Credits, the Applicant will not propose to replace in less than fifteen (15) years any private activity bond financing of the Development described by the Application, unless the exceptions in §2306.6703(a)(2) of the Tex. Gov’t Code are met.

All the instances in which any Principal or any entity or Person in the Development ownership structure who was or is involved as a Principal in any other affordable housing transaction, that
has terminated voluntarily or involuntarily within the past ten years or is negotiating to terminate their relationship with any other affordable housing development have been fully disclosed pursuant to §11.202(1)(M) of the Uniform Multifamily Rules. Applicant understands that failure to disclose is grounds for termination.

All housing developments with which Applicant, Development Owner, Developer, Guarantor and/or Principal thereof participating, are in compliance with: state and federal fair housing laws, including Chapter 301, Property Code, the Texas Fair Housing Act; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.); and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.); the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.).

The making of an allocation or award by the Department does not constitute a finding or determination that the Development is deemed qualified to receive such allocation or award. Applicant agrees that the Department or any of its directors, officers, employees, and agents will not be held responsible or liable for any representations made to the undersigned or its investors; therefore, Applicant assumes the risk of all damages, losses, costs, and expenses related thereto and agrees to indemnify and hold harmless the Department and any of its officers, employees, and agents against any and all claims, suits, losses, damages, costs, and expenses of any kind and of any nature that the Department may hereinafter suffer, incur, or pay arising out of its decisions and actions concerning this Application or the use of information therein.

Applicant, Development Owner, Developer, Guarantor or other Related Party is not subject to any pending criminal proceedings and if any such proceeding or any other charges which would invalidate the certifications are finally adjudicated or otherwise disposed of prior to Carryover, Determination Notice, or Closing, the Applicant will immediately notify the Department. Such notification must be presented to the Board for consideration at the next available Board meeting.

The individual whose name is subscribed hereto, in his or her individual capacity, on behalf of Applicant, and in all other related capacities described above, as applicable, expressly represents, warrants, and certifies that all information contained in this certification and in the Application, including any and all supplements, additions, clarifications, or other materials or information submitted to the Department in connection therewith as required or deemed necessary by the materials governing the multifamily funding programs are true and correct and the Applicant has undergone sufficient investigation to affirm the validity of the statements made. The Applicant agrees that the Department may, at its discretion, request additional information and/or documentation in its evaluation of this Application and is authorized but
not obligated under this document to conduct its own investigation regarding any information
required requested and or provided in relation to the Application or the Development. Further,
the Applicant hereby expressly represents, warrants, and certifies that the individual whose
name is subscribed hereto has read and understands all the information contained in this form
of the Application.

By signing this document, the undersigned, in their individual capacity, on behalf of Applicant,
whether formed or to be formed, and in all other related capacities described above, is
affirming under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other
Falsification and subject to criminal penalties as defined by the State of Texas. TEX. PENAL
CODE ANN. §§37.01 et seq. (Vernon 2011) and subject to any and all other state or federal
laws regarding the making of false statements to governmental bodies or the false statements
or the providing of false information in connection with the procurement of allocations or
awards that the Application and all materials relating thereto constitute government
documents and that the Application and all materials relating thereto are true, correct, and
complete in all material respects.
THE STATE OF Texas
COUNTY OF Parker

Before me, a notary public, on this day personally appeared Lisa Stephens, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared and certified that the statements therein contained are true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 21st day of February, 2019

Notary Public Signature
2019 HTC
Full Application

Part 1 Tab 4

Multifamily Direct Loan Certification
Multifamily Direct Loan Certification

I (We) hereby make application to the Texas Department of Housing and Community Affairs (the "Department") for an award of Multifamily Direct Loan funds, which may be composed of HOME Investment Partnerships Program ("HOME"), Tax Credit Assistance Program Repayment Funds "TCAP RF," Neighborhood Stabilization Program Round 1 Program Income ("NSP1 PI"), and/or National Housing Trust Fund ("NHTF"). The undersigned hereby acknowledges that an award by the Department does not warrant that the Development is deemed qualified to receive such award. I (We) agree that the Department or any of its directors, officers, employees, and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the Multifamily Direct Loan; therefore, I (We) assume the risk of all damages, losses, costs, and expenses related thereto and agree to indemnify and save harmless the Department and any of its officers, employees, and agents against any and all claims, suits, losses, damages, costs, and expenses of any kind and of any nature that the Department may hereinafter suffer, incur, or pay arising out of its decision concerning this application for Multifamily Direct Loan funds or the use of information concerning the Multifamily Direct Loan.

On behalf of the Applicant and all affiliates of the Applicant (hereinafter "Applicant"), I (We) hereby certify that the Applicant is familiar with the state Rules, as published in 10 TAC Chapters 1, 2, 11, and 13, as well as Chapter 12 as applicable. I (We) hereby acknowledge that this Application is subject to disclosure under Chapter 552, Texas Government Code, the Texas Public Information Act, unless a valid exception exists.

I (We) hereby assert that the information contained in this Application as required or deemed necessary by the materials governing the Multifamily Direct Loan are true and correct and that I (We) have undergone sufficient investigation to affirm the validity of the statements made and the Department may rely on any such statements.

Further, I (We) hereby assert that I (We) have read and understand all the information contained in the application. By signing this document, I (We) affirm that all statements made in this government document are true and correct under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification and subject to criminal penalties as defined by the State of Texas. TEX. PENAL CODE ANN. §37.01 et seq. (Vernon 2011).

I (We) understand and agree that if false information is provided in this Application which has the effect of increasing the Applicant's competitive advantage, the Department will disqualify the Applicant and may hold the Applicant ineligible to apply for Multifamily Direct Loan funds or until any issue of restitution is resolved. If false information is discovered after the award of
Multifamily Direct Loan funds, the Department may terminate the Applicant's written agreement and recapture all Multifamily Direct Loan funds expended.

I (We) shall not, in the provision of services, or in any other manner discriminate against any person on the basis of age, race, color, religion, sex, national origin, familial status, or disability. Verification of any of the information contained in this application may be obtained from any source named herein.

I (We) have written below the name of the individual authorized to execute the Multifamily Direct Loan agreement and any and all future Multifamily Direct Loan commitments and contracts related to this application. If this individual is replaced by the organization, I (We) must inform the Department within 30 days of the person authorized to execute agreements, commitment and/or contracts on behalf of the Applicant.

I (We) certify that no person or entity that would benefit from the award of Multifamily Direct Loan funds has committed to providing a source of match.

I (We) certify that I (We) will meet, Texas Minimum Construction Standards, 2010 ADA Standards for Accessible Design, as well as the Fair Housing Accessibility Standards and Section 504 of the Rehabilitation Act of 1973 as further detailed in 10 TAC Chapter 1, Subchapter B. I (We) certify that the Development will meet all local building codes or standards that may apply as well as the Uniform Physical Conditions Standards in 24 CFR §5.705.

I (We) certify that if Department funds have a first lien position in the project for which assistance is being requested, assurance of completion of the development will be provided in the form of payment and performance bonds in the full amount of the construction contract, running to the Department as obligee, or equivalent guarantee in the sole determination of the Department.

I (We) certify that if refinancing is a component of the proposed development the Applicant must confirm that Multifamily Direct Loan funds will not be used to replace loans, grants or other financing by any other Federal program, or in violation of the provisions of 10 TAC §13.3(e).

I (We) certify that if other federal or governmental assistance is used in the financing of this development I (We) will notify the Texas Department of Housing and Community Affairs.

I (We) certify that I (We) do not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States.
If, after receiving a public subsidy, I (We), am convicted of a violation under 8 U.S.C Section 1324a (f), I (We) shall repay the amount of the public subsidy with interest, at the rate and according to the other terms provided by an agreement under Texas Government Code Section 2264.053, not later than the 120th day after the date TDHCA notifies Name of Applicant of the violation.

On behalf of the Applicant, I (We) hereby certify that the Applicant is familiar with the provisions of the federal HOME Final Rule, as published in 24 CFR Part 92, and other related administrative rules and regulations and court rulings issued by the Federal government or State of Texas with respect to the HOME Investment Partnerships Program and all Developments eligible to receive HOME funds will comply with such rules during the application process and, in the event of award of HOME funds, for the duration of the proposed Development.

If applying under the Supportive Housing/Soft Repayment set-aside, on behalf of the Applicant, I (We) hereby certify that the Applicant is familiar with the provisions of the interim Housing Trust Fund rule, as published in 24 CFR Part 93, and other related administrative rules and regulations and court rulings issued by the Federal government or State of Texas with respect to the NHTF and all Developments eligible to receive NHTF funds will comply with such rules during the application process and, in the event of award of NHTF funds, for the duration of the proposed Development.

**Lead Based Paint**

I (We) certify that documentation of compliance with the Texas Environmental Lead Reduction Rules in 25 TAC Chapter 295, Subchapter I or 24 CFR Part 35 (Lead Safe Housing Rule), as applicable, will be maintained in project files. I (We) understand that for Developments subject to 24 CFR Part 25, standard forms are available in the Federal Register, as indicated by the sources noted below.

1) Applicability 24 CFR §35.115 – A copy of a statement indicating that the property is covered by or exempt from Lead Safe Housing Rule.
   a) If the property is exempt, the file should include the reason for the exemption and no further documentation is required.
   b) If the property is covered by the Rule, the file should include the appropriate documentation to indicate basic compliance, as listed below:
      i) Summary Paint Testing Report or Presumption Notice 24 CFR §35.930(a) – A copy of any report to indicate the presence of lead-based paint (LBP) for projects receiving up to $5,000 per unit in rehabilitation assistance. If no testing was performed, then LBP is presumed to be on all disturbed surfaces;
ii) Notice of Evaluation 24 CFR §35.125(a) - A copy of a notice demonstrating that an evaluation summary was provided to residents following a lead-based-paint inspection, risk assessment or paint testing;

iii) Clearance Report 24 CFR §35.930(b) (3) - A report indicating a “clearance examination” was performed of the work site upon completion; and

iv) Notice of Hazard Reduction Completion 24 CFR §35.125(b) - Upon completion, a copy of a notice to show that a LBP remediation summary was provided to residents.

Threshold Certification

On behalf of the Applicant and all affiliates of the Applicant (hereinafter “Applicant”), I (We) hereby certify that the Applicant is familiar with the provisions and requirements of the Multifamily Direct Loan Notice of Funding Availability (NOFA) approved by the Department’s Governing Board on December 6, 2018, for which I (We) am applying.

I (We) understand that housing units subsidized by Multifamily Direct Loan funds must be affordable to low, very low or extremely low-income persons. I (We) understand that mixed income rental developments may only receive funds for units that meet the Multifamily Direct Loan affordability standards. I (We) understand that all Applications intended to serve persons with disabilities must adhere to the Department’s Integrated Housing Rule at 10 TAC §1.15.

I (We) understand that, pursuant to 10 TAC §13.11(p), all contractors, consulting firms, Borrowers, Development Owners and Contract Administrators must sign and submit the appropriate documentation with each draw to attest that each request for payment of Multifamily Direct Loan funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions in 24 CFR Part 92.

I (We) certify that I (We) am eligible to apply for funds or any other assistance from the Department. I (We) certify that all audits are current at the time of application. I (We) certify that any Audit Certification Forms have been submitted to the Department in a satisfactory format on or before the application deadline for funds or other assistance pursuant to 10 TAC §1.3(b). I (We) certify that, the Development will meet the broadband infrastructure requirements of 81 FR 92626, and that these costs are included in the Application.

All applicants applying under the 2019-1 Multifamily Direct Loan Notice of Funding Availability (NOFA) must read and initial after each of the following sections regarding federal cross cutting requirements in the boxes below.
HUD Section 3

I (We) hereby agree that the work to be performed in connection with any award of HOME or NHTF funds is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (“Section 3”). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. I (We) agree to comply with HUD’s regulations in 24 CFR Part 135, which implement Section 3. For more information about HUD Section 3, please reference the TDHCA website dedicated to Section 3 at: http://www.tdhca.state.tx.us/program-services/hud-section-3/index.htm

Environmental

I (We) understand that the environmental effects of each activity carried out with an award of HOME funds must be assessed in accordance with the provisions of National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. §4321 et seq.) and the related activities listed in HUD’s implementing regulations at 24 C.F.R. parts 50, 51, 55 and 58 (NEPA regulations). Each such activity must have an environmental review completed and support documentation prepared complying with the NEPA and NEPA regulations. No loan may close or funds be committed to an activity before the completion of the environmental review process, including the requirements of 24 CFR Part 58, and the Department has provided written clearance.

The Department as the Responsible Entity must ensure that environmental effects of the property are assessed in accordance with the provisions of the National Environmental Policy Act of 1969 and the related authorities listed in HUD’s implementing regulations at 24 CFR Parts 50 and 58.

I (We) certify that all parties involved in any aspect of the development process began the project with no intention of using Federal assistance.

I (We) certify that as of the date of the Multifamily Direct Loan application all project work, other than as allowed in 24 CFR. Part 58, has ceased.

I (We) understand that the environmental effects of each activity carried out with an award of NHTF funds must be assessed in accordance with the provisions of CPD Notice 16-14.

I (We) certify that I (we) have read and understand the requirements in 24 CFR §58.22 or CPD Notice 16-14, and I (we) understand that acquisition of the site, even with non-HUD funds, prior to completion of the environmental review process will jeopardize any federal funding.
I (We) certify that we will not engage in any choice limiting actions until the site has achieved Environmental Clearance as required in CPD Notice 16-14 or 24 CFR. Part 58, as applicable. **Choice-limiting activities include but are not limited to these examples:**

- Acquisition of land, except through the use of an option agreement, regardless of funding source;
- Closing on loans including loans for interim financing;
- Signing a construction contract.

![Initial](initial)

**Relocation and Anti-Displacement**

The property proposed for this Application is __ is not _X_ occupied. (check one)

If occupied, the occupant(s) are owners ____ tenants ____

**Displacement of Existing Tenants**

I (We) certify that that the work to be performed in connection with any award of federal funds is subject to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), as amended, and implementing regulations at 49 CFR Part 24. Consistent with the goals and objectives of activities assisted under the Act and HUD Handbook 1378, if the Development is eligible for federal funds the Applicant must prepare and submit the following to TDHCA with the Multifamily Uniform Application:

1) A detailed explanation of the reasons for displacement relocation;
2) A detailed plan of the relocation, including evidence of comparable replacement housing;
3) A copy of the General Information Notice (signed by the tenant or sent Certified Mail, return recipient requested) sent to all tenants on the Rent Roll listed with the Multifamily Direct Loan Application, and
4) Estimated costs and funding sources available to complete the permanent relocation.

**Demolition and Conversion**

I (We) certify that that the work to be performed in connection with any award of federal funds is subject to 24 CFR Part 42 and Development Owner will replace all occupied and vacant occupable low-income housing that is demolished or converted to a use other than low-income housing as a direct result of the project. All replacement housing will be provided within three (3) years after the commencement of the demolition or conversion. Before receiving a
commitment of federal funds for a project that will directly result in demolition or conversion, the project owner will make the information public in accordance with 24 CFR Part 42 and submit the information to TDHCA along with the following information in writing at application:

1) The location map, address, and number of dwelling units by bedroom size of lower income housing that will be demolished or converted to use other than as lower income housing as a direct result of the project;
2) A time schedule for the commencement and completion of the demolition and conversion;
3) To the extent known, the location, map, address, and number of dwelling units by bedroom size of the replacement housing that has been or will be provided;
4) The amount and source of funding and a time schedule for the provision of the replacement housing;
5) The basis for concluding that the replacement housing will remain lower income housing beyond the date of initial occupancy;
6) Information demonstrating that any proposed replacement of housing units with similar dwelling units (e.g. a 2-bedroom unit with two 1-bedroom units) or any proposed replacement of efficiency or SRO units with units of a different size is appropriate and consistent with the housing needs of the community; and
7) The name and title of the person or persons responsible for tracking the replacement of lower income housing and the name and title of the person responsible for providing relocation payments and other relocation assistance to any lower-income person displaced by the demolition of any housing or the conversion of lower-income housing to another use.

Applications for Developments Previously Awarded Department Funds

This Application has _____ has not ___ previously received Department funds. (check one)

If this Application has previously received Department funds and construction has already started or been completed, and acquisition and rehabilitation is not being proposed, a letter from the Applicant that seeks to explain why this Application should be found eligible in accordance with 10 TAC §13.5(h)(2) is provided behind this tab.
By: 

Signature of Authorized Representative

Lisa M. Stephens

Printed Name

President

Title

2-12-19

Date

THE STATE OF TEXAS

COUNTY OF Tarrant

Before me, a notary public, on this day personally appeared Lisa M. Stephens, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared and certified that the statements therein contained are true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of February, 2019

(Seal)

KATHERINE E JOHNSON
Notary ID # 130604693
My Commission Expires March 29, 2020

Notary Public Signature
Provide the contact information for the Applicant and any staff responsible for Administrative Deficiencies and/or clarifications to the Application.

<table>
<thead>
<tr>
<th>1. Applicant Contact Information</th>
</tr>
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<tbody>
<tr>
<td><strong>Name:</strong> Lisa Stephens</td>
</tr>
<tr>
<td><strong>Phone:</strong> (352) 213-8700</td>
</tr>
<tr>
<td><strong>Email:</strong> <a href="mailto:lisa@saigebrook.com">lisa@saigebrook.com</a></td>
</tr>
<tr>
<td><strong>Mailing Address:</strong> 5501-A Balcones Dr. #302</td>
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<tr>
<td><strong>Street:</strong></td>
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<tr>
<td><strong>City:</strong> Austin</td>
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<td><strong>State:</strong> TX</td>
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<td><strong>Zip:</strong> 78731</td>
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</table>

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<thead>
<tr>
<th>2. Second Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name:</strong> Alyssa Carpenter</td>
</tr>
<tr>
<td><strong>Phone:</strong> (512) 789-1295</td>
</tr>
<tr>
<td><strong>Email:</strong> <a href="mailto:ajcarpen@gmail.com">ajcarpen@gmail.com</a></td>
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<tr>
<th>3. Consultant Contact (if applicable)</th>
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</thead>
<tbody>
<tr>
<td><strong>Name:</strong> Alyssa Carpenter</td>
</tr>
<tr>
<td><strong>Phone:</strong> (512) 789-1295</td>
</tr>
<tr>
<td><strong>Email:</strong> <a href="mailto:ajcarpen@gmail.com">ajcarpen@gmail.com</a></td>
</tr>
<tr>
<td><strong>Mailing Address:</strong> 1305 E 6th, Ste 12</td>
</tr>
<tr>
<td><strong>Street:</strong></td>
</tr>
<tr>
<td><strong>City:</strong></td>
</tr>
<tr>
<td><strong>State:</strong> TX</td>
</tr>
<tr>
<td><strong>Zip:</strong> 78702</td>
</tr>
</tbody>
</table>

2/25/2019
2019 HTC
Full Application

Part 1 Tab 6

Self Score Form
This form will self-populate based on scoring selections made throughout the Application. Applicant should refer to this form to ensure that scoring selections are accurate prior to submitting the Application. Corrections must be made in the applicable section(s) of the Application. Highlighted rows indicate scoring items for both 9% HTC and Direct Loan applications. Additional scoring for Direct Loan applications can be found at 10 TAC §13.6.

### Criteria Promoting Development of High Quality Housing

<table>
<thead>
<tr>
<th>Point Item Description</th>
<th>QAP Reference</th>
<th>Points Selected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit Sizes</td>
<td>§11.9(b)(1)(A)</td>
<td>6</td>
</tr>
<tr>
<td>Unit and Development Features</td>
<td>§11.9(b)(1)(B)</td>
<td>9</td>
</tr>
<tr>
<td>Sponsor Characteristics</td>
<td>§11.9(b)(2)</td>
<td>2</td>
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</table>

**High Quality Housing Total**: 17

### Criteria to Serve and Support Texans Most In Need

<table>
<thead>
<tr>
<th>Point Item Description</th>
<th>QAP Reference</th>
<th>Points Selected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Levels of Tenants</td>
<td>§11.9(c)(1)</td>
<td>16</td>
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<tr>
<td>Rent Levels of Tenants</td>
<td>§11.9(c)(2)</td>
<td>11</td>
</tr>
<tr>
<td>Resident Services</td>
<td>§11.9(c)(3)</td>
<td>10</td>
</tr>
<tr>
<td>Opportunity Index</td>
<td>§11.9(c)(4)</td>
<td>7</td>
</tr>
<tr>
<td>Underserved Area</td>
<td>§11.9(c)(5)</td>
<td>3</td>
</tr>
<tr>
<td>Tenant Populations with Special Needs</td>
<td>§11.9(c)(6)</td>
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<tr>
<td>Proximity to the Urban Core</td>
<td>§11.9(c)(7)</td>
<td>5</td>
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<tr>
<td>Readiness to Proceed in Disaster Impacted Counties</td>
<td>§11.9(c)(8)</td>
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**Serve and Support Texans Most In Need Total**: 54

### Criteria Promoting Community Support and Engagement

<table>
<thead>
<tr>
<th>Point Item Description</th>
<th>QAP Reference</th>
<th>Points Selected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government Support</td>
<td>§11.9(d)(1)</td>
<td></td>
</tr>
<tr>
<td>Commitment of Development Funding by Local Political Subdivision</td>
<td>§11.9(d)(2)</td>
<td>1</td>
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<tr>
<td>Declared Disaster Area</td>
<td>§11.9(d)(3)</td>
<td>10</td>
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<tr>
<td>Quantifiable Community Participation</td>
<td>§11.9(d)(4)</td>
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</tr>
<tr>
<td>Community Support from State Representative</td>
<td>§11.9(d)(5)</td>
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</tr>
<tr>
<td>Input from Community Organizations</td>
<td>§11.9(d)(6)</td>
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<tr>
<td>Concerted Revitalization Plan</td>
<td>§11.9(d)(7)</td>
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**Community Support and Engagement Total**: 11

### Criteria Promoting the Efficient Use of Limited Resources and Applicant Accountability

<table>
<thead>
<tr>
<th>Point Item Description</th>
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<tbody>
<tr>
<td>Financial Feasibility</td>
<td>§11.9(e)(1)</td>
<td>18</td>
</tr>
<tr>
<td>Cost of Development per Square Foot</td>
<td>§11.9(e)(2)</td>
<td>11</td>
</tr>
<tr>
<td>Pre-application Participation</td>
<td>§11.9(e)(3)</td>
<td>6</td>
</tr>
<tr>
<td>Leveraging of Private, State, and Federal Resources</td>
<td>§11.9(e)(4)</td>
<td>3</td>
</tr>
<tr>
<td>Extended Affordability</td>
<td>§11.9(e)(5)</td>
<td>2</td>
</tr>
<tr>
<td>Historic Preservation</td>
<td>§11.9(e)(6)</td>
<td>0</td>
</tr>
<tr>
<td>Right of First Refusal</td>
<td>§11.9(e)(7)</td>
<td>1</td>
</tr>
<tr>
<td>Funding Request Amount</td>
<td>§11.9(e)(8)</td>
<td>1</td>
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**Efficient Use of Limited Resources and Applicant Accountability Total**: 42

### Point Deductions

<table>
<thead>
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<th>QAP Reference</th>
<th>Points Selected</th>
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<tbody>
<tr>
<td>§11.9(f)</td>
<td></td>
</tr>
</tbody>
</table>

**Total Application Self Score**: 124

2/25/2019
**Site Information Form Part I**

1. **Development Address (All Programs)**
   - Address: 1801 8th Ave.
   - City: Fort Worth
   - ETJ: No
   - Address: 3
   - Zip: 76110
   - Region: Tarrant
   - County: Urban

2. **Census Tract Information (All Programs)**
   - Census Tract Number: 48439104100
   - QCT?: No
   - Median Household Income: 71250.00
   - Quartile: 2q
   - Poverty Rate: 10.8
   - The poverty rate for the Census Tract is above 40% (55% for Regions 11 or 13), and the Neighborhood Risk Factors Report and required documentation has been submitted.

3. **Resolutions (Competitive HTC and Tax-Exempt Bonds, if applicable) [10 TAC §11.3]**
   - Check the boxes of true statements below. Resolutions must be provided to demonstrate eligibility for any unchecked item.
     - **Twice the State Average Per Capita.** The proposed Development is **NOT** located in a municipality or a county that has more than twice the state average of units per capita supported by Tax Credits or Private Activity Bonds. (QAP §11.3(c))
     - **One Mile Three Year Rule.** The proposed Development is **NOT** a New Construction or Adaptive Reuse development that will be located one mile or less from a New Construction HTC or Bond Development serving the same type of household and awarded within the applicable three-year period and has not been withdrawn or terminated. **OR** the Development meets one of the exceptions in §11.3(d)(2) of the QAP (provide evidence of exception).
     - **Limitations on Developments in Certain Census Tracts.** The proposed Development is **NOT** a New Construction or Adaptive Reuse development that will be located in a census tract that has more than 20% HTC units per total households. (§11.3(e))

4. **Two Mile Same Year Rule (Competitive HTC Only) [10 TAC §11.3(b)]**
   - The site is not located in a county with a population that exceeds one million.
   - The site is not located in a county with a population that exceeds one million and is located within 2 linear miles of the proposed Development Site of any eligible Pre-application in the same county.
   - The site is located in a county with a population that exceeds one million and is located within 2 linear miles of the site of the following eligible Pre-application(s) within the same county:
     - 19198, 19320

5. **Proximity of Development Sites (Competitive HTC Only) [10 TAC §11.3(g)]**
   - The site is contiguous to or within 1,000 feet of the site for the following eligible Pre-application(s) serving the same Target Population:
     - NA

6. **Zoning [10 TAC §11.204(11)] and Flood Zone Designation [10 TAC §11.101(a)(1)] (All Programs)**
   - Development Site is appropriately zoned? Yes
   - Zoning Designation: NS-T4 and B
   - Flood Zone Designation: X
   - Entire Development Site is outside the 100 year floodplain. Yes
   - Farmland Designation (New Construction (including adaptive re-use) seeking Section 811 and/or Direct Loan funds): Not Prime Farmland

7. **Site & Neighborhood Standards (New Construction Direct Loan only) [10 TAC §13.11(o)(6)(B)]; [24 CFR 92.202, 93.150]**
   - Confirm the following supporting documents are provided behind this tab.
     - **X** Statement explaining how the Development will promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
     - **X** DP-1 Profile of General Demographic Characteristics (2010) Census data for the census tract and city (and county if proposed site is located in a rural area) where the proposed site will be located. DP-1 Census data can be accessed using the Advanced Search option at www.census.gov.

Children of the proposed development will attend:

<table>
<thead>
<tr>
<th>School Name</th>
<th>Grades</th>
<th>Met Standard Rating?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X through X</td>
<td>2016</td>
</tr>
<tr>
<td>De Zavala Elementary School</td>
<td>K through</td>
<td>No</td>
</tr>
<tr>
<td>Daggett Middle School</td>
<td>6 through</td>
<td>No</td>
</tr>
<tr>
<td>Paschal High School</td>
<td>9 through</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Account for each year for each school.

School district has no attendance zones and the closest schools are listed.

The Development Site is located within the attendance zone of an elementary school, a middle school or a high school that does not have a 2018 (or 2017 if the Hurricane Harvey Provision applies) Met Standard rating by the Texas Education Agency, and the Neighborhood Risk Factors Report ("NRFR") and required documentation has been submitted. [§11.101(a)(3)(D)(iv)]

The Target Population is Elderly. **Applicant is required to enter school rating information above, but no disclosure is required.**

9. **Waiver of Rules [10 TAC §11.207]**

- Applicant requests waiver of rules.

- Documentation to support waiver was previously provided or is attached behind Tab 8 and includes:
  - Documentation establishing how the need for the waiver was both not reasonably foreseeable and was not preventable by the Applicant and (where appropriate), plans for mitigation or alternative solutions; and
  - Documentation establishing how, by granting the waiver, it better serves the policies and purposes articulated in referenced sections of Tex. Gov't Code than not granting the waiver.
2019 HTC Full Application

Part 2 Tab 8

Supporting Documentation for Site Information Form Part I
Supporting Documentation for the Site Information Form Part I

Maps:
- Street Map with Site Drawn and Identified
- Census Tract Map with Development Site Identified
  https://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t

Resolutions:
- n/a Twice the State Average of Units Per Capita Resolution
- n/a One Mile Three Year Resolution or evidence of other exception
- n/a Housing Tax Credit Units per Total Household Resolution
- NA For Tax-Exempt Bond Applications the resolution of no objection to satisfy requirements of 10 TAC §11.204(4) of the QAP is included
- NA For Tax-Exempt Bond Applications the resolution of no objection to satisfy requirements of 10 TAC §11.204(4) of the QAP is not included and will be provided under separate cover no later than 14 days prior to the Board meeting selected in Tab 1b

Zoning and Floodplain
- x Evidence of Zoning and/or Evidence of Re-Zoning Process
- x Evidence of Flood Zone Designation

Farmland Designation
- Information is included in the ESA.
- Information is included behind this tab.

Go to https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx and
- Go to “Quick Navigation”, select address and enter street address, city, and state. If the Development Site does not have a fixed address, enter the street, city and state.
- Just below where it says “Area of Interest Interactive Map” and to the left of where it says “Legend” is a row of buttons. Two at the end are labeled "AOI” for area of interest. Click the rectangle or triangle button based on the relative shape of the Development Site
- Outline the Development Site, getting as much within the rectangle or triangle as possible.
- Select the tab for “Soil Data Explorer”, select “Land Classifications”, then select “Farmland Classification”.
- Select “View Rating”. You may need to scroll down to see it.
- In the upper right corner, select "Printable Version". Name it if you wish, scale to "Fit to page", printed sheet size "A landscape (11” x 8.5”). Make sure the box box labeled "show UTM Coordinate Ticks" is checked. Select "View".
- Save the file as a PDF and include it in the Application.

Site and Neighborhood Standards (New Construction Direct Loan Only)
- x Statement regarding promoting housing choice explains HOW the Development will promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low income persons.

2/25/2019
Waiver of Rules

- The waiver request must establish how the need for the waiver was both not reasonably foreseeable and was not preventable by the Applicant.
- The waiver request must establish how, by granting the waiver, it better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, (which are general in nature and apply to the role of the Department and its programs, including the Housing Tax Credit program) than not granting the waiver.
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
Street Map
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
Census Tract Map
Census Tract Map
Everly Plaza

Source: https://www.huduser.gov/portal/sadda/sadda_qct.html
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
2x Per Capita Resolution/
1 Mile 3 Year Resolution/
30% HTC Resolution
This Tab is Not Applicable
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
Evidence of Zoning
February 12, 2019

Megan Lasch
Saigebrook Development, LLC
5501 A Balcones Dr. Ste #302
Austin, TX 76137

RE: Parcels 1805 8th Avenue to include 1809, 1813 & 1821 8th Avenue
Fairmont Addition Block 11 Lot 3-14

To whom it may concern:

The above referenced property is currently shown on the City of Fort Worth Zoning Map and is zoned “NS-T4” Near Southside District. This zoning district allows the use for Mixed-Use Projects and/or medical offices, offices as well as apartments. The regulations for “NS-T4” Near Southside are described in Chapter 4, Article 4.1305 and they can be viewed at http://fortworthtexas.gov/. A duplicated portion of the City of Fort Worth zoning map, which encompasses the location of the above-referenced property, is also attached and made part of this letter.

Should you need additional information, contact Aide Pocasangre-Garay at (817) 392-8026. For compliance and existing use structure guidelines contact Laura Voltmann at (817) 392-8015.

Sincerely,

Dana Burghdoff, AICP
Deputy Director, Planning Division
February 4, 2019

Megan Lasch
Saigebrook Development, LLC
5501 A Balcones Dr. Ste #302
Austin, TX 76137

RE: 1801 8th Avenue
    Fairmont Addition Block 11 Lot 1 & 2

To whom it may concern:

The above referenced property is currently shown on the City of Fort Worth Zoning Map and is zoned “NS-T4” Near Southside District. This zoning district allows the use for Mixed-Use Projects and/or medical offices, offices as well as apartments. The regulations for “NS-T4” Near Southside are described in Ordinance No. 13896, Chapter 4, Article 4.1305. A copy of Chapter 4, Article 4.1305 can be view at http://fortworthtexas.gov/. A duplicated portion of the City of Fort Worth zoning map, which encompasses the location of the above-referenced property, is also attached and made part of this letter.

Should you need additional information, contact Aide Pocasangre-Garay at (817) 392-8026. For compliance and existing use structure guidelines contact Laura Voltmann at (817) 392-8015.

Sincerely,

Dana Burghdoff, AICP
Deputy Director, Planning Division
February 4, 2019

Megan Lasch
Saigebrook Development, LLC
5501 A Balcones Dr. Ste #302
Austin, TX 76137

RE: 1808 Hurley Avenue
FAIRMOUNT ADDITION Block 11 Lot 27 28 & 29

To Whom It May Concern:

The above referenced property is currently shown on the City of Fort Worth Zoning map, and is zoned “B” Two-Family District. This zoning district allows the use of attached or detached Two-Family Residential. No commercial uses are allowed by right. The regulations for “B” Two-Family as described in Chapter 4, Article 4.707 is available at http://fortworthtexas.gov/zoning/. A duplicated portion of the City of Fort Worth Zoning Map, which encompasses the location of the above-referenced property, is also attached and made part of this letter.

This property was granted a Special Exception in August of 1973 to be used as an auxiliary parking lot. While Special Exceptions do not expire (comparable to zoning changes), the current requirements for a parking lot in residential zoning do need to be followed which are:

Sec. 6.202F –
1. The parking must be subject to the front yard setback requirements of the district in which it is located.
2. The parking area must be hard surfaced and dust free.
3. A minimum 6-foot screen fence and 5-foot bufferyard must be provided on all sides adjacent to a residential district in accordance with Section 6.300.
4. Area lights must be directed away from adjacent properties.
5. The lot, if adjacent to a residential district, must be chained and locked at night.

Should you need additional information, contact Aide Pocasangre-Garay at (817) 392-8026.

Please note that this property is in the Historical District Overlay. All question regarding this district can be directed to the Historical Department at 817-392-8000.

Sincerely,

Dana Burghdoff, AICP
Deputy Director, Planning Division
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. The City of Fort Worth assumes no responsibility for the accuracy of said data.

NCTCOG ORTHOPHOTOGRAPHY
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
Flood Zone Designation
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
Farmland Designation
The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Tarrant County, Texas
Survey Area Data: Version 16, Sep 16, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Oct 29, 2016—Nov 29, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.
Farmland Classification

<table>
<thead>
<tr>
<th>Map unit symbol</th>
<th>Map unit name</th>
<th>Rating</th>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
</tr>
</thead>
<tbody>
<tr>
<td>67</td>
<td>Sanger-Urban land complex, 1 to 5 percent slopes</td>
<td>Not prime farmland</td>
<td>4.6</td>
<td>68.7%</td>
</tr>
<tr>
<td>81</td>
<td>Urban land, 0 to 16 percent slopes</td>
<td>Not prime farmland</td>
<td>2.1</td>
<td>31.3%</td>
</tr>
<tr>
<td><strong>Totals for Area of Interest</strong></td>
<td></td>
<td></td>
<td><strong>6.7</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

Description

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Rating Options

*Aggregation Method:* No Aggregation Necessary

*Tie-break Rule:* Lower
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
Direct Loan
Site and Neighborhood Standards
Geography: Census Tract 1041, Tarrant County, Texas

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number</th>
<th>Percent</th>
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<tbody>
<tr>
<td><strong>SEX AND AGE</strong></td>
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<td></td>
</tr>
<tr>
<td>Total population</td>
<td>3,468</td>
<td>100.0</td>
</tr>
<tr>
<td>Under 5 years</td>
<td>246</td>
<td>7.1</td>
</tr>
<tr>
<td>5 to 9 years</td>
<td>223</td>
<td>6.4</td>
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<td>10 to 14 years</td>
<td>234</td>
<td>6.7</td>
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<td>15 to 19 years</td>
<td>236</td>
<td>6.8</td>
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<td>20 to 24 years</td>
<td>246</td>
<td>7.1</td>
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<td>25 to 29 years</td>
<td>342</td>
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<td>30 to 34 years</td>
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<td>35 to 39 years</td>
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<td>40 to 44 years</td>
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<td>55 to 59 years</td>
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<td>75 to 79 years</td>
<td>32</td>
<td>0.9</td>
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<tr>
<td>80 to 84 years</td>
<td>20</td>
<td>0.6</td>
</tr>
<tr>
<td>85 years and over</td>
<td>13</td>
<td>0.4</td>
</tr>
<tr>
<td>Median age (years)</td>
<td>33.6</td>
<td>(X)</td>
</tr>
<tr>
<td>16 years and over</td>
<td>2,721</td>
<td>78.5</td>
</tr>
<tr>
<td>18 years and over</td>
<td>2,627</td>
<td>75.7</td>
</tr>
<tr>
<td>21 years and over</td>
<td>2,476</td>
<td>71.4</td>
</tr>
<tr>
<td>62 years and over</td>
<td>300</td>
<td>8.7</td>
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<tr>
<td>65 years and over</td>
<td>217</td>
<td>6.3</td>
</tr>
<tr>
<td><strong>Male population</strong></td>
<td>1,772</td>
<td>51.1</td>
</tr>
<tr>
<td>Under 5 years</td>
<td>128</td>
<td>3.7</td>
</tr>
<tr>
<td>5 to 9 years</td>
<td>106</td>
<td>3.1</td>
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<td>10 to 14 years</td>
<td>119</td>
<td>3.4</td>
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<td>15 to 19 years</td>
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<td>3.4</td>
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<tr>
<td>20 to 24 years</td>
<td>130</td>
<td>3.7</td>
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<td>25 to 29 years</td>
<td>181</td>
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<tr>
<td>55 to 59 years</td>
<td>116</td>
<td>3.3</td>
</tr>
<tr>
<td>60 to 64 years</td>
<td>76</td>
<td>2.2</td>
</tr>
<tr>
<td>Subject</td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>--------</td>
<td>---------</td>
</tr>
<tr>
<td>65 to 69 years</td>
<td>50</td>
<td>1.4</td>
</tr>
<tr>
<td>70 to 74 years</td>
<td>25</td>
<td>0.7</td>
</tr>
<tr>
<td>75 to 79 years</td>
<td>8</td>
<td>0.2</td>
</tr>
<tr>
<td>80 to 84 years</td>
<td>9</td>
<td>0.3</td>
</tr>
<tr>
<td>85 years and over</td>
<td>2</td>
<td>0.1</td>
</tr>
</tbody>
</table>

**Median age (years)**

- 33.2

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 years and over</td>
<td>1,396</td>
<td>40.3</td>
</tr>
<tr>
<td>18 years and over</td>
<td>1,356</td>
<td>39.1</td>
</tr>
<tr>
<td>21 years and over</td>
<td>1,267</td>
<td>36.5</td>
</tr>
<tr>
<td>62 years and over</td>
<td>135</td>
<td>3.9</td>
</tr>
<tr>
<td>65 years and over</td>
<td>94</td>
<td>2.7</td>
</tr>
</tbody>
</table>

**Female population**

- 1,696

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 5 years</td>
<td>118</td>
<td>3.4</td>
</tr>
<tr>
<td>5 to 9 years</td>
<td>117</td>
<td>3.4</td>
</tr>
<tr>
<td>10 to 14 years</td>
<td>115</td>
<td>3.3</td>
</tr>
<tr>
<td>15 to 19 years</td>
<td>118</td>
<td>3.4</td>
</tr>
<tr>
<td>20 to 24 years</td>
<td>116</td>
<td>3.3</td>
</tr>
<tr>
<td>25 to 29 years</td>
<td>161</td>
<td>4.6</td>
</tr>
<tr>
<td>30 to 34 years</td>
<td>126</td>
<td>3.6</td>
</tr>
<tr>
<td>35 to 39 years</td>
<td>144</td>
<td>4.2</td>
</tr>
<tr>
<td>40 to 44 years</td>
<td>110</td>
<td>3.2</td>
</tr>
<tr>
<td>45 to 49 years</td>
<td>121</td>
<td>3.5</td>
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<tr>
<td>50 to 54 years</td>
<td>154</td>
<td>4.4</td>
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<tr>
<td>55 to 59 years</td>
<td>98</td>
<td>2.8</td>
</tr>
<tr>
<td>60 to 64 years</td>
<td>75</td>
<td>2.2</td>
</tr>
<tr>
<td>65 to 69 years</td>
<td>37</td>
<td>1.1</td>
</tr>
<tr>
<td>70 to 74 years</td>
<td>40</td>
<td>1.2</td>
</tr>
<tr>
<td>75 to 79 years</td>
<td>24</td>
<td>0.7</td>
</tr>
<tr>
<td>80 to 84 years</td>
<td>11</td>
<td>0.3</td>
</tr>
<tr>
<td>85 years and over</td>
<td>11</td>
<td>0.3</td>
</tr>
</tbody>
</table>

**Median age (years)**

- 34.0

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 years and over</td>
<td>1,325</td>
<td>38.2</td>
</tr>
<tr>
<td>18 years and over</td>
<td>1,271</td>
<td>36.6</td>
</tr>
<tr>
<td>21 years and over</td>
<td>1,209</td>
<td>34.9</td>
</tr>
<tr>
<td>62 years and over</td>
<td>165</td>
<td>4.8</td>
</tr>
<tr>
<td>65 years and over</td>
<td>123</td>
<td>3.5</td>
</tr>
</tbody>
</table>

**RACE**

<table>
<thead>
<tr>
<th>Subject</th>
<th>Total population</th>
<th>100.0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total population</td>
<td>3,468</td>
<td></td>
</tr>
<tr>
<td>One Race</td>
<td>3,328</td>
<td>96.0</td>
</tr>
<tr>
<td>White</td>
<td>2,352</td>
<td>67.8</td>
</tr>
<tr>
<td>Black or African American</td>
<td>182</td>
<td>5.2</td>
</tr>
<tr>
<td>American Indian and Alaska Native</td>
<td>46</td>
<td>1.3</td>
</tr>
<tr>
<td>Asian</td>
<td>158</td>
<td>4.6</td>
</tr>
<tr>
<td>Asian Indian</td>
<td>3</td>
<td>0.1</td>
</tr>
<tr>
<td>Chinese</td>
<td>11</td>
<td>0.3</td>
</tr>
<tr>
<td>Filipino</td>
<td>2</td>
<td>0.1</td>
</tr>
<tr>
<td>Japanese</td>
<td>4</td>
<td>0.1</td>
</tr>
<tr>
<td>Korean</td>
<td>2</td>
<td>0.1</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>75</td>
<td>2.2</td>
</tr>
<tr>
<td>Other Asian [1]</td>
<td>61</td>
<td>1.8</td>
</tr>
<tr>
<td>Native Hawaiian and Other Pacific Islander</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Native Hawaiian</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Guamanian or Chamorro</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Samoan</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Subject</td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>--------</td>
<td>---------</td>
</tr>
<tr>
<td>Other Pacific Islander [2]</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Some Other Race</td>
<td>590</td>
<td>17.0</td>
</tr>
<tr>
<td>Two or More Races</td>
<td>140</td>
<td>4.0</td>
</tr>
<tr>
<td>White; American Indian and Alaska Native [3]</td>
<td>21</td>
<td>0.6</td>
</tr>
<tr>
<td>White; Asian [3]</td>
<td>16</td>
<td>0.5</td>
</tr>
<tr>
<td>White; Black or African American [3]</td>
<td>16</td>
<td>0.5</td>
</tr>
<tr>
<td>White; Some Other Race [3]</td>
<td>59</td>
<td>1.7</td>
</tr>
</tbody>
</table>

Race alone or in combination with one or more other races: [4]

<table>
<thead>
<tr>
<th>Race</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>2,472</td>
<td>71.3</td>
</tr>
<tr>
<td>Black or African American</td>
<td>209</td>
<td>6.0</td>
</tr>
<tr>
<td>American Indian and Alaska Native</td>
<td>78</td>
<td>2.2</td>
</tr>
<tr>
<td>Asian</td>
<td>186</td>
<td>5.4</td>
</tr>
<tr>
<td>Native Hawaiian and Other Pacific Islander</td>
<td>8</td>
<td>0.2</td>
</tr>
<tr>
<td>Some Other Race</td>
<td>664</td>
<td>19.1</td>
</tr>
</tbody>
</table>

HISPANIC OR LATINO

<table>
<thead>
<tr>
<th>Hispanic or Latino (of any race)</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mexican</td>
<td>1,290</td>
<td>37.2</td>
</tr>
<tr>
<td>Puerto Rican</td>
<td>3</td>
<td>0.1</td>
</tr>
<tr>
<td>Cuban</td>
<td>6</td>
<td>0.2</td>
</tr>
<tr>
<td>Other Hispanic or Latino [5]</td>
<td>183</td>
<td>5.3</td>
</tr>
<tr>
<td>Not Hispanic or Latino</td>
<td>1,986</td>
<td>57.3</td>
</tr>
</tbody>
</table>

HISPANIC OR LATINO AND RACE

<table>
<thead>
<tr>
<th>Hispanic or Latino</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>White alone</td>
<td>778</td>
<td>22.4</td>
</tr>
<tr>
<td>Black or African American alone</td>
<td>8</td>
<td>0.2</td>
</tr>
<tr>
<td>American Indian and Alaska Native alone</td>
<td>22</td>
<td>0.6</td>
</tr>
<tr>
<td>Asian alone</td>
<td>1</td>
<td>0.0</td>
</tr>
<tr>
<td>Native Hawaiian and Other Pacific Islander alone</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Some Other Race alone</td>
<td>585</td>
<td>16.9</td>
</tr>
<tr>
<td>Two or More Races</td>
<td>88</td>
<td>2.5</td>
</tr>
<tr>
<td>Not Hispanic or Latino</td>
<td>1,986</td>
<td>57.3</td>
</tr>
</tbody>
</table>

RELATIONSHIP

<table>
<thead>
<tr>
<th>In households</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Householder</td>
<td>1,293</td>
<td>37.3</td>
</tr>
<tr>
<td>Spouse [6]</td>
<td>519</td>
<td>15.0</td>
</tr>
<tr>
<td>Child</td>
<td>951</td>
<td>27.4</td>
</tr>
<tr>
<td>Own child under 18 years</td>
<td>670</td>
<td>19.3</td>
</tr>
<tr>
<td>Other relatives</td>
<td>342</td>
<td>9.9</td>
</tr>
<tr>
<td>Under 18 years</td>
<td>145</td>
<td>4.2</td>
</tr>
<tr>
<td>65 years and over</td>
<td>34</td>
<td>1.0</td>
</tr>
<tr>
<td>Nonrelatives</td>
<td>344</td>
<td>9.9</td>
</tr>
<tr>
<td>Under 18 years</td>
<td>26</td>
<td>0.7</td>
</tr>
<tr>
<td>65 years and over</td>
<td>8</td>
<td>0.2</td>
</tr>
</tbody>
</table>

Unmarried partner                    | 132    | 3.8     |
In group quarters                     | 19     | 0.5     |
<table>
<thead>
<tr>
<th>Subject</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutionalized population</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Male</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Female</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Noninstitutionalized population</td>
<td>19</td>
<td>0.5</td>
</tr>
<tr>
<td>Male</td>
<td>19</td>
<td>0.5</td>
</tr>
<tr>
<td>Female</td>
<td>0</td>
<td>0.0</td>
</tr>
</tbody>
</table>

**HOUSEHOLDS BY TYPE**

<table>
<thead>
<tr>
<th>Total households</th>
<th>1,293</th>
<th>100.0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family households (families) [7]</td>
<td>774</td>
<td>59.9</td>
</tr>
<tr>
<td>With own children under 18 years</td>
<td>363</td>
<td>28.1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Husband-wife family</th>
<th>519</th>
<th>40.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>With own children under 18 years</td>
<td>242</td>
<td>18.7</td>
</tr>
<tr>
<td>Male householder, no wife present</td>
<td>83</td>
<td>6.4</td>
</tr>
<tr>
<td>With own children under 18 years</td>
<td>29</td>
<td>2.2</td>
</tr>
<tr>
<td>Female householder, no husband present</td>
<td>172</td>
<td>13.3</td>
</tr>
<tr>
<td>With own children under 18 years</td>
<td>92</td>
<td>7.1</td>
</tr>
<tr>
<td>Nonfamily households [7]</td>
<td>519</td>
<td>40.1</td>
</tr>
<tr>
<td>Householder living alone</td>
<td>350</td>
<td>27.1</td>
</tr>
<tr>
<td>Male</td>
<td>178</td>
<td>13.8</td>
</tr>
<tr>
<td>65 years and over</td>
<td>15</td>
<td>1.2</td>
</tr>
<tr>
<td>Female</td>
<td>172</td>
<td>13.3</td>
</tr>
<tr>
<td>65 years and over</td>
<td>30</td>
<td>2.3</td>
</tr>
</tbody>
</table>

| Households with individuals under 18 years | 436  | 33.7  |
| Households with individuals 65 years and over | 180  | 13.9  |

| Average household size | 2.67  | ( X )  |
| Average family size [7] | 3.34  | ( X )  |

**HOUSING OCCUPANCY**

<table>
<thead>
<tr>
<th>Total housing units</th>
<th>1,532</th>
<th>100.0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occupied housing units</td>
<td>1,293</td>
<td>84.4</td>
</tr>
<tr>
<td>Vacant housing units</td>
<td>239</td>
<td>15.6</td>
</tr>
</tbody>
</table>

| For rent | 87   | 5.7    |
| Rented, not occupied | 4    | 0.3    |
| For sale only | 39   | 2.5    |
| Sold, not occupied | 7    | 0.5    |
| For seasonal, recreational, or occasional use | 4    | 0.3    |
| All other vacant | 98   | 6.4    |

| Homeowner vacancy rate (percent) [8] | 4.7   | ( X )  |
| Rental vacancy rate (percent) [9] | 14.5  | ( X )  |

**HOUSING TENURE**

<table>
<thead>
<tr>
<th>Occupied housing units</th>
<th>1,293</th>
<th>100.0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner-occupied housing units</td>
<td>783</td>
<td>60.6</td>
</tr>
<tr>
<td>Population in owner-occupied housing units</td>
<td>2,124</td>
<td>( X )</td>
</tr>
</tbody>
</table>

| Average household size of owner-occupied units | 2.71  | ( X )  |
| Renter-occupied housing units | 510   | 39.4  |
| Population in renter-occupied housing units | 1,325 | ( X )  |

| Average household size of renter-occupied units | 2.60  | ( X )  |

X Not applicable.

[1] Other Asian alone, or two or more Asian categories.
[2] Other Pacific Islander alone, or two or more Native Hawaiian and Other Pacific Islander categories.
[4] In combination with one or more of the other races listed. The six numbers may add to more than the total population, and the six percentages may add to more than 100 percent because individuals may report more than one race.
This category is composed of people whose origins are from the Dominican Republic, Spain, and Spanish-speaking Central or South American countries. It also includes general origin responses such as "Latino" or "Hispanic."

"Spouse" represents spouse of the householder. It does not reflect all spouses in a household. Responses of "same-sex spouse" were edited during processing to "unmarried partner."

"Family households" consist of a householder and one or more other people related to the householder by birth, marriage, or adoption. They do not include same-sex married couples even if the marriage was performed in a state issuing marriage certificates for same-sex couples. Same-sex couple households are included in the family households category if there is at least one additional person related to the householder by birth or adoption. Some-sex couple households with no relatives of the householder present are tabulated in nonfamily households. "Nonfamily households" consist of people living alone and households which do not have any members related to the householder.

The homeowner vacancy rate is the proportion of the homeowner inventory that is vacant "for sale." It is computed by dividing the total number of vacant units "for sale only" by the sum of owner-occupied units, vacant units that are "for sale only," and vacant units that have been sold but not yet occupied; and then multiplying by 100.

The rental vacancy rate is the proportion of the rental inventory that is vacant "for rent." It is computed by dividing the total number of vacant units "for rent" by the sum of the renter-occupied units, vacant units that are "for rent," and vacant units that have been rented but not yet occupied; and then multiplying by 100.

Source: U.S. Census Bureau, Census 2010 Summary File 1, Tables P5, P6, P8, P12, P13, P17, P19, P20, P25, P29, P31, P34, P37, P43, PCT5, PCT8, PCT11, PCT12, PCT19, PCT23, PCT24, H3, H4, H5, H11, H12, and H16.

Source: U.S. Census Bureau, 2010 Census.
### SEX AND AGE

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total population</td>
<td>741,206</td>
<td>100.0</td>
</tr>
<tr>
<td>Under 5 years</td>
<td>66,819</td>
<td>9.0</td>
</tr>
<tr>
<td>5 to 9 years</td>
<td>62,825</td>
<td>8.5</td>
</tr>
<tr>
<td>10 to 14 years</td>
<td>56,257</td>
<td>7.6</td>
</tr>
<tr>
<td>15 to 19 years</td>
<td>52,811</td>
<td>7.1</td>
</tr>
<tr>
<td>20 to 24 years</td>
<td>54,371</td>
<td>7.3</td>
</tr>
<tr>
<td>25 to 29 years</td>
<td>62,232</td>
<td>8.4</td>
</tr>
<tr>
<td>30 to 34 years</td>
<td>59,147</td>
<td>8.0</td>
</tr>
<tr>
<td>35 to 39 years</td>
<td>56,773</td>
<td>7.7</td>
</tr>
<tr>
<td>40 to 44 years</td>
<td>51,346</td>
<td>6.9</td>
</tr>
<tr>
<td>45 to 49 years</td>
<td>48,987</td>
<td>6.6</td>
</tr>
<tr>
<td>50 to 54 years</td>
<td>44,017</td>
<td>5.9</td>
</tr>
<tr>
<td>55 to 59 years</td>
<td>36,349</td>
<td>4.9</td>
</tr>
<tr>
<td>60 to 64 years</td>
<td>28,711</td>
<td>3.9</td>
</tr>
<tr>
<td>65 to 69 years</td>
<td>19,572</td>
<td>2.6</td>
</tr>
<tr>
<td>70 to 74 years</td>
<td>13,594</td>
<td>1.8</td>
</tr>
<tr>
<td>75 to 79 years</td>
<td>10,964</td>
<td>1.5</td>
</tr>
<tr>
<td>80 to 84 years</td>
<td>8,402</td>
<td>1.1</td>
</tr>
<tr>
<td>85 years and over</td>
<td>8,029</td>
<td>1.1</td>
</tr>
<tr>
<td>Median age (years)</td>
<td>31.2</td>
<td>(X)</td>
</tr>
<tr>
<td>16 years and over</td>
<td>544,755</td>
<td>73.5</td>
</tr>
<tr>
<td>18 years and over</td>
<td>523,563</td>
<td>70.6</td>
</tr>
<tr>
<td>21 years and over</td>
<td>492,030</td>
<td>66.4</td>
</tr>
<tr>
<td>62 years and over</td>
<td>76,974</td>
<td>10.4</td>
</tr>
<tr>
<td>65 years and over</td>
<td>60,561</td>
<td>8.2</td>
</tr>
</tbody>
</table>

### Male population

<table>
<thead>
<tr>
<th>Subject</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 5 years</td>
<td>33,959</td>
<td>4.6</td>
</tr>
<tr>
<td>5 to 9 years</td>
<td>31,973</td>
<td>4.3</td>
</tr>
<tr>
<td>10 to 14 years</td>
<td>28,802</td>
<td>3.9</td>
</tr>
<tr>
<td>15 to 19 years</td>
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<td>28,064</td>
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<td>25,722</td>
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<td>65 to 69 years</td>
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<td>10 to 14 years</td>
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<td>15 to 19 years</td>
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<td>50 to 54 years</td>
<td>22,204</td>
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<td>55 to 59 years</td>
<td>18,890</td>
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<td>75 to 79 years</td>
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<tr>
<td>80 to 84 years</td>
<td>5,302</td>
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**RACE**

| Total population        | 741,206| 100.0  |
| One Race                | 718,239| 96.9   |
| White                   | 452,885| 61.1   |
| Black or African American| 140,133| 18.9   |
| American Indian and Alaska Native | 4,762 | 0.6   |
| Asian                   | 27,615 | 3.7    |
| Asian Indian            | 4,733  | 0.6    |
| Chinese                 | 1,964  | 0.3    |
| Filipino                | 2,468  | 0.3    |
| Japanese                | 520    | 0.1    |
| Korean                  | 2,048  | 0.3    |
| Vietnamese              | 7,605  | 1.0    |
| Other Asian [1]         | 8,277  | 1.1    |
| Native Hawaiian and Other Pacific Islander | 746 | 0.1   |
| Native Hawaiian         | 180    | 0.0    |
| Guamanian or Chamorro   | 153    | 0.0    |
| Samoan                  | 89     | 0.0    |

**Median age (years)**

- Under 5 years: 32,860 (4.4%)
- 5 to 9 years: 30,852 (4.2%)
- 10 to 14 years: 27,455 (3.7%)
- 15 to 19 years: 26,138 (3.5%)
- 20 to 24 years: 27,828 (3.8%)
- 25 to 29 years: 31,860 (4.3%)
- 30 to 34 years: 29,902 (4.0%)
- 35 to 39 years: 28,709 (3.9%)
- 40 to 44 years: 25,624 (3.5%)
- 45 to 49 years: 24,309 (3.3%)
- 50 to 54 years: 22,204 (3.0%)
- 55 to 59 years: 18,890 (2.5%)
- 60 to 64 years: 15,095 (2.0%)
- 65 to 69 years: 10,603 (1.4%)
- 70 to 74 years: 7,720 (1.0%)
- 75 to 79 years: 6,408 (0.9%)
- 80 to 84 years: 5,302 (0.7%)
- 85 years and over: 5,551 (0.7%)
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<thead>
<tr>
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<th>Percent</th>
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<tr>
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<td>Some Other Race</td>
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**HISPANIC OR LATINO**

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<th>Percent</th>
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<td>Total population</td>
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</tr>
<tr>
<td>Hispanic or Latino (of any race)</td>
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<td>Mexican</td>
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<td>Puerto Rican</td>
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<td>Cuban</td>
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<tr>
<td>Other Hispanic or Latino [5]</td>
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</tr>
<tr>
<td>Not Hispanic or Latino</td>
<td>488,738</td>
<td>65.9</td>
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</table>

**HISPANIC OR LATINO AND RACE**

<table>
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<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total population</td>
<td>741,206</td>
<td>100.0</td>
</tr>
<tr>
<td>Hispanic or Latino</td>
<td>252,468</td>
<td>34.1</td>
</tr>
<tr>
<td>White alone</td>
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<td>American Indian and Alaska Native alone</td>
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<tr>
<td>Native Hawaiian and Other Pacific Islander</td>
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<td>Some Other Race alone</td>
<td>91,105</td>
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<td>Two or More Races</td>
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<td>1.6</td>
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<tr>
<td>Not Hispanic or Latino</td>
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<td>65.9</td>
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<td>Black or African American alone</td>
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<tr>
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<td>Native Hawaiian and Other Pacific Islander</td>
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**RELATIONSHIP**

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<th>Number</th>
<th>Percent</th>
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<tbody>
<tr>
<td>Total population</td>
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<td>100.0</td>
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<td>In households</td>
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<td>Child</td>
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<tr>
<td>Own child under 18 years</td>
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<tr>
<td>Other relatives</td>
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<tr>
<td>Under 18 years</td>
<td>25,801</td>
<td>3.5</td>
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<tr>
<td>65 years and over</td>
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<td>Nonrelatives</td>
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<td>Under 18 years</td>
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<td>65 years and over</td>
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<td>Unmarried partner</td>
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<td>In group quarters</td>
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<td>Subject</td>
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<td>Percent</td>
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<td>Institutionalized population</td>
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<td>Noninstitutionalized population</td>
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<tr>
<td>Female</td>
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</table>

HOUSEHOLDS BY TYPE

| Total households                                | 262,652 | 100.0   |
| Family households (families) [7]                | 176,923  | 67.4    |
| With own children under 18 years                | 95,916   | 36.5    |
| Husband-wife family                             | 122,158  | 46.5    |
| With own children under 18 years                | 64,734   | 24.6    |
| Male household, no wife present                 | 14,602   | 5.6     |
| With own children under 18 years                | 7,314    | 2.8     |
| Female household, no husband present            | 40,163   | 15.3    |
| With own children under 18 years                | 23,868   | 9.1     |
| Nonfamily households [7]                        | 85,729   | 32.6    |
| Householder living alone                        | 69,613   | 26.5    |
| Male                                             | 32,445   | 12.4    |
| 65 years and over                               | 4,995    | 1.9     |
| Female                                           | 37,168   | 14.2    |
| 65 years and over                               | 12,374   | 4.7     |

| Households with individuals under 18 years       | 107,728  | 41.0    |
| Households with individuals 65 years and over    | 45,740   | 17.4    |

| Average household size                          | 2.77     | ( X )   |
| Average family size [7]                         | 3.41     | ( X )   |

HOUSING OCCUPANCY

| Total housing units                              | 291,086  | 100.0   |
| Occupied housing units                           | 262,652  | 90.2    |
| Vacant housing units                             | 28,434   | 9.8     |
| For rent                                         | 15,756   | 5.4     |
| Rented, not occupied                             | 542      | 0.2     |
| For sale only                                    | 3,990    | 1.4     |
| Sold, not occupied                               | 646      | 0.2     |
| For seasonal, recreational, or occasional use    | 1,085    | 0.4     |
| All other vacant                                 | 6,415    | 2.2     |

| Homeowner vacancy rate (percent) [8]             | 2.5      | ( X )   |
| Rental vacancy rate (percent) [9]                | 12.8     | ( X )   |

HOUSING TENURE

| Occupied housing units                           | 262,652  | 100.0   |
| Owner-occupied housing units                     | 155,420  | 59.2    |
| Population in owner-occupied housing units       | 458,312  | ( X )   |
| Average household size of owner-occupied units   | 2.95     | ( X )   |

| Renter-occupied housing units                    | 107,232  | 40.8    |
| Population in renter-occupied housing units      | 268,917  | ( X )   |
| Average household size of renter-occupied units  | 2.51     | ( X )   |

X Not applicable.
[1] Other Asian alone, or two or more Asian categories.
[2] Other Pacific Islander alone, or two or more Native Hawaiian and Other Pacific Islander categories.
[4] In combination with one or more of the other races listed. The six numbers may add to more than the total population, and the six percentages may add to more than 100 percent because individuals may report more than one race.
This category is composed of people whose origins are from the Dominican Republic, Spain, and Spanish-speaking Central or South American
countries. It also includes general origin responses such as "Latino" or "Hispanic."

"Spouse" represents spouse of the householder. It does not reflect all spouses in a household. Responses of "same-sex spouse" were edited
during processing to "unmarried partner."

"Family households" consist of a householder and one or more other people related to the householder by birth, marriage, or adoption. They do not
include same-sex married couples even if the marriage was performed in a state issuing marriage certificates for same-sex couples. Same-sex couple
households are included in the family households category if there is at least one additional person related to the householder by birth or adoption.
Same-sex couple households with no relatives of the householder present are tabulated in nonfamily households. "Nonfamily households" consist of
people living alone and households which do not have any members related to the householder.

The homeowner vacancy rate is the proportion of the homeowner inventory that is vacant "for sale." It is computed by dividing the total number of
vacant units "for sale only" by the sum of owner-occupied units, vacant units that are "for sale only," and vacant units that have been sold but not yet
occupied; and then multiplying by 100.

The rental vacancy rate is the proportion of the rental inventory that is vacant "for rent." It is computed by dividing the total number of vacant units
"for rent" by the sum of the renter-occupied units, vacant units that are "for rent," and vacant units that have been rented but not yet occupied; and
then multiplying by 100.

Source: U.S. Census Bureau, Census 2010 Summary File 1, Tables P5, P6, P8, P12, P13, P17, P19, P20, P25, P29, P31, P34, P37, P43, PCT5,
PCT8, PCT11, PCT12, PCT19, PCT23, PCT24, H3, H4, H5, H11, H12, and H16.

Source: U.S. Census Bureau, 2010 Census.
Everly Plaza
Housing Opportunities and Undue Concentration

Everly Plaza will be located in Fort Worth, TX, a major metropolitan city in Tarrant County that has 815,930 people according to the 2012-2016 American Community Survey. According to this dataset, Fort Worth has 18% percent of individuals below the poverty level and the State of Texas has 16.7% below the poverty level. Fort Worth also has a median income of $54,876 compared to $54,727 for the state.

The development site is located in 2010 census tract 48439104100 in Tarrant County, which has a 10.8% percent poverty rate. This percentage is lower than the city and state rates. This census tract also has a household income of $71,250, which is higher than the city and state rates. Additionally, this will be the first HTC- and TDHCA Direct Loan-financed development in the census tract.

Based on low poverty, high income, and a census tract that does not have another HTC- and TDHCA Direct Loan-assisted housing development, this site offers greater opportunities for housing choice among low income households while avoiding concentrations of low income individuals.
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
Educational Quality
Welcome to SchoolSite Locator!
Enter an address in the search box at the top to find your schools of attendance!
If you do not know the specific address, or if it cannot be found, just click anywhere on the map to find the schools for that neighborhood.

De Zavala ES
- Serving grades K-5
- 1419 College Avenue, Fort Worth
- 817.814.5600
- School #: 121
- School Actions:

Daggett MS
- Serving grades 6-8
- 1108 Carlock Street, Fort Worth
- 817.814.5200
- School #: 042
- School Actions:

Paschal HS
- Serving grades 9-12
- 3001 Forest Park Blvd, Fort Worth
- 817.814.5000
- School #: 010
- School Actions:
### Texas Education Agency
#### 2018 Accountability Ratings Overall Summary
##### DE ZAVALA EL (220905121) - FORT WORTH ISD

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<td>Student Achievement</td>
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### Distinction Designations

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<tr>
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</tr>
<tr>
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Fort Worth ISD
Dagget MS Boundaries
## Texas Education Agency
### 2018 Accountability Ratings Overall Summary
**DAGGETT MIDDLE (220905042) - FORT WORTH ISD**

<table>
<thead>
<tr>
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<th>Score</th>
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<td>STAAR Performance</td>
<td>33</td>
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<tr>
<td>College, Career and Military Readiness</td>
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<td>62</td>
<td>Met Standard</td>
</tr>
<tr>
<td><strong>Graduation Rate</strong></td>
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<td><strong>School Progress</strong></td>
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<tr>
<td>Academic Growth</td>
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<td>81</td>
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<tr>
<td>Relative Performance (Eco Dis: 92.1%)</td>
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<td>57</td>
<td>77</td>
<td>Met Standard</td>
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### Distinction Designations

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<thead>
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<tbody>
<tr>
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Fort Worth ISD
Paschal HS Boundaries
# Texas Education Agency
## 2018 Accountability Ratings Overall Summary
### PASCHAL H S (220905010) - FORT WORTH ISD

<table>
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<td>Academic Growth</td>
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<td>Relative Performance (Eco Dis: 50.4%)</td>
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### Distinction Designations

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<thead>
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<tbody>
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<tr>
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</table>
2019 HTC
Full Application

Part 2 Tab 8

Supporting Documents:
Waiver of Rules
This Tab is Not Applicable
Site Information Form  
Part II
1. Opportunity Index (Competitive HTC and Direct Loan Applications Only) [10 TAC §11.9(c)(4) and 10 TAC §13.6(1)]
   - Development Site is located entirely within a census tract that has a poverty rate that is less than 20% or that is less than the median poverty rate for the region, whichever is higher.
   - The census tract has a median household income rate in the two highest quartiles within the region (2 points).
   - The census tract has a median household income rate in the third quartile within the region, and is contiguous to a census tract in the first or second quartile without physical barriers such as highways or rivers between, and the Development Site is no more than 2 miles from the boundary between the census tracts. A map showing the Development Site, location of the border, scale showing distance, and other applicable evidence is included (1 point).
   - Contiguous Census Tract # ______
   - Contiguous Tract Quartile ______

   Development is Rural or USDA and Development Site is within the required distance of eligible amenities and/or services, pursuant to §11.9(c)(4)(B)(ii) of the QAP. A map showing the Development Site, scale showing radius, location of the amenities, and evidence that the amenity meets all requirements of the rule, as applicable, is included.

   - Full service grocery store (1 point)(1 mile)
   - Pharmacy (1 point)(1 mile)
   - Health-related facility (1 point)(3 miles)
   - Licensed center serving children (1 point)(2 miles)
   - University or community college (1 point)(5 miles)
   - Indoor recreation facility available to public (1 point)
   - Outdoor recreation facility available to public (1 point)
   - Delivered meals service (1 point)(1 mile)
   - Community, civic or service organization (1 point)(1 mile)
   - Census tract with ≥27% associate degrees adults ≥25 (1 point)

   Development is Urban and Development Site is within the required radius of eligible amenities and/or services, pursuant to §11.9(c)(4)(B)(i) of the QAP. A map showing the Development Site, scale showing radius, location of the amenities, and evidence that the amenity meets all requirements of the rule, as applicable, is included.

   - Community health center (1 point)(0.5 miles)
   - Health-related clinic (1 point)(0.5 miles)
   - Clinic (1 point)(0.5 miles)
   - Health-related facility (1 point)(1 mile)
   - Health-related facility (1 point)(2 miles)
   - Community clinic (1 point)(1 mile)
   - Community health clinic (1 point)(1 mile)
   - Pharmacists (1 point)(1 mile)
   - Full service grocery store (1 point)(1 mile)
   - Community, civic or service organization (1 point)(1 mile)

   No members of the Applicant or Affiliates had an ownership position in a selected amenity or served on the board or staff of a nonprofit that owned or managed a selected amenity within the year preceding the Pre-Application Final Delivery Date.

   Application is seeking points for Opportunity Inde ______
   Total Points Claimed: 7

   If necessary, provide a brief summary of how the Development Site is justifying the points selected:
2. **Underserved Area (Competitive HTC and Direct Loan Applications Only) [10 TAC §11.9(c)(5) and 10 TAC §13.6(3)]**

Applications may qualify for up to five (5) points for proposed Developments located in ONE of the following areas:

- Wholly or partially within a Colonia (2 points);
  (Note: Not eligible if application qualifies for Opportunity Index points)
- Entirely within the boundaries of an Economically Distressed Area (1 point);
  (Note: Not eligible if application qualifies for Opportunity Index points)
- Yes, Entirely within a census tract that does not have another Development that was awarded less than 30 years ago according to the Department’s property inventory tab of the Site Demographic Characteristics Report (3 points);
- For areas that did not score above, entirely within a census tract that does not have another Development that was awarded less than 15 years ago according to the Department’s property inventory tab of the Site Demographic Characteristics Report (2 points);
- Entirely within a census tract whose boundaries are wholly within an incorporated area and the census tract itself and all of its contiguous census tracts do not have another Development that was awarded less than 15 years ago according to the Department’s property inventory tab of the Site Demographic Characteristics Report. This item will apply in Places with a population of 100,000 or more, and will not apply in the At-Risk Set-Aside (5 points);

<table>
<thead>
<tr>
<th>Contiguous Census Tract #</th>
<th>Contiguous Census Tract #</th>
<th>Contiguous Census Tract #</th>
</tr>
</thead>
</table>

- Entirely within a census tract that, according to American Community Survey 5-year Estimates, has both a poverty rate greater than 20% and a median gross rent for a two-bedroom unit greater than its county’s 2016 HUD Fair Market Rent for a two-bedroom unit. This measure is referred to as the Affordable Housing Needs Indicator in the Site Demographic Characteristics Report (2 points);

- An At-risk or USDA Development placed in service 30 or more years ago, that is still occupied, and that has not yet received federal funding, or LIHTC equity, for the purposes of Rehabilitation for the Development (3 points).

**Application is seeking points for Underserved Area**

**Total Points Claimed:** 3

3. **Proximity to the Urban Core (Competitive HTC Applications Only) [10 TAC §11.9(c)(7)]**

- Development Site is located in a Place with a population over 200,000 and is not in the At-Risk Set-Aside.
- Population of Place is 200,000-749,999 and Development is located w/in 2 miles of the main municipal government administration building.
- Population of Place is 750,000 or more and Development is located w/in 4 miles of the main municipal government administration building.

**Application is seeking points for Proximity to the Urban Core**

**Total Points Claimed:** 5

4. **Concerted Revitalization Plan (Competitive HTC Applications Only) [10 TAC §11.9(d)(7)]**

**Region:** 3, **Urban**

- Application is claiming points for a Concerted Revitalization Plan ("CRP").
- No points were claimed for Opportunity Index.
- Applicant has selected amenities in the Opportunity Index section and included documentation in the CRP packet.
- The CRP Packet has been completed and uploaded along with but separately from the Application.

**Application is seeking points for Concerted Revitalization.**

**Total Points Claimed:** 0

2/25/2019
5. **Declared Disaster Area Scoring (Competitive HTC Applications ONLY) [10 TAC §11.9(d)(3)]**

- Development is located in an area that qualifies as a Declared Disaster Area as defined in §11.9(d)(3).

| Development is located in an area that qualifies as a Declared Disaster Area as defined in §11.9(d)(3). | Total Points Claimed: | 10 |

6. **Readiness to Proceed in Disaster Impacted Counties (Competitive HTC Applications ONLY) [10 TAC §11.9(c)(8)]**

- Application meets all of the following requirements:
  - Application is for a proposed Development located in a county declared by FEMA to be eligible for individual assistance within two years preceding December 1, 2018.
  - Application includes a certification that the Applicant will close all financing on or before the last business day in November, 2019.
  - Application includes acknowledgement from all lenders and the syndicator of the required closing date.
  - Application includes a certification that the Applicant will fully execute the construction contract on or before the last business day in November, 2019.
  - Application includes evidence that appropriate zoning will be in place at award.
  - Application includes a DETAILED narrative description of each piece of evidence provided that is not specifically requested and how that evidence proves that the Applicant will have appropriate zoning at award and will close all financing and fully execute the construction contract on or before the last business day of November, 2019.
  - Applicant understands that failure to close all financing and/or fully execute the construction contract on or before the last business day in November, 2019 will result in penalty under 10 TAC §11.9(f), as determined solely by the Board.

| Application is seeking points for Readiness to Proceed. | Total Points Claimed: | 0 |
2019 HTC
Full Application

Part 2 Tab 10

Supporting Documentation for
Site Information Form Part II
**Supporting Documentation for the Site Information Form Part II**

**Opportunity Index (Competitive HTC and Direct Loan Only)**

- Map with Development Site boundaries indicated, relative to census tract boundaries
- Map(s) of Community Assets with Development, radius, and each asset labeled
- Distances are measured from the nearest boundary of the Development Site to the nearest boundary of the property or easement containing the facility, unless otherwise noted. All measurements include ingress/egress and any easements
- For each amenity, supporting documentation to evidence how the amenity meets each requirement of the rules.
  
  NOTE: Per the rule, regular and recurring substantive services provided by community, civic or service organization must be beyond exclusively congregational or member-affiliated activities. For this item, you must evidence the organization’s service activity in the community.

- Print-out from DFPS website confirming daycare licensed to serve relevant age groups ([http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilitySearchDayCare.asp](http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilitySearchDayCare.asp))

**Crime rate information for census tract from Neighborhood Scout or local data source dated after October 1, 2018, including the computation used to determine the crime rate ([https://www.neighborhoodscout.com](https://www.neighborhoodscout.com))**

- Print-out from THECB website confirming accreditation of university or community college ([http://www.txhighereddata.org/Interactive/Institutions.cfm](http://www.txhighereddata.org/Interactive/Institutions.cfm))

**Evidence amenity is operational or has started site work (for instance: website postings, news paper ads, etc.); evidence of costs or membership fees, age restrictions, as applicable**

**Evidence of Underserved Area (Competitive HTC and Direct Loan Only)**

**For Colonia:**

- Evidence from Attorney General of Colonia boundaries; and ([https://www.texasattorneygeneral.gov/cpd/colonias](https://www.texasattorneygeneral.gov/cpd/colonias))
- Letter from the appropriate local government official or other evidence that the colonia lacks infrastructure and the Development will enable the current dwellings to connect to such infrastructure; and
- Map showing development site boundaries, relative to Colonia boundaries, and distance from Rio Grande river border.

**For Economically Distressed Areas:**

- A letter or correspondence from Texas Water Development Board indicating the boundaries of the EDA; and ([http://www.twdb.texas.gov/financial/programs/EDAP/index.asp](http://www.twdb.texas.gov/financial/programs/EDAP/index.asp))
- Map showing development site boundaries, relative to EDA boundaries.

**For other items:**

- Development must be awarded 2004 or earlier for 15-year threshold and 1988 or earlier for 30-year threshold, as listed in the "Board Approval" column of the Property Inventory tab of the Site Demographic Characteristics Report posted on the Department’s website at ([http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm](http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm))
- Map with Development Site boundaries indicated, relative to census tract boundaries
- Map with census tract boundaries indicated, relative to boundaries of incorporated area, if applicable.
- Map with all contiguous census tracts, if applicable

**Proximity to Urban Core (Competitive HTC Only)**

- Map with the appropriate radius, City Hall location, and evidence of meetings regularly scheduled for City Council, City Commission, or similar governing body.

**Concerted Revitalization Plan (Competitive HTC Only)**

- CRP Packet is uploaded along with but separate from the Application.

**Declared Disaster Area:**

- The county in which the Development Site is located is listed on the 2019 List of Declared Disaster Areas (no further documentation is required).

The List of Declared Disaster Areas is posted on the Department’s website at

2/25/2019
Applicant believes the county in which the Development Site is located was omitted from the list and should be listed. Application includes evidence that the Development Site is located in an area declared to be a disaster area under Tex. Gov’t Code §418.014 at any time within the two-year period preceding the date of Application submission.

Evidence that appropriate zoning will be in place at award (July 25, 2019).

Each piece of evidence provided that is not listed above must be accompanied by a detailed narrative describing how that piece of evidence will allow the Applicant to meet the requirements.
2019 HTC
Full Application

Part 2 Tab 10

Supporting Documents:
Opportunity Index
Census tract 48439104100 has a median household income within the two highest quartiles of the region with a poverty percentage of less than 20%.

Census tract 48439104100 has an associate degree rate of $\geq 27\%$. 
Census Tract Map
Everly Plaza

The 2019 Qualified Census Tracts (QCTs) and Difficult Development Areas (DDAs) are effective January 1, 2019. The 2019 designations use data from the 2010 Decennial census and three releases of 5-year tabulations from the American Community Survey (ACS): 2010-2014, 2011-2015, and 2015-2016. The designation methodology is explained in the Federal Register notice published October 22, 2018.

Source: https://www.huduser.gov/portal/sadda/sadda_qct.html
# Everly Place
## Opportunity Index Amenities

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<th>Address</th>
<th>City</th>
<th>Zip</th>
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<tr>
<td>III</td>
<td>Fiesta Mart</td>
<td>2700 8th Ave.</td>
<td>Fort Worth</td>
<td>76110</td>
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<tr>
<td>X</td>
<td>Associates Degree</td>
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The 2019 Qualified Census Tracts (QCTs) and Difficult Development Areas (DDAs) are effective January 1, 2019. The 2019 designations use data from the 2010 Decennial census and three releases of 5-year tabulations from the American Community Survey (ACS) 2010-2014, 2011-2015, and 2015-2016. The designation methodology is explained in the Federal Register notice published October 22, 2018.
FIND A FIESTA MART NEAR YOU

SELECT YOUR GROCERY STORE TO GET SPECIAL OFFERS!

76110

Use My Current Location

GROCERY STORES NEAR YOU

STORE #61 (../STORE/2700-8TH-AVE_STORE-61) 0.90 miles

2700 8th Ave
Fort Worth, TX 76110
(817) 920-1900

See weekly ad
(//weekly-ads? store_code=61)

Make this my store

STORE #67 (../STORE/421-W-BOLT-STREET_STORE-67) 1.04 miles

421 W Bolt Street
Fort Worth, TX 76110
(817) 920-1930

See weekly ad
Welcome to Baylor Scott & White Pharmacy #102

About Our Pharmacies

Baylor Scott & White Pharmacies are outpatient/retail pharmacies similar to your local pharmacy. Each pharmacy is open to the general public, and accept most pharmacy insurance. Check your insurance provider to verify coverage.

Trust Baylor Scott & White Health for all your pharmacy needs.

$4 Generic and Discount Program

Baylor Scott & White Pharmacies provide a $4/$10 generic and discount program for everyone including pets. This program provides drug-cost savings, covers more than 5,000 brand and generic medications, and prescriptions can be as low as $4 for a 30-day supply or $10 for a 90-day supply.

- This cannot be combined with any other insurance, nor is this a pharmacy insurance plan.
- There is a one-annual $10 fee per household.
- Contact the pharmacy to sign up for the program, and for a monthly generic formulary list.

$4 Generic List

View a list of generic prescription drugs.

By Drug Category  |  By Drug Name

Pharmacy Medication Concierge

Patients who are being discharged may have prescriptions filled before they leave the hospital. Patients often experience a better outcome and a quicker recovery when they are able to take their prescribed medication as soon as possible after discharge.

Pharmacy Medication Concierge is a free bedside delivery of your discharge medications, and is available for any Baylor Scott & White Pharmacy admitted in the hospital. On the day of your discharge, a pharmacy representative will contact you and arrange to have your prescriptions filled and delivered to your room, if you choose.
Texas Pharmacy License # 26176

BAYLOR SCOTT & WHITE PHARMACY #102

License Information

License Status  Active
License # 26176
Expiration Date 09/30/2020
Date License Issued 09/03/2008

Address
1250 8TH AVE, STE 125
FORT WORTH, TX 76104
County TARRANT
Phone (817) 923-6688

Pharmacy Details

Prior Disciplinary Orders*  No

* Information relating to disciplinary orders is current as of 30 days prior to this date. Please note that disciplinary orders entered more than 10 years ago are not available online. A written request for information regarding prior disciplinary orders may be submitted to the office of the Texas State Board of Pharmacy. Any disciplinary orders entered pursuant to Chapter 564 of the Texas Pharmacy Act are confidential and not subject to public disclosure.

Class of Pharmacy  Community Pharmacy
Type of Ownership  Partnership
Type of Pharmacy  Community Multi
# of Hospital beds  0

Employment Information

Pharmacist in Charge
BIDI, OMONIYI BANKOLE

Pharmacy Profile

Accessible to disabled persons? Yes
Participates in the Texas Medicaid program? Yes
Translating services (Listed Below If Available)
Spanish

Remedial Plans

Remedial plans (if any) are shown above and subject to removal at the end of the 5th fiscal year after the Board enters the plan.

Services Provided

No Nuclear
Yes Out-Patient Prescriptions
No Ship Prescription Out of State
No Class D (Expanded Formulary)
No Class D (Alternative Visit Schedule)
No Compounding Sterile-Risk Level Low
No Compounding Sterile-Risk Level Med
No Compounding Sterile-Risk Level High
No Compounding Non-Sterile
No 24 Hour Service
No Closed Door
No Compounding, Office Use
No Home Delivery
No Infusion
No Pharmacist Administered Immunizations
No Veterinary Prescriptions
The Texas State Board of Pharmacy certifies that it maintains the information for the license verification function of this website, performs daily updates to the website, and considers the website to be a secure, primary source for license verification.

<table>
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<tr>
<th>Pharmacist Name</th>
<th>License #</th>
<th>Registr. Date</th>
<th>Expir. Date</th>
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<th>License Status</th>
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<td>CROCKEM, INDIA LARKINS</td>
<td>38163</td>
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The Texas Registered Technicians/Trainees Employment information

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<th>Expir. Date</th>
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<tr>
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<td>12/24/2010</td>
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<tr>
<td>HILL, AMY MICHELE</td>
<td>157925</td>
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<td>01/31/2021</td>
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The Texas Remote Pharmacy information

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The Texas Pharmacy Owner information

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The State Board of Pharmacy certifies that it maintains the information for the license verification function of this website, performs daily updates to the website, and considers the website to be a secure, primary source for license verification.
Baylor Scott & White Urgent Care treats patients of all ages for a variety of illnesses and injuries and is pleased to provide the communities of Dallas–Fort Worth with quality medical care in a comforting environment. Our providers specialize in emergency medicine and offer extended hours seven days a week.

Our office uses an electronic health record system that allows for an enhanced patient experience through:

- Patient-to-physician relations
- Timeliness
- Patient information storage
- Portability

What Is Considered An Urgent Medical Condition?

Urgent medical conditions are not considered emergencies. An emergency condition is one that can permanently impair or endanger the life of an individual. Urgent medical conditions require care within 24 hours and include minor broken bones and fractures, sprains, skin rashes and infections, fever or flu, and mild to moderate asthma.

Visit our services page for a complete list of services provided.

Learn more about our family medicine locations in Midlothian and Southlake and Fort Worth.
Locations

**McKinney**
5220 W. University Drive
Suite 100
McKinney, TX 75071
Phone: 469.800.5100
Fax: 469.800.5110

**Midlothian**
1441 S. Midlothian Parkway
Suite 100A
Midlothian, TX 76065
Phone: 469.800.9440
Fax: 469.800.9450

**Southlake**
925 E. Southlake Blvd.
Suite 100
Southlake, TX 76092
Phone: 817.912.8800
Fax: 817.912.8810

**Fort Worth**
1101 Sixth Ave.
Suite 110
Fort Worth, TX 76104
Phone: 817.912.8360
Fax: 817.912.8365

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Operation Details
You may click on the question mark image (?) to view the Frequently Asked Questions (FAQ) page.

Operation Number: 873817
Operation Type: Licensed Center
Program Provided: Child Care Program
Operation/Caregiver Name: Baylor All Saints Child Care and Preschool
Location Address: 1705 ENDERLY N
FORT WORTH, TX 76104
Mailing Address: 1705 ENDERLY N
FORT WORTH, TX 76104
Phone Number: 817-927-6249
County: TARRANT
Website Address: www.baylorhealth.com
Email Address: Administrator/Director Name: Mary Catherine Perry
Type of Issuance: Full Permit
Issuance Date: 7/12/2007
Permit Renewal Due By Date: 7/12/2019
Conditions on Permit: No
Accepts Child-Care Subsidies: No
Hours of Operation: 06:00 AM-08:00 PM
Days of Operation: Monday - Friday
Total Capacity: 160
Licensed to Serve Ages: Infant, Toddler, Pre-Kindergarten, School
Number Of Admin Penalties: 0
Corrective Action: No
Adverse Action: No
Temporarily Closed: No

Three Year Inspection Summary
Inspectors routinely monitor compliance with Licensing standards, rules and law. At a minimum, licensed and certified operations are inspected at least once a year; Registered Child Care Homes are inspected at least once every two years, Listed Family Homes are inspected only if there is a report of abuse/neglect or if we receive a report that the home is caring for too many children. When operations have serious deficiencies or a significant number of deficiencies, repeat deficiencies, or fail to make corrections timely, they are inspected more frequently by licensing staff, to ensure the health and safety of children in care.

In the last three years, Licensing conducted the following:
- 10 Inspections
- 0 Assessments
- 5 Self Reported Incidents
- 1 Reports

Click on the inspection type to see additional details related to each inspection.
There are many standards that an operation must comply with; the total number varies for each type of operation. An operation or home is generally given an opportunity to correct deficiencies and has the right to request a review of a deficiency. Deficiencies pending review are not included in the two year history.

Three Year Compliance Summary
During the last three years, 2291 standards were evaluated for compliance at this operation.

Of the standards evaluated 3 deficiencies were cited.

Click on the number of deficiencies to see additional details.

Each standard is assigned a weight. The weight ensures all inspectors consider standard violations in the same way, and represents the potential impact a deficiency might have on children. Review the inspection reports to learn more about each citation. It's important to remember; weights are not assigned to an individual operation, inspection, or circumstance and are not intended to result in a ranking of operations or score.

The weights of the standard deficiencies cited in the past three years are as follows:

1 was weighted as High
2 were weighted as Medium - High
0 were weighted as Medium
0 were weighted as Medium - Low
0 were weighted as Low

Click on the weight to see additional details about each deficiency.

Disclaimer: The online compliance history includes only information after January 1, 2002. In addition, the online compliance history does not include minimum standard violations or corrective or adverse actions until after the child-care operation has had due process or waived its rights. For compliance history prior to January 1, 2002 or history with pending due process, please contact your local licensing office. Child-Care Licensing disclaims liability for any errors or omissions from the compliance history information.

Website and Email addresses are based on information given to DFPS by the Operation/Caregiver. If you experience problems with these addresses please contact the Operation/Caregiver.
**ACADEMICS**

**TCU**

**TOP STORIES**

Joint Training Exercises in Worth Hills Jan. 22-25

TCU Educates the Next Generation of Rwandan Leaders

Failure - Frogs Find Meaning in Life's Wrong Turns

TCU Graduated 750 at Fall Commencement

Teresa Abi-Nader Dahlberg, Ph.D. Selected as TCU's Next Provost

TCU Dedicates Expanded and Renovated Dee J. Kelly Alumni & Visitors Center

**View More**

**UPCOMING EVENTS**

Guest Artist Series: Derek Brown, saxophone master class and recital. (1/31/2019)


Ensemble Concert Series: TCU Opera Presents 'The Tragedy of Carmen'-Rescheduled Apr. 13 and 14 (2/2/2019)


Women's Basketball vs Oklahoma State (2/3/2019)

**View More**

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Your support can help to make The Academy of Tomorrow a reality. Find out more.

**TCU A to Z**

The quick and easy access to everything throughout the campus and University.

**EMERGENCY PREPAREDNESS**

TCU places a priority on informing faculty, staff and students about campus emergencies. Find out more.

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**TCU WEATHER**

Overcast

52° F

**SCHOOLS AND COLLEGES**

AddRan College of Liberal Arts

Bob Schieffer College of Communication

College of Education

College of Science & Engineering

John V. Roach Honors College

Harris College of Nursing & Health Sciences

School of Interdisciplinary Studies

TCU and UNTHSC School of Medicine Relationship with Brite Divinity School
Independent Universities

Download the Excel Version

<table>
<thead>
<tr>
<th>Institution</th>
<th>Administrative Officer</th>
<th>Main Telephone</th>
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<tbody>
<tr>
<td>Abilene Christian University</td>
<td>Phil Schubert President</td>
<td>(325) 674-2412</td>
</tr>
<tr>
<td>Amberton University</td>
<td>Melinda Reagan President</td>
<td>(972) 279-6511</td>
</tr>
<tr>
<td>Austin College</td>
<td>Matrone Hass President</td>
<td>(903) 813-3001</td>
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<tr>
<td>Baylor University</td>
<td>Judge Ken Starr Chancellor/President</td>
<td>(254) 710-3555</td>
</tr>
<tr>
<td>Concordia University Texas</td>
<td>Thomas Cedel President</td>
<td>(512) 313-3000</td>
</tr>
<tr>
<td>Dallas Baptist University</td>
<td>Adam C. Wright President</td>
<td>(214) 333-5130</td>
</tr>
<tr>
<td>East Texas Baptist University</td>
<td>Lawrence Resler Interim President</td>
<td>(903) 923-2222</td>
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<tr>
<td>Hardin-Simmons University</td>
<td>Lanny Hall President</td>
<td>(325) 670-1226</td>
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<tr>
<td>Houston Baptist University</td>
<td>Robert Sloan, Jr. President</td>
<td>(281) 649-3450</td>
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<tr>
<td>Howard Payne University</td>
<td>William (Bill) Ellis President</td>
<td>(254) 649-8000</td>
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<td>Huston-Tillotson University</td>
<td>Larry Envin President</td>
<td>(512) 505-3001</td>
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<tr>
<td>Jarvis Christian College</td>
<td>Lester Newman President</td>
<td>(903) 730-4890</td>
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<tr>
<td>LeTouneau University</td>
<td>Dale Lunsford President</td>
<td>(903) 233-3100</td>
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<tr>
<td>Lubbock Christian University</td>
<td>L. Tim Perrin Chancellor</td>
<td>(806) 720-7127</td>
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<tr>
<td>McMurry University</td>
<td>Sandra Harper President/CEO</td>
<td>(325) 793-3801</td>
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<tr>
<td>Our Lady of the Lake University of San Antonio</td>
<td>Jane Ann Slater President</td>
<td>(210) 431-3950</td>
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<tr>
<td>Paul Quinn College</td>
<td>Michael Sorrell President</td>
<td>(214) 379-5515</td>
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<td>Rice University</td>
<td>David Leebroth President</td>
<td>(713) 348-5050</td>
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<tr>
<td>Schreiner University</td>
<td>Charlie T. McCormick President</td>
<td>(830) 762-7346</td>
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<tr>
<td>South Texas College of Law Houston</td>
<td>Donald Guter President/Dean</td>
<td>(713) 659-8040</td>
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<tr>
<td>Southern Methodist University</td>
<td>Gerald Turner President</td>
<td>(214) 768-3300</td>
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<tr>
<td>Southwestern Adventist University</td>
<td>Ken Shaw President</td>
<td>(817) 202-6202</td>
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<td>Kermit S. Bridges President</td>
<td>(972) 825-4652</td>
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<td>Southwestern Assemblies of God University</td>
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</table>
GET TO A HEALTHIER PLACE®

Get to a healthier place at Anytime Fitness! Our friendly, professional staff is trained to help you along your fitness journey, no matter how much support you need. Membership includes a free, no-pressure fitness consultation, global access to more than 3,000 gyms, and always open 24/7 convenience. The 9th Ave gym is located in the historic Fairmount district in the middle of the hospitals and just a jog away from Magnolia’s eclectic dining and shops.

Local Offers & Announcements

- Fairmount Neighborhood Blue Zones Project
  Fairmount Neighborhood Blue Zones members will receive 20% off the membership dues and no enrollment fee! Just show your confirmation email when you sign up.

- We honor Silver Sneaker, Prime & American Speciality Health Memberships
  We are a Silver Sneaker, Prime & American Speciality Health membership provider.
### Gym Amenities

- 24-HOUR ACCESS
- PRIVATE RESTROOMS
- HEALTH PLAN DISCOUNTS
- VITAMINS/SUPPLEMENTS
- 24-HOUR SECURITY
- PRIVATE SHOWERS
- WELLNESS PROGRAMS
- CONVENIENT PARKING
- TANNING
- FREE WI-FI ACCESS
- WORLDWIDE CLUB ACCESS
- HDTVs
- FREE CLASSES

### Cardio

- TREADMILLS
- CARDIO TVs
- ELLIPTICAL CROSS-TRAINERS
- EXERCISE CYCLES
- STAIR CLIMBERS
- ROWING MACHINES
- SPIN BIKES

### Strength/Free Weights

- FREE WEIGHTS
- DUMBBELLS
- SQUAT RACKS
- BARBELLS
- PLATE LOADED
- CIRCUIT/SELECTORIZED

### Functional Training

- BATTLE ROPES
- DUMBBELLS
- KETTLEBELLS
- JUMP ROPE
- RESISTANCE BANDS
- TRX
- MEDICINE BALLS
- 6' - 100 LB HEAVY BAG
- MULTI-FUNCTIONAL RACK
- ONNIT STEEL MACES

### Training and Coaching Services

- PERSONAL TRAINING
- SPECIALIZED CLASSES
- SMALL GROUP TRAINING
- FIT torch ASSESSMENT
- VIRTUAL STUDIO CLASSES

---

**Memberships starting at $39 per month**

Rates subject to change according to location of the club and current promotions/offers.

Whether you're new to working out or a fitness regular, we've got the right staff, state-of-the-art equipment and services to meet your needs. Stop in today and we'll build a customized membership that is right for you.
Newby Park

History

History Newby Park 1951
History Newby Park 1971
Newby Park inventory 2011

1105 Jerome Street
Fort Worth, TX 76104
817-392-5757 (reservations) or here

Newby Park is a neighborhood park with a playground, swings, a baseball field, basketball court, a covered pavilion, & plenty of space to run around. There are no restrooms on site. Images borrowed from DFW Parks & Playgrounds.
Resources:
MHA Bylaws
MHA E-mail Guidelines
MH Historic Guidelines
Trash / Recycling Guidelines

Neighborhoods:
Arlington Heights
Berkeley Place
Colonial Hills
Fairmount
Monticello
Paschal
Ridglea Hills
Ryan Place

Attractions:
Newby Park
Tillery Park
Trinity Trails
Tandy Hills
Fort Worth Nature Center and Refuge
Museums
Panther Island Pavilion

Fun:
Guide to Quackery, Health Fraud, and Intelligent Decisions
National Outdoor Leadership School
Outward Bound
craigslist
Wikipedia
Wikiquote
Earth Observatory
Wordsmith
WWFTD
The Straight Dope

©2010 Mistletoe Heights
Community Crossroads Outreach Center

Address: 1516 Hemphill, Fort Worth, TX 76104 | Map
Phone: 817-921-3955
Center Director: Dori Davis

Community Crossroads is First Presbyterian Church's mission outreach center in Fort Worth's Hemphill neighborhood. Located at 1516 Hemphill (near the corner of Allen), the building houses Worship on Wednesdays, the church's First HAND Food and Clothing ministry, Formula and Diapers ministry, as well as the Salt & Light Dental Clinic.

Drop-Off Hours:

Mondays, 8:30 a.m. - 1:30 p.m.
Wednesdays, 8:30 - 11 a.m. and 6 - 7:30 p.m. (except in July)
Thursdays, 7 - 11 a.m.

Items that are accepted: In season clothing, deck/tennis shoes, work shoes/boots, hats, gloves.

Drop-Off Instructions: Drop off boxes are marked throughout the FPC campus building. Staff and/or volunteers can also receive donations at Community Crossroads (1516 Hemphill St.) on the following days/times. Pull in the parking lot and knock on the glass doors.

Additional times may be arranged by emailing Dori Davis with plenty of notice to scheduling a drop off time. Please, no donations should be left in the parking lot or entrance.

Worship on Wednesdays

WOW! (Worship on Wednesdays!) provides worship (5:30 p.m.), a shared community meal (6 p.m.), and classes for all ages (6:30 p.m.) for those in the Hemphill community. If you have questions about how to become involved with WOW! (shepherding classes, teaching classes, preparing meals, helping with worship, playing in the WOW! worship band, etc.) contact WOW! Coordinator Leah Wyckoff.

First HAND Ministry
Wednesdays and Thursdays
12-1:30 p.m.
Distribution of clothing, groceries, and sack lunches.

Current Donation Needs

First HAND provides:

- **Hospitality** - the gracious offering of welcome to the stranger
- **Advocacy** - standing with our neighbors in need of voices to speak with them and on their behalf
- **Nurture** - care for our sisters and brothers who yearn for the warmth of love and acceptance which empowers us all for new life
- **Dignity** - lifting up the gifts and talents of all people as God’s creation within a safe and loving environment

The First HAND ministry has been operating as a mission center for FPC since November 1, 2000. We receive referrals from as many as fifty local agencies and schools, and are visited by hundreds of individuals and families in need each month for emergency assistance, food, and household items.

Current Needs at First HAND

**Help with Sack Lunches:** Mondays, Wednesdays, and Thursdays from 11:30 to 1:30; contact Dori Davis.

**Pick up & Deliver Groceries to Community Crossroads:** Pick up and deliver grocery donations on Monday, Wednesday, and Friday mornings. For more information or to volunteer, contact Dori Davis.

**Help with hospitality:** Wednesdays from 11 - 1; contact Dori Davis.

**In-Season Clothing** (Ready to wear, all sizes): Jeans and khakis, casual shirts and t-shirts, tennis shoes and good walking shoes. Especially needed are men's shoes, sizes 9-12.

**WOW Shepherds and Teachers:** The Worship on Wednesday (WOW!) community seeks adults to serve as shepherds for the children's classes (K-4th grade) on Wednesday nights from 6:30-7:30 p.m. We are also looking for teachers for children and youth for the 2018-19 year. For more information or to volunteer, contact Dori Davis.

**Can You Fill In? Floating Volunteers:** Community Crossroads is forming a list of "Floating Volunteers" who would be called when the regularly dedicated volunteers need someone to "fill in" when they need to be away on holiday or during illness. For more information or to volunteer, contact Dori Davis.

**The Listening Post:** Do you enjoy listening to others and have the gift of being that shoulder or ear when someone needs it? Then you would be perfect as a CC Listening Post volunteer. The listening post volunteer just listens, empathizes, and allows the person to talk through their feelings. For more information or to volunteer, contact Dori Davis.

More About the Salt & Light Dental Clinic

Local dentists and their staff team with volunteers to offer much needed dental care to homeless men and women. The clinic operates about 2-3 times a month. If you are a dentist and interested in serving at the clinic, please contact the church office.

More About Formula and Diapers Ministry

3rd Monday of Each Month
9-11 a.m.
Mothers and children in need can visit Community Crossroads on the third Monday of each month for free formula and diapers. Donations of powdered formula (Similac Advance Stage 1 Formula) and all size of diapers are always welcome and needed to keep this ministry going. You can also make a check payable to Salt and Light Together, Inc. and mark it in the memo line for FAD. Volunteers are also needed to help distribute on FAD days.

CONTACT
For more information about or to volunteer at Community Crossroads, please contact CC Coordinator, Dori Davis.
About Us

Agency Overview

Meals On Wheels, Inc. of Tarrant County is a 501(c)(3) not-for-profit charitable organization that started in 1973 as a collaboration between 11 faith-based organizations in downtown Fort Worth to bring food to the elderly in the central city area. Over the years, we have grown and now serve all of Tarrant County, providing approximately 1 million meals each year to some of Tarrant County’s most frail citizens. By providing home-delivered meals, professional case management, and other needed items or services to our homebound, elderly and disabled clients, we enable them to remain living independently in their own homes, surrounded by a lifetime of memories.

Most of our clients have lived in the same home for many years. This home is where they feel safe and comfortable. Due to illness or the blessing of many birthdays, the majority of our clients can no longer remain at home without assistance. Without our help, many of our clients would be forced into nursing homes or other care facilities. Our goal is to keep our clients in their homes – where they want to be – for as long as possible.

Some people may be recovering from a hospital stay or illness and will only be on the program for a short period of time. Others have a long-term need and may receive home-delivered meals on an ongoing basis.

In an independent study of hunger among the elderly in the United States, Texas ranked fourth highest in the number of seniors going to bed hungry. We can deliver meals to one homebound person for an entire year at a cost lower than one day in a hospital or six days in a nursing home. Plus, through our Home-Delivered Meals program, we save money for taxpayers, who subsidize the cost of nursing home care for those who cannot afford it. Another study by the Center for Effective Government found that every dollar invested in Meals On Wheels saves up to $50 in Medicaid spending.

Meals are delivered by over 5,000 caring volunteers who freely give of their time and personal resources to ensure that our clients receive a nutritious meal. These caring individuals do more than just provide a meal and a friendly home visit. They are trained to contact our office if a client does not answer the door. This daily safety check gives many of our clients and their families an added peace of mind.
Mission Statement
To promote the dignity and independence of older adults, persons with disabilities, and other homebound persons by delivering nutritious meals and providing or coordinating needed services.

Our History
From humble beginnings to a benchmark program that now serves approximately 1 million meals per year, Meals On Wheels of Tarrant County is an immense source of pride for the citizens of Tarrant County. Despite our tremendous growth, our commitment to helping the homebound, elderly and disabled residents of Tarrant County remain in their own homes will never change.

In 1972, representatives from 11 downtown Fort Worth faith-based organizations met to discuss hunger in the central city. These organizations included Broadway Baptist, Central Baptist, Greater St. James Baptist, Mt. Gilead Baptist, First Christian, First United Methodist, First Presbyterian, Gethsemane Presbyterian, St. Andrew's Episcopal, St. Patrick's Cathedral, and Temple Beth-El. From this meeting, the Association of Central City Ministries (ACCM) was formed. Its first concern was providing meals to the elderly. ACCM made the commitment to bring food to the elderly in the central city area and on May 15, 1973, Meals On Wheels of Tarrant County was begun using all volunteer help. On that day, 25 people were fed. Meals On Wheels of Tarrant County owes a debt of gratitude to the members of ACCM and the many volunteers from these organizations who worked so diligently to make it a success. These wonderful faith-based organizations continue to support Meals On Wheels as we serve those in need within our community.

In 1989, Meals On Wheels of Tarrant County turned to the community to ask for help to fund a central kitchen. Rapidly escalating costs from food service companies as well as limited control of the final product compelled us to seek our own meal-preparation facility. Within eight months, an existing building was purchased and renovated into both the central kitchen and administrative offices. Although the building was expanded a number of times over the years, in 2010, the Board of Directors decided the best course of action was to construct a new meal-production facility that could meet the ever-increasing demand for services.

In January 2015, we embarked on an exciting new chapter in the history of Meals On Wheels as we broke ground on a new 62,000-square-foot meal production and distribution facility. We relocated to the new facility in March 2016. The current building, located at 5740 Airport Freeway in Haltom City, now houses the central kitchen, volunteer training center, nutrition intern project center, storage and distribution center, meeting space, and administrative offices.

This new facility will enable Meals On Wheels to meet the current demand for 1 million meals per year as well as the tremendous growth expected as Baby Boomers enter retirement. Much has changed since 1972; however, the original commitment to serve elderly and disabled people will never change. With your assistance, we are helping this
Client Demographics

- Median age: 74.7 years
- 84% of clients are over the age of 60
- 64% of clients are female
- Median client monthly income: $1,000
- Meals served to minority clients: 36%
- Average length of time a client remains on the Home-Delivered Meals program: 11 months
2019 HTC
Full Application

Part 2 Tab 10

Supporting Documents:
Underserved Area
Everly Plaza
Underserved Area

This application qualifies for 3 points for Underserved Area under the following subsection:

(C) The Development Site is located entirely within a census tract that does not have another Development that was awarded less than 30 years ago according to the Department's property inventory tab of the Site Demographic Characteristics Report; (3 points);

This application is located in Census tract 48439104100. According the HTC property inventory, this tract does not have an existing HTC allocation.
2019 HTC
Full Application

Part 2 Tab 10

Supporting Documents:
Proximity to Urban Core
Everly Plaza
Urban Core
I. CALL TO ORDER

II. INVOCATION – Reverend Anthony Chatman, Sr., Community Christian Church

III. PLEDGES OF ALLEGIANCE TO THE UNITED STATES AND THE STATE OF TEXAS
(State of Texas Pledge: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.")


V. ITEMS TO BE WITHDRAWN FROM THE CONSENT AGENDA

VI. ITEMS TO BE CONTINUED OR WITHDRAWN BY STAFF

VII. CONSENT AGENDA
Items on the Consent Agenda require little or no deliberation by the City Council. Approval of the Consent Agenda authorizes the City Manager, or his designee, to implement each item in accordance with staff recommendations.

A. General - Consent Items

1. M&C G-19471 • Adopt Ordinances Adjusting Appropriations in Various Funds and Amounts to Bring Revenues and Expenditures into Balance for the Capital and Operating Budgets for Fiscal Year 2018 to Facilitate Fiscal Year Closeout; Authorize Transfer to Offset Shortfall in Municipal Golf Fund; Authorize Commitment of Funds to Support a Rollover; and Adopt Appropriation Ordinance for a Rollover in the Amount of $200,000.00 to Fund Studies Related to Pension (ALL COUNCIL DISTRICTS)

2. M&C G-19472 • Correct Mayor and Council Communication (M&C G-19393) by Revising the Base-Year Taxable Value for 1812 5th Avenue (COUNCIL DISTRICT 9)


4. M&C G-19474 • Authorize Establishment of Two Quiet Zones at the Trinity Railway Express (TRE) Railroad Crossings at Tarrant Main Street and Calloway Cemetery Road (COUNCIL DISTRICT 5)

5. M&C G-19475 • Authorize Acceptance of Donation of a Ford F-450 Truck, a Capital Asset Valued in the Amount of $57,379.00, from the Community Foundation of North Texas for the City of Fort Worth Animal Care and Control Division of Code Compliance (ALL COUNCIL DISTRICTS)

6. M&C G-19476 • Approve Request of Downtown Fort Worth Initiatives, Inc., for Temporary Street Closures from April 8, 2019 through April 15, 2019 to Accommodate the 2019 Main Street Fort Worth Arts Festival (COUNCIL DISTRICT 9)

7. M&C G-19477 • Authorize Acceptance of Donation of Armor Kits Valued in the Amount of $199,936.00 from “Focus on the Family” Christian Ministries for use by the Fort Worth Police Department (ALL COUNCIL DISTRICTS)

8. M&C G-19478 • Authorize Acceptance of the Police Department’s Share of the Tarrant County 9-1-1 District’s Public Safety Answering Points Assistance Reimbursement Program Funds for Fiscal Year 2019 in the Amount of $216,396.00 and Adopt Appropriation Ordinances (ALL COUNCIL DISTRICTS)

9. M&C G-19479 • Adopt Resolution for the Fort Worth Public Library Strategic Services Plan 2019-2021 (ALL COUNCIL DISTRICTS)

B. Purchase of Equipment, Materials, and Services - Consent Items

1. M&C P-12293 • Authorize Purchase of an Asphalt Distributor Truck from Southwest International Trucks, Inc., in an Amount Up to $195,623.00 for the Transportation and Public Works Department through the Property Management Department (ALL COUNCIL DISTRICTS)

2. M&C P-12294 • Authorize Purchase of Four Rapid Deployment Vans from Chastang Enterprises, Inc., d/b/a Chastang Ford in an Amount Up to $187,512.00 for the Police Department through the Property Management Department (ALL COUNCIL DISTRICTS)

3. M&C P-12295 • Authorize Purchase of an Armored Critical Incident Vehicle from Ring Power Corporation, in an Amount Up to $315,000.00 using Grant Funds for the Police Department through the Property Management Department (ALL COUNCIL DISTRICTS)

4. M&C P-12296 • Authorize Amendment to Existing Agreement with Consolidated Traffic Controls, Inc., using a HGAC Cooperative Purchasing Agreement for School Zone Beacon Communication Modems, Traffic Signal Parts and other Related Hardware and Equipment in an Annual Amount Up to $750,000.00 and Authorize Annual Renewal Options in Amount of $300,000.00 in Accordance with
2019 HTC
Full Application

Part 2 Tab 10

Supporting Documents:
Concerted Revitalization Plan

CRP Packet is uploaded along with but separate from this Application
This Tab is Not Applicable
2019 HTC
Full Application

Part 2 Tab 10

Supporting Documents:
Declared Disaster Area
## 2019 Declared Disaster Areas
### Counties Eligible under §11.9(d)(3) of the 2019 QAP
#### as of November 5, 2018

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</table>
2019 HTC
Full Application

Part 2 Tab 10

Supporting Documents:
Readiness to Proceed
This Tab is Not Applicable
2019 HTC
Full Application

Part 2 Tab 11

Site Information Form
Part III
1. Site Acreage

Please identify site acreage as listed in each of the following exhibits/documents.

<table>
<thead>
<tr>
<th>Site Control</th>
<th>Site Plan</th>
<th>Appraisal</th>
<th>ESA</th>
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<tbody>
<tr>
<td>none listed</td>
<td>1.36</td>
<td>NA</td>
<td>1.3654</td>
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(*) Should equal acreage indicated in site control documents less acreage intended to be dedicated, sold or used for public purpose and not to be encumbered by LURA (net acreage). The net acreage will be used for calculating density for all purposes.

Please provide an explanation of any discrepancies in site acreage below:

Site plan uses 2 decimal places.

2. Site Control [10 TAC §11.204(10)]

The current owner of the Development Site is (If scattered site & more than one owner refer to Tab 13):

<table>
<thead>
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<th>Entity Name</th>
<th>Contact Name</th>
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<tr>
<td>Williams Opportunity Trust</td>
<td>Don Howard Williams, JR (Trustee)</td>
</tr>
<tr>
<td>4328 Briar Creek LN</td>
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Address

<table>
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<tr>
<th>City</th>
<th>State</th>
<th>Zip</th>
<th>Date of Last Sale</th>
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<td>Dallas</td>
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Is the seller affiliated with the Applicant, Principal, sponsor, or any Development Team member, as described in §11.302(e)(1)(B) (Identity of Interest)?

If "Yes," please explain: NA

If "Yes", the Application must include the documentation required by 10 TAC §11.302(e)(1)(B)(ii), as applicable.

Did the seller acquire the property through foreclosure or deed in lieu of foreclosure? No

Identify all of the sellers of the proposed property for the 36 months prior to the first day of the Application Acceptance Period and their relationship, if any, to members of the Development Team:

<table>
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<th>Name</th>
<th>Relationship</th>
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Site Control is in the form of:

x Contract for sale.

x If Direct Loan funds are requested, contract includes required language in 10 TAC §13.5(e).

Recorded Warranty Deed with corresponding executed closing/settlement statement.

Contract for lease.

Expiration of Contract or Option: 12/31/2019  Anticipated Closing Date: 8/31/2019

x Title Commitment or Title Policy is included behind this tab (per 10 TAC §11.204(12)).

x The Property has the following encumbrance(s):

3. Ingress/Egress and Easements (9% and 4% HTC Only) [10 TAC §11.204(10)(D)]

If ingress and egress to a public right of way are not part of the Property described in the site control documentation,
the Applicant must provide:

- Evidence of an easement, leasehold, or similar documented access; and
- Evidence that the fee title owner of the property agrees that the LURA may extend to the access easement.

## 4. **30% increase in Eligible Basis "Boost" (9% and 4% HTC Only) [10 TAC §11.4(c)]**

Development qualifies for the boost for:

- Qualified Census tract that has less than 20% HTC Units per household
- New Construction or Adaptive Reuse Development is in a QCT with 20% or greater Housing Tax Credit Units per household, and a resolution from the Governing Body of the appropriate municipality or county allowing the construction of the Development is included behind Tab 8.†*
  
  *Rehabilitation Developments located in a QCT with 20 percent or greater Housing Tax Credit Units per total households are eligible to qualify for the boost and are not required to obtain such a resolution from the Governing Body.
  
  * Resolution not due until Resolutions Delivery Date for Tax-Exempt Bond Developments

- Development is located in a Small Area Difficult Development Area (SADDA)
- Rural Development (Competitive HTC only)  
- Development is entirely Supportive Housing (Competitive HTC Only)

- Development meets the criteria for the Opportunity Index as identified in §11.9(c)(4) of the Qualified Allocation Plan (Competitive HTC only)

- Development includes an additional 10% of units at 30% AMI. (Competitive HTC only)  
  
  *Must be in addition to the number of units needed for any scoring item or any other funding source from MF Direct Loan requirements.*

- Development is in an area covered by a concerted revitalization plan and elects and is eligible for points under 10 TAC §11.9(d)(7), is not Elderly, and is not located in a QCT. (Competitive HTC only)

- Development is located in a Qualified Opportunity Zone designated under the Bipartisan Budget Act of 2018 (H.R. 1892). (Competitive HTC only)

If a revised form is submitted, date of submission: _______________
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Part 2 Tab 12

Supporting Documentation for
Site Information Form Part III
Support Documentation from Site Information Part III Should be Included

Behind this Tab.

Site Control Documentation

☐ If recorded warranty deed, includes corresponding executed settlement statement (or functional equivalent).

☐ If Identity of Interest, includes documentation described in 10 TAC §11.302(e)(1)(B)(ii), as applicable.

☒ If Application is requesting Direct Loan Funds, contract for sale, option to purchase or option to lease includes the language required by 10 TAC §13.5(e).

☒ Title Commitment or Policy

Ingress/Egress and Easements

☐ Documentation required by 10 TAC §11.204(10)(D) is included, as applicable.

Increase in Eligible Basis (30% Boost)

☐ Resolution from the Governing Body of the appropriate municipality or county allowing the construction of the Development, if applicable.

☐ Census tract map that includes the 11-digit census tract number and clearly shows that the proposed Development is located within a QCT, if applicable.

☐ SADDA map clearly showing the Development is located within the boundaries of a SADDA, if applicable.

☐ Census tract map that includes the 11-digit census tract number and clearly shows that the proposed Development is located within the boundaries of a Qualified Opportunity Zone, if applicable.

List of Opportunity Zones can be found at:

https://www.cdfifund.gov/Documents/Copy%20of%20Designated%20QOZs.6.14.18.xlsx

2/25/2019
2019 HTC
Full Application

Part 2 Tab 12

Supporting Documents:
Site Control
JOINDER AND CONSENT OF EVERLY PLAZA, LLC

EVERLY PLAZA, LLC, a Texas limited liability company, as assignee of all of Saigebrook Development, LLC’s (“Saigebrook”) interest in and to that certain Commercial Contract – Unimproved Property dated December 20, 2018, as modified and supplemented by that certain Addendum to Commercial Contract – Unimproved Property of even date therewith, pursuant to that certain Assignment and Assumption of Commercial Contract – Unimproved Property dated February 6, 2019, hereby joins and consents to Saigebrook’s execution of that certain Amendment to Commercial Contract – Unimproved Property dated of even date herewith and attached hereto as Exhibit “A”.

EVERLY PLAZA, LLC, a Texas limited liability company

By: ____________________________________________________________________________
Name: Lisa M. Stephens
Title: President
Date: 2-21-19
EXHIBIT “A”
CONTRACT TIMELINE

CLIENT MATTER NO.: 46693.0026

Seller: William Opportunity Trust

Buyer: Saigebrook Development, LLC and/or assigns

Property: 1801, 1805, 1809, 1813, 1821 and 1808 Hurley Avenue, Fort Worth, TX 76110

Time. Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

COMMERCIAL CONTRACT- EFFECTIVE DATE: 12/20/18 (Page 13 of Commercial Contract)

AMENDMENT TO COMMERCIAL CONTRACT DATE: 2/21/19

SECOND AMENDMENT TO COMMERCIAL CONTRACT DATE: 3/29/19

INITIAL DEPOSIT $15,000 RECEIVED BY RATTIKIN TITLE COMPANY ON 12/24/18; $5,000 RECEIVED BY RATTIKIN TITLE COMPANY ON 4/1/19 (Section 5, Page 2 of Commercial Contract; Section 3, Page 1, Second Amendment)

- Not later than 3 days after the Effective Date

FEASIBILITY PERIOD: ENDS 4/19/19 (Section 7 B Commercial Contract)

- 120 days from the Effective Date

OBTAIN TITLE AND SURVEY: Due 4/19/19 within the Feasibility Period (Section 1(a) Addendum to Commercial Contract)

- Within the Feasibility Period, Buyer may, at its sole expense, obtain (i) a title insurance commitment (the “Title Commitment”) for a fee owner's title insurance policy covering the Property from a title insurance company selected by Buyer and (ii) a survey of the Property (the “Survey”).

TITLE AND SURVEY OBJECTION: Due 4/19/19 within the Feasibility Period (Section 1(b) Addendum to Commercial Contract) (Title/Survey Objection Letter sent 2/5/19)

- Buyer shall, no later than the end of the Feasibility Period, notify Seller in writing specifying any objections to matters shown on the Title Commitment or the Survey.
SECOND DEPOSIT ($40,000): - Due 4/23/19 (Section 2 Addendum to Commercial Contract; Section 3(b) Second Amendment, Page 1) (Received by Rattikin Title 4/22/19):

- 2 business days following the expiration of the Feasibility Period

STEP DEPOSITS (Section 2 Addendum to Commercial Contract):

- If the Contract has not been terminated by Buyer by 5:00 p.m. Central Time on February 28, 2019, $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, termination of the Contract due to condemnation;

- If the Contract has not been terminated by Buyer by 5:00 p.m. Central Time on March 31, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $20,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, termination of the Contract due to condemnation;

- If the Contract has not been terminated by Buyer by 5:00 p.m. Central Time on April 30, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $30,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, termination of the Contract due to condemnation;

- If the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on May 31, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $40,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, or termination of the Contract due to condemnation;

- If the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on June 30, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $50,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, or termination of the Contract due to condemnation; and

- If the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on July 31, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $60,000.00, unless Closing does not occur as a result of a default by Seller,
Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, or termination of the Contract due to condemnation.

**CLOSING DATE: 9/3/19** *(Section 7 Addendum to Commercial Contract)*

- *Actual date falls on Saturday, August 31, 2019*

- **Outside Closing Date of 12/31/19** - Buyer has the right to extend the Closing Date by exercising up to 4 consecutive 30-day contract extensions (provided, however, the Closing Date will be no later than 12/31/19). Each extension shall be accompanied by an extension fee in the amount of $15,000 (payable within 2 business days of the previously scheduled closing date).
AMENDMENT TO COMMERCIAL CONTRACT – UNIMPROVED PROPERTY

THIS AMENDMENT TO COMMERCIAL CONTRACT – UNIMPROVED PROPERTY (this "Amendment") is entered into as of the 26th day of February, 2019, by and between DON HOWARD WILLIAMS, JR., AS TRUSTEE OF WILLIAMS OPPORTUNITY TRUST ("Seller"), and SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company ("Purchaser").

RECITALS

WHEREAS, Seller and Purchaser heretofore entered into that certain Commercial Contract – Unimproved Property dated December 20, 2018 (the "Contract"), as modified and supplemented by that certain Addendum to Commercial Contract – Unimproved Property of even date therewith (the "Addendum"; and together with the Contract, collectively, the "Agreement"), for the sale of that certain real property located in Tarrant County, Texas and defined as the "Property" in Section 2(a) of the Contract (the "Property");

WHEREAS, Purchaser and Seller desire to amend the Agreement as more particularly set forth herein.

NOW THEREFORE, in consideration of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, Seller and Purchaser hereby agree as follows:

1. RECITALS: The above recitals are true and correct and incorporated into this Amendment by this reference.

2. DEFINITIONS: Any capitalized terms not defined in this Amendment shall have the meaning given to such term in the Agreement.

3. LEGAL DESCRIPTION: Seller and Purchaser hereby acknowledge and agree that the legal description of the Property to be conveyed by Seller to Purchaser is hereby amended to be the legal description of the Property as set forth on Exhibit "A" attached hereto and made a part hereof. Any references to the term Property in the Agreement shall mean and refer to the Property as described on Exhibit "A" attached hereto.

4. ADDITIONAL CLOSING CONDITION: In addition to the Closing Conditions set forth in Section 6(a) of the Addendum, Seller and Purchaser hereby acknowledge and agree that the obligation of Purchaser to close shall be conditioned upon a satisfactory environmental review of the Property from TDHCA (the "Reviewing Agency"), as required in connection with Purchaser's application for Multifamily Direct Loan funds as part of the TDHCA Financing (the "Environmental Review Requirement"). Seller acknowledges that the TDHCA Financing is subject to the Environmental Review Requirement, and as such, Purchaser shall not be obligated to close unless and until such time as Purchaser has (i) received written notice that the environmental review has been completed to the satisfaction of the Reviewing Agency; and (ii) received written confirmation that the Multifamily Direct Loan funds have been approved for release in connection with the TDHCA Financing (collectively, the "Environmental Conditions"). In the event the Environmental Conditions are not satisfied
on or before Closing (as same may be extended), Purchaser shall have the right to terminate the Agreement by delivering written notice to Seller, whereupon all further obligations of the parties under the Agreement shall terminate, except those that expressly survive termination of the Agreement; provided, however, nothing contained in this Section 4 shall affect the right of Purchaser to receive a return of portions of the Earnest Money not deemed non-refundable pursuant to Section 2(a) of the Addendum in the event the Agreement is terminated on or before July 31, 2019.

5. **FULL FORCE AND EFFECT:** Except as specifically modified by this Amendment, all other provisions of the Agreement remain in full force and effect. To the extent of any conflict between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall control.

6. **AUTHORITY:** Seller and Purchaser represent and warrant to the other that such party has the full right, power, and lawful authority to enter into, execute, and perform under this Amendment and that such actions do not violate any other agreement, covenant, or restriction placed upon such party. Seller and Purchaser further represent and warrant to the other that the person signing this Amendment on its behalf has been duly authorized to sign this Amendment.

7. **GOVERNING LAW:** This Amendment shall be governed by the laws of the State of Texas, without application of its conflict of law principles.

8. **BINDING EFFECT:** This Amendment shall be binding upon, and shall inure to the benefit of, Seller, Purchaser, and their respective successors or assigns.

9. **HEADINGS:** The headings contained in this Amendment are for convenience of reference only and shall not be construed as limiting or defining in any way the provisions of this Amendment.

10. **COUNTERPARTS:** This Amendment may be executed in counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument. Any signature delivered by facsimile or other forms of electronic transmission, such as a PDF, shall be considered an original signature by the sending party.

{remainder of this page intentionally left blank}
IN WITNESS WHEREOF, Seller and Purchaser have executed this Amendment as of the date and year first above written.

SELLER:

________________________________
Don Howard Williams, Jr., as Trustee
of Williams Opportunity Trust

PURCHASER:

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: ________________________________
   Lisa M. Stephens, President
EXHIBIT "A"

Legal Description

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 27, 28 and 29, Block 11, FAIRMOUNT ADDITION to the City of Fort Worth, Tarrant County, Texas, according to plat recorded in Volume 63, Page 25, Deed Records of Tarrant County, Texas.

These lots are the same as in the original contract - bps
ASSIGNMENT AND ASSUMPTION OF COMMERCIAL CONTRACT – UNIMPROVED PROPERTY
(Everly Plaza)

THIS ASSIGNMENT AND ASSUMPTION OF COMMERCIAL CONTRACT – UNIMPROVED PROPERTY (this “Assignment”) is made as of the ___ day of February, 2019, by and between SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Assignor”), and EVERLY PLAZA, LLC, a Texas limited liability company (“Assignee”).

RECITALS

A. Don Howard Williams, Jr., as Trustee of Williams Opportunity Trust (“Seller”), and Assignor heretofore entered into that certain Commercial Contract – Unimproved Property, having an effective date of December 20, 2018, as supplemented by that certain Addendum to Commercial Contract – Unimproved Property (collectively, the “Contract”).

B. Assignor desires to assign to Assignee all of Assignor’s right, title and interest in, to and under the Contract, and Assignee desires to accept such assignment and assume all of Assignor’s liabilities and obligations under the Contract.

TERMS

In consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Recitals. The foregoing recitals are true and incorporated herein by this reference as if set out in full.

2. Assignment. Assignor hereby assigns, transfers, and sets over unto Assignee all of Assignor's right, title, and interest in, to and under the Contract (including, without limitation, Assignor's interest in all deposits paid under the Contract), and authorizes Seller to make, execute, and deliver to Assignee such deed of conveyance, assignments and/or other instruments as are contemplated by the Contract, in the same manner as though Assignee, instead of Assignor, had been an original signatory to the Contract.

3. Assumption. Assignee hereby accepts Assignor’s assignment of all of its right, title and interest in, to and under the Contract, and assumes all of Assignor's liabilities and obligations under the Contract, including those which survive the closing or termination thereof.

4. Miscellaneous. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Assignment shall be construed in accordance with and be governed by the laws of the State of Texas.
IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment the
day and year first above written.

ASSIGNOR:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: ____________________________
   Lisa Stephens, President

ASSIGNEE:

EVERLY PLAZA, LLC,
a Texas limited liability company

By: ____________________________
   Name: Lisa Stephens
   Title: President
1. PARTIES: Seller agrees to sell and convey to Buyer the Property described in Paragraph 2. Buyer agrees to buy the Property from Seller for the sales price stated in Paragraph 3. The parties to this contract are:

   Seller: Williams Opportunity Trust
   Address: 4328 Briar Creek Lane, Dallas, TX 75214
   Phone: (214) 824-3388  E-mail: donwilliamssccim@gmail.com

   Buyer: Saigebrook Development, LLC and/or assigns
   Address: 5501 Balcones Dr Ste A, Austin, TX 78731-5043
   Phone: (512) 383-5470  E-mail: megan@o-sda.com

2. PROPERTY:

   A. "Property" means that real property situated in Tarrant County, Texas at 1801, 1805, 1809, 1813, 1821 8th Ave., 1808 Hurley Ave., Fort Worth 76110 (address) and that is legally described on the attached Exhibit "A" or as follows:

   B. Seller will sell and convey the Property together with:
      (1) all rights, privileges, and appurtenances pertaining to the Property, including Seller's right, title, and interest in any minerals, utilities, adjacent streets, alleys, strips, gores, and rights-of-way;
      (2) Seller's interest in all leases, rents, and security deposits for all or part of the Property; and
      (3) Seller's interest in all licenses and permits related to the Property.

   (Describe any exceptions, reservations, or restrictions in Paragraph 12 or an addendum.)
   (If mineral rights are to be reserved an appropriate addendum should be attached.)

3. SALES PRICE:

   A. At or before closing, Buyer will pay the following sales price for the Property:

      (1) Cash portion payable by Buyer at closing ................................. $ 3,385,000.00
      (2) Sum of all financing described in Paragraph 4 ........................... $
      (3) Sales price (sum of 3A(1) and 3A(2)) .................................... $ 3,385,000.00
B. Adjustment to Sales Price: (Check (1) or (2) only.)

X (1) The sales price will not be adjusted based on a survey.

☐ (2) The sales price will be adjusted based on the latest survey obtained under Paragraph 6B.

(a) The sales price is calculated on the basis of $ ______________ per:

☐ (i) square foot of total area net area.

☐ (ii) acre of total area net area.

(b) "Total area" means all land area within the perimeter boundaries of the Property. "Net area" means total area less any area of the Property within:

☐ (i) public roadways;

☐ (ii) rights-of-way and easements other than those that directly provide utility services to the Property; and

☐ (iii) ____________________________

(c) If the sales price is adjusted by more than ________ % of the stated sales price, either party may terminate this contract by providing written notice to the other party within ________ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is less than the stated percentage, the adjustment to the sales price will be made to the cash portion of the sales price payable by Buyer.

4. FINANCING: Buyer will finance the portion of the sales price under Paragraph 3A(2) as follows:

☐ A. Third Party Financing: One or more third party loans in the total amount of $ ________________ .

This contract:

☐ (1) is not contingent upon Buyer obtaining third party financing.

☐ (2) is contingent upon Buyer obtaining third party financing in accordance with the attached Commercial Contract Financing Addendum (TAR 1931).

☐ B. Assumption: In accordance with the attached Commercial Contract Financing Addendum (TAR 1931), Buyer will assume the existing promissory note secured by the Property, which balance at closing will be $ ________________ .

☐ C. Seller Financing: The delivery of a promissory note and deed of trust to Seller under the terms of the attached Commercial Contract Financing Addendum (TAR 1931) in the amount of $ ________________ .

5. EARNEST MONEY:

A. Not later than 3 days after the effective date, Buyer must deposit $ 15,000.00 as earnest money with Rattlin Title Company (title company) at 201 Main Street, Suite 800, Fort Worth, Tx. 76102 (address) Shay Townsend (closer). If Buyer fails to timely deposit the earnest money, Seller may terminate this contract or exercise any of Seller’s other remedies under Paragraph 15 by providing written notice to Buyer before Buyer deposits the earnest money.

B. Buyer will deposit an additional amount of $ ________________ with the title company to be made part of the earnest money on or before:

☐ (i) ________ days after Buyer’s right to terminate under Paragraph 7B expires; or

☐ (ii) ____________________________ .

Buyer will be in default if Buyer fails to deposit the additional amount required by this Paragraph 6B within 3 days after Seller notifies Buyer that Buyer has not timely deposited the additional amount.

C. Buyer may instruct the title company to deposit the earnest money in an interest-bearing account at a federally insured financial institution and to credit any interest to Buyers.

(TAR-1802) 4-1-18 Initiated for Identification by Seller and Buyer  
Produced with zipForm by zipLogix 18070 Fifteenth Mile Road, Fraser, Michigan 48026 www.zipLogix.com Page 2 of 14
6. TITLE POLICY AND SURVEY:

A. Title Policy:

(1) Seller, at Seller's expense, will furnish Buyer an Owner's Policy of Title Insurance (the title policy) issued by any underwriter of the title company in the amount of the sales price, dated at or after closing, insuring Buyer against loss under the title policy, subject only to:
   (a) those title exceptions permitted by this contract or as may be approved by Buyer in writing; and
   (b) the standard printed exceptions contained in the promulgated form of title policy unless this contract provides otherwise.

(2) The standard printed exception as to discrepancies, conflicts, or shortages in area and boundary lines, or any encroachments or protrusions, or any overlapping improvements:
   (a) will not be amended or deleted from the title policy;
   (b) will be amended to read "shortages in areas" at the expense of Buyer.

(3) Within _____ days after the effective date, Seller will furnish Buyer a commitment for title insurance (the commitment) including legible copies of recorded documents evidencing title exceptions. Seller authorizes the title company to deliver the commitment and related documents to Buyer at Buyer's address.

B. Survey: Within _____ days after the effective date:

(1) Buyer will obtain a survey of the Property at Buyer's expense and deliver a copy of the survey to Seller. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition. Seller will reimburse Buyer ______ (insert amount) of the cost of the survey at closing, if closing occurs.

(2) Seller, at Seller's expense, will furnish Buyer a survey of the Property dated after the effective date. The survey must be made in accordance with the: (i) ALTA/NSPS Land Title Survey standards, or (ii) Texas Society of Professional Surveyors' standards for a Category 1A survey under the appropriate condition.

(3) Seller will deliver to Buyer and the title company a true and correct copy of Seller's most recent survey of the Property along with an affidavit required by the title company for approval of the existing survey. If the existing survey is not acceptable to the title company, Seller- Buyer (updating party), will, at the updating party's expense, obtain a new or updated survey acceptable to the title company and deliver the acceptable survey to the other party and the title company within 20 days after the title company notifies the parties that the existing survey is not acceptable to the title company. The closing date will be extended daily up to 20 days if necessary for the updating party to deliver an acceptable survey within the time required. The other party will reimburse the updating party ______ (insert amount or percentage) of the cost of the new or updated survey at closing, if closing occurs.

C. Buyer's Objections to the Commitment and Survey:

(1) Within _____ days after Buyer receives the last of the commitment, copies of the documents evidencing the title exceptions, and any required survey, Buyer may object in writing to matters disclosed in the items if: (a) the matters disclosed are a restriction upon the Property or constitute a defect or encumbrance to title other than those permitted by this contract or liens that Seller will satisfy at closing or Buyer will assume at closing; or (b) the items show that any part of the Property lies in a special flood hazard area (an "A" or "V" zone as defined by FEMA). If the commitment or survey is revised or any new document evidencing a title exception is delivered, Buyer may object to any new matter revealed in such revision or new document. Buyer's objection must be made within the same number of days stated in this paragraph, beginning when the revision or new
7. PROPERTY CONDITION:

A. Present Condition: Buyer accepts the Property in its present condition except that Seller, at Seller’s expense, will complete the following before closing:

B. Feasibility Period: Buyer may terminate this contract for any reason within 120 days after the effective date (feasibility period) by providing Seller written notice of termination.

(1) Independent Consideration. (Check only one box and insert amounts.)

[X] (a) If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer less $ 100.00 that Seller will retain as independent consideration for Buyer’s unrestricted right to terminate. Buyer has tendered the independent consideration to Seller upon payment of the amount specified in Paragraph 5A to the title company. The independent consideration is to be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(1) or if Buyer fails to deposit the earnest money, Buyer will not have the right to terminate under this Paragraph 7B.

☐ (b) Not later than 3 days after the effective date, Buyer must pay Seller $ __________ as independent consideration for Buyer’s right to terminate by tendering such amount to Seller or Seller’s agent. If Buyer terminates under this Paragraph 7B, the earnest money will be refunded to Buyer and Seller will retain the independent consideration. The independent consideration will be credited to the sales price only upon closing of the sale. If no dollar amount is stated in this Paragraph 7B(2) or if Buyer fails to pay the independent consideration, Buyer will not have the right to terminate under this Paragraph 7B.

(2) Feasibility Period Extension: Prior to the expiration of the initial feasibility period, Buyer may extend the feasibility period for a single period of an additional ________ days by depositing additional earnest money in the amount of $ __________ with the title company. If no dollar amount is stated in this Paragraph or if Buyer fails to timely deposit the additional earnest money, the extension of the feasibility period will not be effective.

C. Inspections, Studies, or Assessments:

(1) During the feasibility period, Buyer, at Buyer’s expense, may complete or cause to be completed any and all inspections, studies, or assessments of the Property (including all improvements and fixtures) desired by Buyer.
Commercial Contract - Unimproved Property concerning 1801, 1805, 1809, 1813, 1821 8th Ave., 1808 Hurley Ave. Fort Worth 76110

(2) Buyer must:
(a) employ only trained and qualified inspectors and assessors;
(b) notify Seller, in advance, of when the inspectors or assessors will be on the Property;
(c) abide by any reasonable entry rules or requirements of Seller;
(d) not interfere with existing operations or occupants of the Property; and
(e) restore the Property to its original condition if altered due to inspections, studies, or assessments that Buyer completes or causes to be completed.

(3) Except for those matters that arise from the negligence of Seller or Seller's agents, Buyer is responsible for any claim, liability, encumbrance, cause of action, and expense resulting from Buyer's inspections, studies, or assessments, including any property damage or personal injury. Buyer will indemnify, hold harmless, and defend Seller and Seller's agents against any claim involving a matter for which Buyer is responsible under this paragraph. This paragraph survives termination of this contract.

D. Property Information:
(1) **Delivery of Property Information:** Within ____3____ days after the effective date, Seller will deliver to Buyer: (Check all that apply.)
   - (a) copies of all current leases, including any mineral leases, pertaining to the Property, including any modifications, supplements, or amendments to the leases;
   - (b) copies of all notes and deeds of trust against the Property that Buyer will assume or that Seller will not pay in full on or before closing;
   - (c) copies of all previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property;
   - (d) copies property tax statements for the Property for the previous 2 calendar years;
   - (e) plats of the Property;
   - (f) copies of current utility capacity letters from the Property's water and sewer service provider; and
   - (g) **Copies of any and all documents in Seller's possession that may be beneficial to Buyer,** reflected in Section 16 of the Addendum to Commercial Contract.

(2) **Return of Property Information:** If this contract terminates for any reason, Buyer will, not later than 10 days after the termination date: (Check all that apply.)
   - (a) return to Seller all those items described in Paragraph 7D(1) that Seller delivered to Buyer in other than an electronic format and all copies that Buyer made of those items;
   - (b) delete or destroy all electronic versions of those items described in Paragraph 7D(1) that Seller delivered to Buyer or Buyer copied in any format; and
   - (c) deliver to Seller copies of all inspection and assessment reports related to the Property that Buyer completed or caused to be completed.
This Paragraph 7D(2) survives termination of this contract.

E. **Contracts Affecting Operations:** Until closing, Seller: (1) will operate the Property in the same manner as on the effective date under reasonably prudent business standards; and (2) will not transfer or dispose of any part of the Property, any interest or right in the Property, or any of the personal property or other items described in Paragraph 2B or sold under this contract. After the feasibility period ends, Seller may not enter into, amend, or terminate any other contract that affects the operations of the Property without Buyer's written approval.

8. **LEASES:**

A. Each written lease Seller is to assign to Buyer under this contract must be in full force and effect according to its terms. Seller may not enter into any new lease, fail to comply with any existing lease, or make any amendment or modification to any existing lease without Buyer's written consent. Seller
Commercial Contract—Unimproved Property concerning

1801, 1805, 1809, 1813, 1821 8th Ave., 1808 Hurley Ave. Fort Worth 76110

must disclose, in writing, if any of the following exist at the time Seller provides the leases to the Buyer or subsequently occur before closing:

(1) any failure by Seller to comply with Seller's obligations under the leases;
(2) any circumstances under any lease that entitle the tenant to terminate the lease or seek any offsets or damages;
(3) any advance sum paid by a tenant under any lease;
(4) any concessions, bonuses, free rents, rebates, brokerage commissions, or other matters that affect any lease; and
(5) any amounts payable under the leases that have been assigned or encumbered, except as security for lease(s) assumed or taken subject to under this contract.

B. Estoppel Certificates: Within ______ days after the effective date, Seller will deliver to Buyer estoppel certificates signed not earlier than ________________ by each tenant that leases space in the Property. The estoppel certificates must include the certifications contained in the current version of TAR Form 1038—Commercial Tenant Estoppel Certificate and any additional information requested by a third party lender providing financing under Paragraph 4 if the third party lender requests such additional information at least 18 days prior to the earliest date that Seller may deliver the signed estoppel certificates.

9. BROKERS:

A. The brokers to this sale are:

Principal Broker: Capstone Commercial Real Estate

Agent: David D. Martin/Larry Robbins
Address: 4300 Sigma Rd., Suite 100
Dallas, Texas 75001
Phone & Fax: (817) 271-2757
E-mail: dmartin@capstonecommercial.com
License No.: 0476787

Cooperating Broker: ____________________________

Agent: ____________________________
Address: ____________________________
Phone & Fax: ____________________________
E-mail: ____________________________
License No.: ____________________________

Principal Broker: (Check only one box)

X represents Seller only.

represents Buyer only.

is an intermediary between Seller and Buyer.

Cooperating Broker represents Buyer.

B. Fees: (Check only (1) or (2) below.)

(Complete the Agreement Between Brokers on page 14 only if (1) is selected.)

☐ (1) Seller will pay Principal Broker the fee specified by separate written commission agreement between Principal Broker and Seller. Principal Broker will pay Cooperating Broker the fee specified in the Agreement Between Brokers found below the parties' signatures to this contract.

X (2) At the closing of this sale, Seller will pay:

Principal Broker a total cash fee of:        Cooperating Broker a total cash fee of:

X 4.000% of the sales price.                √ % of the sales price.

The cash fees will be paid in __________ County, Texas. Seller authorizes the title company to pay the brokers from the Seller's proceeds at closing.

(TAR-1802) 4-1-18 Initialed for Identification by Seller __________ and Buyer __________
10. CLOSING:

A. The date of the closing of the sale (closing date) will be on or before the later of:
   (1) 7 days after the expiration of the feasibility period.
   X See Addendum to Commercial Contract - Unimproved Property (specific date).
   (2) 7 days after objections made under Paragraph 6C have been cured or waived.

B. If either party fails to close by the closing date, the non-defaulting party may exercise the remedies in Paragraph 15.

C. At closing, Seller will execute and deliver, at Seller's expense, a special warranty deed. The deed must include a vendor's lien if any part of the sales price is financed. The deed must convey good and indefeasible title to the Property and show no exceptions other than those permitted under Paragraph 6 or other provisions of this contract. Seller must convey the Property:
   (1) with no liens, assessments, or other security interests against the Property which will not be satisfied out of the sales price, unless securing loans Buyer assumes;
   (2) without any assumed loans in default; and
   (3) with no persons in possession of any part of the Property as lessees, tenants at sufferance, or trespassers except tenants under the written leases assigned to Buyer under this contract.

D. At closing, Seller, at Seller's expense, will also deliver to Buyer:
   (1) tax statements showing no delinquent taxes on the Property;
   (2) an assignment of all leases to or on the Property;
   (3) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;
   (4) evidence that the person executing this contract is legally capable and authorized to bind Seller;
   (5) an affidavit acceptable to the title company stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the title company to: (i) withhold from Seller's proceeds an amount sufficient to comply with applicable tax law; and (ii) deliver the amount to the Internal Revenue Service (IRS) together with appropriate tax forms; and
   (6) any notices, statements, certificates, affidavits, releases, and other documents required by this contract, the commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.

E. At closing, Buyer will:
   (1) pay the sales price in good funds acceptable to the title company;
   (2) deliver evidence that the person executing this contract is legally capable and authorized to bind Buyer;
   (3) sign and send to each tenant in a lease for any part of the Property a written statement that:
      (a) acknowledges Buyer has received and is responsible for the tenant's security deposit; and
      (b) specifies the exact dollar amount of the security deposit;
   (4) sign an assumption of all leases in effect; and
   (5) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

F. Unless the parties agree otherwise, the closing documents will be as found in the basic forms in the current edition of the State Bar of Texas Real Estate Forms Manual without any additional clauses.
11. POSSESSION: Seller will deliver possession of the Property to Buyer upon closing and funding of this sale in its present condition with any repairs Seller is obligated to complete under this contract, ordinary wear and tear excepted. Any possession by Buyer before closing or by Seller after closing that is not authorized by a separate written lease agreement is a landlord-tenant at sufferance relationship between the parties.

12. SPECIAL PROVISIONS: The following special provisions apply and will control in the event of a conflict with other provisions of this contract. (If special provisions are contained in an Addendum, identify the Addendum here and reference the Addendum in Paragraph 22D.)

See Addendum to Commercial Contract - Unimproved Property

13. SALES EXPENSES:

A. Seller's Expenses: Seller will pay for the following at or before closing:
   (1) releases of existing liens, other than those liens assumed by Buyer, including prepayment penalties and recording fees;
   (2) release of Seller's loan liability, if applicable;
   (3) tax statements or certificates;
   (4) preparation of the deed;
   (5) one-half of any escrow fee;
   (6) costs to record any documents to cure title objections that Seller must cure; and
   (7) other expenses that Seller will pay under other provisions of this contract.

B. Buyer's Expenses: Buyer will pay for the following at or before closing:
   (1) all loan expenses and fees;
   (2) preparation of any deed of trust;
   (3) recording fees for the deed and any deed of trust;
   (4) premiums for flood insurance as may be required by Buyer's lender;
   (5) one-half of any escrow fee;
   (6) other expenses that Buyer will pay under other provisions of this contract.

14. PRORATIONS:

A. Prorations:
   (1) Interest on any assumed loan, taxes, rents, and any expense reimbursements from tenants will be prorated through the closing date.
   (2) If the amount of ad valorem taxes for the year in which the sale closes is not available on the closing date, taxes will be prorated on the basis of taxes assessed in the previous year. If the taxes for the year in which the sale closes vary from the amount prorated at closing, the parties will adjust the prorations when the tax statements for the year in which the sale closes become available. This Paragraph 14A(2) survives closing.
   (3) If Buyer assumes a loan or is taking the Property subject to an existing lien, Seller will transfer all reserve deposits held by the lender for the payment of taxes, insurance premiums, and other charges to Buyer at closing and Buyer will reimburse such amounts to Seller by an appropriate adjustment at closing.

B. Rollback Taxes: If Seller's use or change in use of the Property before closing results in the assessment of additional taxes, penalties, or interest (assessments) for periods before closing, the assessments will be the obligation of the Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 14B survives closing.
15. DEFAULT:

A. If Buyer fails to comply with this contract, Buyer is in default and Seller, as Seller's sole remedy(ies), may terminate this contract and receive the earnest money, as liquidated damages for Buyer's failure except for any damages resulting from Buyer's inspections, studies or assessments in accordance with Paragraph 7C(3) which Seller may pursue; or (Check if applicable)

☐ enforce specific performance, or seek such other relief as may be provided by law.

B. If, without fault, Seller is unable within the time allowed to deliver the escrow certificates, survey or the commitment, Buyer may:

1) terminate this contract and receive the earnest money, less any independent consideration under Paragraph 7B(1), as liquidated damages and as Buyer's sole remedy; or

2) extend the time for performance up to 15 days and the closing will be extended as necessary.

16. CONDEMNATION: If before closing, condemnation proceedings are commenced against any part of the Property, Buyer may:

A. terminate this contract by providing written notice to Seller within 15 days after Buyer is advised of the condemnation proceedings and the earnest money, less any independent consideration paid under Paragraph 7B(1), will be refunded to Buyer; or

B. appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to:

1) Seller and the sales price will be reduced by the same amount; or

2) Buyer and the sales price will not be reduced.

17. ATTORNEY'S FEES: If Buyer, Seller, any broker, or the title company is a prevailing party in any legal proceeding brought under or with relation to this contract or this transaction, such party is entitled to recover from the non-prevailing parties all costs of such proceeding and reasonable attorney's fees. This Paragraph 17 survives termination of this contract.

18. ESCROW:

A. At closing, the earnest money will be applied first to any cash down payment, then to Buyer's closing costs, and any excess will be refunded to Buyer. If no closing occurs, the title company may require payment of unpaid expenses incurred on behalf of the parties and a written release of liability of the title company from all parties.

B. If one party makes written demand for the earnest money, the title company will give notice of the demand by providing to the other party a copy of the demand. If the title company does not receive written objection to the demand from the other party within 15 days after the date the title company sent the demand to the other party, the title company may disburse the earnest money to the party making demand, reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and the title company may apply the same to the creditors.
C. The title company will deduct any independent consideration under Paragraph 7B(1) before disbursing any earnest money to Buyer and will pay the independent consideration to Seller.

D. If the title company complies with this Paragraph 18, each party hereby releases the title company from all claims related to the disbursal of the earnest money.

E. Notices under this Paragraph 18 must be sent by certified mail, return receipt requested. Notices to the title company are effective upon receipt by the title company.

F. Any party who wrongfully fails or refuses to sign a release acceptable to the title company within 7 days after receipt of the request will be liable to the other party for: (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

G. ☑ Seller ☐ Buyer intend(s) to complete this transaction as a part of an exchange of like-kind properties in accordance with Section 1031 of the Internal Revenue Code, as amended. All expenses in connection with the contemplated exchange will be paid by the exchanging party. The other party will not incur any expense or liability with respect to the exchange. The parties agree to cooperate fully and in good faith to arrange and consummate the exchange so as to comply to the maximum extent feasible with the provisions of Section 1031 of the Internal Revenue Code. The other provisions of this contract will not be affected in the event the contemplated exchange fails to occur.

49. MATERIAL FACTS: To the best of Seller's knowledge and belief. (Check only one box.)

☐ A. Seller is not aware of any material defects to the Property except as stated in the attached Commercial Property Condition Statement (TAR-1408).

☐ B. Except as otherwise provided in this contract, Seller is not aware of:
   (1) any subsurface structures, pits, waste, springs, or improvements;
   (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
   (3) any environmental hazards or conditions that materially affect the Property;
   (4) whether the Property is or has been used for the storage or disposal of hazardous materials or toxic waste, a dump site or landfill, or any underground tanks or containers;
   (5) whether radon, asbestos containing materials, urea formaldehyde foam insulation, lead based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
   (6) any wetlands, as defined by federal or state law or regulation, on the Property;
   (7) any threatened or endangered species or their habitat on the Property;
   (8) any present or past infestation of wood destroying insects in the Property's improvements;
   (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
   (10) any condition on the Property that violates any law or ordinance.

(Describe any exceptions to (1) (10) in Paragraph 12 or an addendum.)

20. NOTICES: All notices between the parties under this contract must be in writing and are effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to the parties addresses or facsimile numbers stated in Paragraph 1. The parties will send copies of any notices to the broker representing the party to whom the notices are sent.

☒ A. Seller also consents to receive any notices by e-mail at Seller's e-mail address stated in Paragraph 1.

☒ B. Buyer also consents to receive any notices by e-mail at Buyer's e-mail address stated in Paragraph 1.

21. DISPUTE RESOLUTION: The parties agree to negotiate in good faith in an effort to resolve any dispute related to this contract that may arise. If the dispute cannot be resolved by negotiation, the parties will submit the dispute to mediation before resorting to arbitration or litigation and will equally share the costs of a mutually acceptable mediator. This paragraph survives termination of this contract. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
22. AGREEMENT OF THE PARTIES:

A. This contract is binding on the parties, their heirs, executors, representatives, successors, and permitted assigns. This contract is to be construed in accordance with the laws of the State of Texas. If any term or condition of this contract shall be held to be invalid or unenforceable, the remainder of this contract shall not be affected thereby.

B. This contract contains the entire agreement of the parties and may not be changed except in writing.

C. If this contract is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

D. Addenda which are part of this contract are: (Check all that apply.)
   (1) Property Description Exhibit identified in Paragraph 2;
   (2) Commercial Contract Financing Addendum (TAR-1931);
   (3) Commercial Property Condition Statement (TAR-1408);
   (4) Commercial Contract Addendum for Special Provisions (TAR-1940);
   (5) Notice to Purchaser of Real Property in a Water District (MUD);
   (6) Addendum for Coastal Area Property (TAR-1915);
   (7) Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916);
   (8) Information About Brokerage Services (TAR-2501);
   (9) Information About Mineral Clauses in Contract Forms (TAR-2509); and
   (10) [X] Addendum to Commercial Contract - Unimproved Property

   (Note: Counsel for the Texas Association of REALTORS® (TAR) has determined that any of the foregoing addenda which are promulgated by the Texas Real Estate Commission (TREC) or published by TAR are appropriate for use with this form.)

E. Buyer [X] may [ ] may not assign this contract. If Buyer assigns this contract, Buyer will be relieved of any future liability under this contract only if the assignee assumes, in writing, all obligations and liability of Buyer under this contract.

23. TIME: Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

24. EFFECTIVE DATE: The effective date of this contract for the purpose of performance of all obligations is the date the title company receipts this contract after all parties execute this contract.

25. ADDITIONAL NOTICES:

A. Buyer should have an abstract covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a title policy.

B. If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fees of the district before final execution of this contract.

C. Notice Required by §13.257, Water Code: "The real property, described below, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you..."
Commercial Contract - Unimproved Property concerning 1801, 1805, 1809, 1813, 1821 8th Ave., 1808 Hurley Ave. Fort Worth 76110

will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in the notice or at closing of purchase of the real property." The real property is described in Paragraph 2 of this contract.

D. If the Property adjoins or shares a common boundary with the tidally influenced submerged lands of the state, §33.135 of the Texas Natural Resources Code requires a notice regarding coastal area property to be included as part of this contract (the Addendum for Coastal Area Property (TAR-1915) may be used).

E. If the Property is located seaward of the Gulf Intracoastal Waterway, §61.025, Texas Natural Resources Code, requires a notice regarding the seaward location of the Property to be included as part of this contract (the Addendum for Property Located Seaward of the Gulf Intracoastal Waterway (TAR-1916) may be used).

F. If the Property is located outside the limits of a municipality, the Property may now or later be included in the extra-territorial jurisdiction (ETJ) of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and ETJ. To determine if the Property is located within a municipality's ETJ, Buyer should contact all municipalities located in the general proximity of the Property for further information.

G. Brokers are not qualified to perform property inspections, surveys, engineering studies, environmental assessments, or inspections to determine compliance with zoning, governmental regulations, or laws. Buyer should seek experts to perform such services. Buyer should review local building codes, ordinances and other applicable laws to determine their effect on the Property. Selection of experts, inspectors, and repairmen is the responsibility of Buyer and not the brokers. Brokers are not qualified to determine the credit worthiness of the parties.

H. NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

I. LICENSE HOLDER DISCLOSURE: Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: Don Howard Williams, Jr. is a licensed real estate broker in Texas - Lisc. #312955.

26. CONTRACT AS OFFER: The execution of this contract by the first party constitutes an offer to buy or sell the Property. Unless the other party accepts the offer by 5:00 p.m., in the time zone in which the Property is located, on ______________ , the offer will lapse and become null and void.
READ THIS CONTRACT CAREFULLY. The brokers and agents make no representation or recommendation as to the legal sufficiency, legal effect, or tax consequences of this document or transaction. CONSULT your attorney BEFORE signing.

Seller: Williams Opportunity Trust

Buyer: Saigebrook Development, LLC and/or assigns

By: Don Howard Williams, Jr., Trustee
By: Lisa Stephens
By (signature):
By (signature):
Printed Name: Don Howard Williams, Jr.
Printed Name: Lisa Stephens
Title: Trustee
Title: 

By:
By:
By (signature):
By (signature):
Printed Name: 
Printed Name: 
Title: 
Title:
AGREEMENT BETWEEN BROKERS
(use only if Paragraph 9B(1) is effective)

Principal Broker agrees to pay (Cooperating Broker) a fee when the Principal Broker's fee is received. The fee to be paid to Cooperating Broker will be:

☐ $ ________________, or
☐ __________% of the sales price, or
☐ __________% of the Principal Broker's fee.

The title company is authorized and directed to pay Cooperating Broker from Principal Broker's fee at closing. This Agreement Between Brokers supersedes any prior offers and agreements for compensation between brokers.

Principal Broker: ___________________________  Cooperating Broker: ___________________________

By: ___________________________  By: ___________________________

ATTORNEYS

Seller's attorney: ___________________________  Buyer's attorney: Robert Cheng

Shutts & Bowen, LLP

Address: 200 South Biscayne Boulevard, Suite 4100

Miami, FL 33131

Phone & Fax:

E-mail: ccheng@shutts.com

Seller's attorney requests copies of documents, notices, and other information:

☐ the title company sends to Seller.

☐ Buyer sends to Seller.

Buyer's attorney requests copies of documents, notices, and other information:

☐ the title company sends to Buyer.

☐ Seller sends to Buyer.

ESCROW RECEIPT

The title company acknowledges receipt of:

☐ A. the contract on this day 12/20/18 (effective date);

☐ B. earnest money in the amount of $15,000.00 on 12/24/18.

Title company: Darlene Title

Address: 201 Main St. #800

Ft. Worth, TX 76102

Phone & Fax: 817-334-1395

E-mail: stowers@darlenetitle.com

Assigned file number (GF#): 18-4969 SLT

(1801, 1805, 1809, 1813, 1821 8th Ave., 1808 Hurley Ave. Fort Worth 76110)
EXHIBIT “A”

1801 8th Ave: FAIRMOUNT ADDITION Block 11 Lot 1 & 2
1805 8th Ave: FAIRMOUNT ADDITION Block 11 Lot 3 & 4
1809 8th Ave: FAIRMOUNT ADDITION Block 11 Lot 5 & 6
1813 8th Ave: FAIRMOUNT ADDITION Block 11 Lot 7 & 8
1821 8th Ave: FAIRMOUNT ADDITION Block 11 Lots 9 THRU 14
1808 Hurley Ave: FAIRMOUNT ADDITION Block 11 Lot 27 28 & 29

Same as amendment - bps
Information About Brokerage Services

Texas law requires all real estate licensees to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.

**TYPES OF REAL ESTATE LICENSE HOLDERS:**
- **A BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- **A SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

**A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):**
- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

**A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:**

**AS AGENT FOR OWNER (SELLER/LANDLORD):** The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

**AS AGENT FOR BUYER/TENANT:** The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

**AS AGENT FOR BOTH - INTERMEDIARY:** To act as an intermediary between the parties the broker must first obtain the written agreement of each party to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:
- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
  - that the owner will accept a price less than the written asking price;
  - that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
  - any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

**AS SUBAGENT:** A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

**TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:**
- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

**LICENSE HOLDER CONTACT INFORMATION:** This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

<table>
<thead>
<tr>
<th>Name</th>
<th>License No.</th>
<th>Email</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capstone Commercial Steve Burris</td>
<td>48057</td>
<td><a href="mailto:sburris@capstonecommercial.com">sburris@capstonecommercial.com</a></td>
<td>(214)682-4156</td>
</tr>
<tr>
<td>Licensed Broker/Broker Firm Name or Primary Assumed Business Name</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Designated Broker of Firm</td>
<td>License No.</td>
<td>Email</td>
<td>Phone</td>
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<tr>
<td>Licensed Supervisor of Sales Agent/Associate</td>
<td>License No.</td>
<td>Email</td>
<td>Phone</td>
</tr>
<tr>
<td>Sales Agent/Associate's Name</td>
<td>License No.</td>
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**Regulated by the Texas Real Estate Commission**

Information available at www.trec.texas.gov

**TAR-2501**

Capstone Commercial Real Estate Group, LLC, 4300 Sigma Road, Suite 100 Dallas TX 75244
David Martin
Phone: 972.250.5800 Fax: 972.250.5801
Produced with zipForm® by zipLogix 19070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

11/2/2015
ADDENDUM TO COMMERCIAL CONTRACT - UNIMPROVED PROPERTY

THIS ADDENDUM TO COMMERCIAL CONTRACT - UNIMPROVED PROPERTY (this "Addendum") is by and between DON HOWARD WILLIAMS, JR., AS TRUSTEE OF WILLIAMS OPPORTUNITY TRUST, a ("Seller"), whose office address is 4328 Briar Creek Lane, Dallas, Texas 75214, and SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company, its successors and/or assigns ("Buyer"), whose office address is 5501-a Balcones Drive, #302, Austin, Texas 78731. The effective date of this Addendum shall be the date that this Addendum is fully executed by Seller and Buyer (the "Effective Date").

WHEREAS, Seller and Buyer are parties to that certain Commercial Contract - Unimproved Property of even date herewith (the "Contract");

WHEREAS, Seller and Buyer desire to modify and supplement the Contract as more particularly set forth herein.

NOW, THEREFORE, in consideration of $10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree that the Contract is hereby modified and supplemented to include the following provisions:

1. **Title Commitment.** Notwithstanding anything contained in Section 6 of the Contract, the following provisions shall govern and control Buyer's review of and objection to title to the Property:

   (a) Within the Feasibility Period, Buyer may, at its sole expense, obtain (i) a title insurance commitment (the "Title Commitment") for a fee owner's title insurance policy covering the Property (the "Title Policy") from a title insurance company selected by Buyer (the "Title Company") and (ii) a survey of the Property (the "Survey").

   (b) Buyer shall, no later than the end of the Feasibility Period, notify Seller in writing specifying any objections to matters shown on the Title Commitment or the Survey (the "Title Objections"). Any matters on the Title Commitment or the Survey that Buyer does not timely object to, and which are not items set forth in Sections 1(c)(ii)-(iv) below, shall be deemed "Permitted Exceptions." The "Parking Lease" described in Section 4(n) shall be a Permitted Exception. If Buyer notifies Seller of any title objections, Seller has ten (10) days from receipt of Buyer's notice to notify Buyer whether Seller agrees to cure the objections before closing ("Cure Notice"); however, Seller shall have no obligation to cure such objections. If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the title objections before closing, Buyer may, as Buyer's sole remedy, within five (5) days after the deadline for the giving of Seller's Cure Notice, notify Seller that this Contract is terminated, in which case the Escrow Deposit (less the Independent Consideration) shall be refunded to Buyer. If Buyer does not terminate this Contract as provided in this paragraph, then all matters on the Title Commitment and the Survey shall be deemed to constitute additional Permitted Exceptions.

   (c) Notwithstanding anything in Section 1(b) above, at or prior to Closing, Seller shall cause to be cured, remedied, or released (i) any and all Title Objections which Seller has elected to cure pursuant to Section 1(b) hereof, (ii) any mortgages, deeds of trust or judgment liens against, by, through or under Seller, (iii) construction liens and other liens (other than the...
lien of real estate taxes and assessments not yet due and payable) which attach to the fee simple interest in the Property provided for by statute, code or ordinance, or created by express grant in writing by Seller, and (iv) any and all encumbrances and/or exceptions concerning the Property created by, under or through Seller after the Effective Date.

(d) From time to time prior to Closing, Buyer may cause, at its sole expense, the Title Commitment and/or the survey to be updated (the "Title Update") and a copy of the Title Update shall be delivered to Seller. If within ten (10) days following receipt of same Buyer objects in writing to any matters shown on the Title Update that were not shown on the Title Commitment or the survey, such matters shall be deemed Title Objections and the provisions of subparagraph 1(b) of the Contract shall apply to those matters (e.g. new Cure Notice period and termination right within five (5) days after the deadline for the giving of Seller's Cure Notice if Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the title objections before closing).

2. Earnest Money.

(a) Within three (3) days following the Effective Date, Buyer shall deposit as an earnest money deposit, the sum of Fifteen Thousand and No/100 Dollars ($15,000.00) (the "Initial Deposit") with the Title Company (the "Escrow Agent"). Buyer shall make an additional deposit payable to Escrow Agent in the amount of Forty Five Thousand and No/100 Dollars ($45,000.00) (the "Second Deposit") within two (2) business days following the expiration of the Feasibility Period. The Initial Deposit and the Second Deposit are collectively referred to herein as the "Escrow Deposit." If Buyer fails to terminate the Contract and this Addendum prior to the expiration of the Feasibility Period, the Escrow Deposit, to the extent paid, shall be non-refundable to Buyer (except as otherwise expressly provided for in the Contract and this Addendum) and credited to the Purchase Price at Closing (as hereinafter defined), unless a party is in default under the Contract or this Addendum, in which case the Escrow Deposit, less the $100.00 independent consideration referenced in Section 2(b) hereof, together with any interest accrued thereon, if any, shall be disbursed by Escrow Agent to the appropriate party in accordance with the applicable provisions of the Contract and this Addendum. Notwithstanding anything contained in the Contract or this Addendum to the contrary, portions of the Escrow Deposit shall become non-refundable to Purchaser in all events as follows:

(i) if the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on February 28, 2019, $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title to the Property subject only to the Permitted Exceptions at Closing (provided Seller shall be deemed to have delivered indefeasible title to the Property upon Title Company’s issuance of the Title Policy in the form required by this Agreement), or termination of the Contract due to condemnation.

(ii) if the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on March 31, 2019, $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $20,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title to the Property subject only to the Permitted Exceptions at Closing.
(provided Seller shall be deemed to have delivered indefeasible title to the Property upon Title Company's issuance of the Title Policy in the form required by this Agreement), or termination of the Contract due to condemnation;

(iii) if the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on April 30, 2019, $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $30,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title to the Property subject only to the Permitted Exceptions at Closing (provided Seller shall be deemed to have delivered indefeasible title to the Property upon Title Company's issuance of the Title Policy in the form required by this Agreement), or termination of the Contract due to condemnation;

(iv) if the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on May 31, 2019, $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $40,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title to the Property subject only to the Permitted Exceptions at Closing (provided Seller shall be deemed to have delivered indefeasible title to the Property upon Title Company's issuance of the Title Policy in the form required by this Agreement), or termination of the Contract due to condemnation;

(v) if the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on June 30, 2019, $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $50,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title to the Property subject only to the Permitted Exceptions at Closing (provided Seller shall be deemed to have delivered indefeasible title to the Property upon Title Company's issuance of the Title Policy in the form required by this Agreement), or termination of the Contract due to condemnation; and

(vi) if the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on July 31, 2019, $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $60,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title to the Property subject only to the Permitted Exceptions at Closing (provided Seller shall be deemed to have delivered indefeasible title to the Property upon Title Company's issuance of the Title Policy in the form required by this Agreement), or termination of the Contract due to condemnation.

(b) Paragraph 7B(1) of the Contract is hereby amended to provide that in the event Buyer terminates the Contract within the Feasibility Period, the Escrow Deposit will be refunded to Buyer less $100.00 that Seller will retain as independent consideration for Buyer's unrestricted right to terminate.

3. Legal Description. Notwithstanding any contrary provision in the Contract or herein, if Buyer's Survey produces a legal description which includes land not described in the
deed vesting title in Seller, Seller shall convey such excess parcel by a quitclaim deed without warranty.

4. Seller's Representations, Warranties and Covenants. As of the Effective Date and as of the Closing, Seller represents and warrants to Buyer, and where indicated, covenants and agrees, as follows:

(a) The execution, delivery and performance by Seller of the Contract, as supplemented by this Addendum, has been duly and validly authorized by all requisite action on the part of Seller, and no consent of any person not heretofore obtained is required, including, without limitation, any beneficiaries of the Williams Opportunity Trust.

(b) The Contract, as supplemented by this Addendum, constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

(c) Seller owns the Property in fee simple, subject only to the Permitted Exceptions.

(d) Seller is duly created and validly existing under the laws of the State of Texas and is authorized to transact business in the State of Texas, with full power and authority to enter into and perform the Contract and this Addendum in accordance with their terms

(e) Don Howard Williams, Jr. is the sole trustee of the Williams Opportunity Trust.

(f) There are no actions, suits or proceedings pending or, to Seller's current actual knowledge, threatened against Seller or the Property.

(g) There are no condemnation or eminent domain proceedings pending or to the Seller's knowledge, threatened concerning the Property, and Seller has received no written notice from any governmental or quasi-governmental agency or authority or potential condemnor concerning any right-of-way, utility, or other taking which may affect the Property.

(h) Except as may be set forth to the contrary in any environmental assessment, soils, or similar investigation reports concerning the Property delivered by Seller to Purchaser, Seller has no knowledge of hazardous substances present on the Property in any quantity or manner that violates, or that gives rise to liability, under any applicable environmental law, regulation, or ordinance.

(i) Neither the execution and delivery of the Contract or this Addendum by Seller, nor the consummation by Seller of the transactions contemplated hereby, will (i) require Seller to file or register with, notify, or obtain any permit, authorization, consent, or approval of any person or entity (including any governmental, quasi-governmental or regulatory authority), (ii) violate or breach any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under any agreement or other instrument, commitment, or obligation to which Seller is a party, or by which Seller, the Property, or any of Seller's assets may be bound, or (iii) violate any order, writ, injunction, decree, judgment, statute, law, or ruling of any court or governmental authority applicable to Seller, the Property or any of Seller's assets.
During the term of the Contract, Seller shall maintain (i) the Property in substantially the same condition as it is in on the Effective Date, ordinary wear and tear excepted, and (ii) all insurance policies, if any, for the Property as of the Effective Date in full force and effect through Closing.

There are no existing (i) contracts for the sale of all or any portion of the Property, (ii) options to purchase all or any portion of the Property, or (iii) rights of first refusal with respect to the sale of all or any portion of the Property.

Unless otherwise expressly permitted under the Contract or this Addendum, Seller shall not grant or otherwise create or consent to the creation of any easement, restriction, lien, assessment or encumbrance affecting the Property, or pursue any re-zoning of the Property or any other land use approvals relating to the Property without Purchaser's written consent, which consent may be withheld at Purchaser's sole and absolute discretion.

Seller has not received any written order or notice of any governmental authority having jurisdiction over the Property which has not been previously fully complied with or cured. Seller has received no written notice of any uncured violation of applicable laws, ordinances, rules, requirements and environmental rules of any governmental agency, body or subdivision thereof bearing on the Property, and to Seller's knowledge there are no pending investigations or inquiries into the status of the Property's compliance with all governmental laws, including the environmental condition of the Property.

There are no leases, tenancies, or other rights of occupancy or use of any portion of the Property, other than that certain lease between Seller and Fort Worth Surgicare Partners, Ltd., d/b/a Baylor Surgical Hospital of Fort Worth ("Baylor Surgical") dated as of February 15, 2015, with respect to the right of Baylor Surgical to utilize a portion of the Property for the parking of passenger vehicles (the "Parking Lease"). Seller represents and warrants with respect to the Parking Lease that a true, correct and complete copy of the Parking Lease has been provided to Buyer or will be provided to Buyer in accordance with Section 7.D of the Contract. Seller agrees not to amend the Parking Lease to extend or renew the term thereof beyond the current expiration date of the Parking Lease without Buyer's prior written approval, which may be granted or withheld in Buyer's sole and absolute discretion.

Seller is not in default under any indenture, mortgage, deed of trust, loan agreement, or other agreement to which Seller is a party and which affects the Property.

Seller (i) has not made an assignment for the benefit of creditors, (ii) has not admitted in writing its inability to pay its debts as they mature, or (iii) has not been adjudicated as bankrupt or insolvent, or filed a petition for voluntary bankruptcy or a petition or answer seeking reorganization or an arrangement with creditors under the federal bankruptcy law or any other similar law or statute of the United States or any State, and no such petition has been served upon Seller.

For the purposes of the representations and warranties contained in the Contract and this Addendum, wherever the phrase "to the current knowledge of Seller" or a similar phrase referencing or qualifying a representation by Seller's knowledge is used, Seller's knowledge shall
be deemed to be limited solely to the current, actual knowledge of Don Howard Williams, Jr., without any independent investigation or inquiry having been made; provided, however, such individual shall have no personal liability under the Contract, Addendum or otherwise with respect to the Property.

The continued accuracy of the representations and warranties contained in the Contract and Addendum, if any, and herein, in all material respects at Closing is a condition to the obligation of Buyer to purchase the Property. However, if as a result of any change of conditions with respect to any portion of the Property and/or the acquisition by Seller of information not known to Seller at the time of execution of the Contract or this Addendum, Seller is unable to confirm any such representations and warranties as of the Closing, Seller shall promptly following Seller having knowledge of such change(s) advise Buyer in writing of such changes, but no event later than the Closing Date to reflect facts or conditions then existing or known to Seller; provided, however, the representations and warranties contained in Sections 4(a)-(e), inclusive, shall not be subject to modification in accordance with this sentence. If Buyer is unwilling to accept any such modification to Seller's representations and warranties, Buyer, as its sole and exclusive remedy, shall have the right to terminate the Contract and this Addendum, in which event the Escrow Deposit shall be returned to Buyer by the Title Company and neither party hereto shall have any further obligations hereunder, except for such obligations and indemnities which expressly survive the termination of the Contract and this Addendum. If Buyer accepts such revisions (which shall be deemed to have occurred if Buyer fails to provide Seller and the Title Company with written notice of Buyer's election to terminate this Agreement within fifteen (15) days after being provided with written notice of the revisions to the representations and warranties), Buyer shall be deemed to have waived any rights or remedies against Seller with respect to the representation or warranties so revised. Buyer shall not have a right to bring any action against Seller for breach of a representation or warranty in any circumstance where Buyer had actual knowledge prior to Closing that such representation or warranty was inaccurate if Buyer elects to proceed to Closing despite knowing that such representation or warranty was inaccurate. Notwithstanding anything contained herein to the contrary, nothing contained in this paragraph concerning the right of Seller to modify certain representations and warranties in accordance with the terms hereof shall limit Buyer's rights under Section 8 of this Addendum, if any representation or warranty was untrue or inaccurate on the Effective Date.

All representations and warranties of Seller set forth in the Contract, if any, and herein shall survive for a period of six (6) months following the Closing.

5. Governmental Approval Applications. Seller shall promptly, upon Buyer's request and provided Seller thereby assumes no liability or obligation and at no cost to Seller, join in or otherwise consent to any and all applications (collectively, the "Applications") with respect to zoning, platting, site plan approval, vacations, dedications, surface water management permits, drainage permits, concurrency compliance approvals, building permits, and any and all other permits, consents, approvals, and/or authorizations which, in Buyer's reasonable opinion, are necessary or desirable for the development of the Property for Buyer's Intended Use. Buyer's "Intended Use" shall refer to the development of the Property with no less than eighty (80) multifamily residential units. Without Seller's written approval, no Applications or petition for any replatting, rezoning or variance with respect to the Property shall be binding upon the Property until after
Closing.

6. Closing Conditions. Seller and Buyer acknowledge and agree that the obligation of Buyer to consummate the transaction contemplated hereby is also subject to the satisfaction of the following conditions (the "Closing Conditions"), unless waived in writing by Buyer prior to Closing:

(a) By Closing, Buyer shall have obtained TDHCA Financing (as hereinafter defined), or Buyer shall have waived in writing the requirement and condition precedent to obtain TDHCA Financing. For purposes of this Addendum, the term "TDHCA Financing" means, collectively: (i) an award from Texas Department of Housing and Community Affairs ("TDHCA") in the 2019 Application process for Federal Income Tax Credits under the Low Income Housing Tax Credit Program ("Tax Credits"), combined with (ii) such other resources which may be awarded by TDHCA during this application cycle concurrent with the Tax Credits in an amount sufficient, in Buyer's sole and absolute discretion, to enable Buyer to acquire the Property and construct its intended improvements on the Property, with all time to appeal such award having expired and with no appeal then pending and no appeal instituted or petition filed, and (iii) a binding commitment acceptable to Buyer in its sole and absolute discretion for a syndication/sale of such Tax Credits to an investor.

In addition to any rights or remedies that Buyer may be entitled to under the Contract and this Addendum, if (a) any of the Closing Conditions are not satisfied by the time specified above, or (b) Buyer shall have made a good faith determination that its application for TDHCA Financing will not be successful, then in any such event, Buyer shall have the right to terminate the Contract and this Addendum upon delivering written notice to Seller, and the Escrow Deposit (less the Independent Consideration) not deemed to be non-refundable pursuant to Section 2(a) hereof as of the date of such termination shall be returned to Buyer and all further obligations of the parties hereunder shall terminate, except those that expressly survive termination hereof. With respect to Section 6(b) above, Buyer's withdrawal of its application for Tax Credits shall not be a condition precedent to the return of any portion of the Escrow Deposit. If Buyer does not timely file a pre-application or full application for Tax Credits by the dates required therefor by TDHCA (which deadlines, as of the Effective Date, are January 9, 2019 for pre-application filing and March 1, 2019 for full application filing), Seller shall have the right to terminate the Contract and this Addendum upon ten (10) days prior written notice to Buyer. Upon not less than 10 days written notice from Seller and provided such request is not made more frequently than once in any 45 consecutive day period, Buyer shall provide Seller with periodic updates as the status of Buyer's application for Tax Credits.

7. Closing. Unless sooner terminated by either Seller or Buyer pursuant to the provisions of the Contract and this Addendum and subject to the terms and conditions of the Contract and this Addendum, Closing shall take place at the offices of the Title Company at 10:00 a.m. Central Time, or by mail, or at any other time mutually agreed to by the parties, on or before August 31, 2019 (the "Closing Date"). Buyer shall have the right to close this transaction prior to the then scheduled Closing Date. If Buyer elects to exercise such right, it will notify Seller of the earlier Closing Date at least ten (10) business days prior to the new Closing Date. Buyer shall also have the right to extend the Closing Date (but to no later than December 31, 2019) by exercising up to four (4) consecutive 1-month
Closing extensions (each 1-month Closing extension being referred to herein as a "Closing Extension"). If Buyer elects to exercise a Closing Extension, it shall notify Seller and Title Company in writing of such election on or before the previously-scheduled Closing Date and deliver an extension fee in the amount of Fifteen Thousand and No/100 Dollars ($15,000.00) ("Extension Fee") to Seller within two (2) business days following the previously scheduled Closing Date. If a Closing Extension is timely exercised by Buyer, the Closing Date will be extended by one (1) month to the last business day of the calendar month following the month of the prior Closing Date. Each Extension Fee is non-refundable upon payment to Seller, except if Closing does not occur due to a default by Seller under the Contract or this Addendum or Seller's inability to deliver indefeasible title to the Property (provided Seller shall be deemed to have delivered indefeasible title to the Property upon Title Company's issuance of the Title Policy in the form required by this Agreement), in which case the Extension Fee shall be immediately returned to Buyer. Buyer will receive a credit toward its payment of the Purchase Price for each of the first two (2) Extension Fees paid to Seller, but Buyer will not receive a credit toward the Purchase for either of the second two (2) Extension Fees paid to Seller.

8. Seller Default. Sections 15(B) and 15(C) of the Contract are hereby deleted in its entirety and the following inserted in their place and stead: In the event that Seller is not entitled to terminate the Contract or this Addendum under any provision hereof and Buyer is not in default in performance of the terms hereof, then in the event that Seller should fail to perform material obligations (other than at Closing) under the Contract which default remains uncured for a period of ten (10) days after written notice thereof is delivered by Buyer to Seller (with such cure period to be extended if Seller has commenced to cure within such period and thereafter diligently pursues such cure to completion, however Buyer shall have no obligation to pay any extension fee as a result of an extension of the Closing Date due to Seller's proceeding to cure such default), or (ii) Seller fails to perform Seller's obligations at Closing hereunder, then Seller shall be in default under the Contract and this Addendum and Buyer may elect, as its sole and exclusive remedy, either to (i) terminate the Contract and this Addendum and (1) receive the return of the Escrow Deposit (less the Independent Consideration) and any interest accrued thereon and (2) recover from Seller damages in an amount equal to all out of pocket costs and expenses incurred by Buyer in connection with the proposed acquisition and development of the Property not to exceed $150,000.00, or (ii) pursue an action for specific performance. Any suit by Buyer to enforce specific performance under the Contract or this Addendum must be filed on or before sixty (60) days after the Closing Date or Buyer's right to enforce specific performance under the Contract and this Addendum shall be forever waived. Notwithstanding the foregoing, if Seller's default consists of a sale of the Property to a third party in violation of Buyer's rights under the Contract and this Addendum, Buyer shall have the right to pursue any legal remedy available at law or in equity. Except as otherwise expressly provided for herein, nothing contained herein shall be deemed to limit the obligations of Seller or the remedies of Buyer available at law or in equity with respect to a breach or a default by Seller of any obligation hereunder to the extent that the Contract or this Addendum specifically provides that such obligation shall survive Closing or the earlier termination of the Contract and this Addendum.
9. **Brokers.** The parties hereby represent and warrant each to the other that they have not utilized or engaged any real estate broker, salesman or finder with respect to the transaction contemplated by the Contract and this Addendum, other than David Martin, whose commission shall be paid by Seller pursuant to separate agreement. Each party hereby agrees to indemnify and hold the other harmless from and against any liability, loss, cost or expense (including reasonable attorneys' fees and court costs, including those incurred in dispute resolution or appellate matters) resulting from a claim or demand for any commissions in connection with the Contract or the purchase and sale of the Property which the indemnified party shall suffer as a result of a breach of the representations and warranties contained in this Section 9. The provisions of this Section 9 shall survive Closing or the earlier termination of the Contract and this Addendum.

10. **Escrow Deposit.**

(a) The Escrow Deposit shall be held in escrow by the Title Company and paid over or disbursed according to the terms of the Contract and this Addendum (together, the "Agreement"), and, unless otherwise refunded pursuant to the terms of the Agreement, the Escrow Deposit shall be paid over and applied against the Purchase Price at Closing. The Escrow Deposit shall be deposited by the Title Company in an interest bearing account. Any interest earned on the Escrow Deposit will be paid to the party that becomes entitled to the Escrow Deposit. Title Company shall have no responsibility for, nor shall Title Company be held liable for, any loss occurring which arises from the fact that the amount of the Escrow Deposit may cause the aggregate amount of any depositor's accounts to exceed $250,000 and that the excess amount is not insured by the Federal Deposit Insurance Corporation. Title Company shall not be responsible for any delay in the electronic wire transfer of funds.

(b) In the event of any disagreement between Buyer and Seller resulting in conflicting instructions to, or adverse claims or demands upon Title Company with respect to the release of the Escrow Deposit, Title Company shall refuse to comply with such instruction, claim or demand so long as such disagreement shall continue, and shall not release the Escrow Deposit. Title Company shall not be or become liable in any way to Buyer or Seller for its failure or refusal to comply with any such conflicting instructions or adverse claims or demands, and it shall be entitled to continue so to refrain from acting until such conflicting or adverse demands (a) shall have been adjusted by agreement and it shall have been notified in writing thereof by Buyer and Seller, or (b) shall have finally been determined in a court of competent jurisdiction in Tarrant County, Texas. Additionally, at its discretion Title Company may proceed with filing an interpleader action in Tarrant County, Texas. Upon depositing the Escrow Deposit with a court of competent jurisdiction in Tarrant County, Texas, Title Company shall be released from any further obligation, responsibility or liability under the Agreement and shall be entitled to seek reimbursement out of the Escrow Deposit for its costs and reasonable attorney's fees that are incurred in connection with filing the interpleader action. Title Company is not a trustee for any party for any purpose, and is merely acting as a depository and a ministerial capacity hereunder with the limited duties herein prescribed and has no responsibility in respect of any instructions, certificate or notice delivered to it or of the Escrow Deposit other than faithfully to carry out the obligations
undertaken in the Agreement and to follow the directions in such instructions or notice provided in accordance with the terms hereof.

(c) The Seller and Buyer hereby agree to jointly and severally indemnify and hold harmless the Title Company from and against all costs, damages, judgment, attorney's fees, expenses, obligations, and liabilities of any kind or nature, which Title Company in good faith may incur or sustain in connection with serving as Title Company under this Agreement (collectively, the "Title Company Costs"), excluding any costs, damages, judgment, attorney's fees, expenses, obligations and liabilities arising from or as a result of a breach of this Agreement by Title Company, or the negligence of Title Company.

(d) The Title Company may resign as escrow agent hereunder by giving thirty (30) days written notice hereof to Buyer and Seller. Within ten (10) days after receipt of such notice, Buyer and Seller shall furnish to the Title Company written instructions for the release of the Escrow Deposit and corresponding escrow documents. If the Buyer and Seller fail to furnish the written instructions within the ten (10) day period, the Title Company may petition any court of competent jurisdiction for the appointment of a successor escrow agent and, upon such appointment, deliver the Escrow Deposit and corresponding escrow documents to such successor. By doing so, the Title Company shall not incur any liability to any party to this Agreement and shall be released from any further obligation, responsibility and liability under this Agreement. Furthermore, Title Company shall be entitled to be reimbursed out of the Escrow Deposit for its costs and reasonable attorney's fees that are incurred as a result of having to petition the court for the appointment of a successor.

11. Any materials, reports, studies or other items furnished by Seller or on Seller's behalf, whether or not required by the terms of this Contract (including but not limited to the Survey and the Title Commitment) are without representation or warranty, express or implied, by Seller as to the truth, accuracy and completeness thereof; and any reliance thereon by the Buyer shall be at Buyer's own risk, without any recourse against Seller and subject to Buyer's independent examination provided; however, Seller represents that such documents are true and correct copies of same as they may be found in Seller's records.

12. Buyer shall not conduct any invasive testing without Seller's prior written consent in each instance, which Seller shall not unreasonably withhold, condition or delay, provided Buyer or its inspectors conduct such testing in accordance with customary means and methods, and provided Buyer provides to Seller its proposed scope of work as to such invasive testing. Buyer shall promptly restore at Buyer's sole cost and expense, any physical damage to the Property caused by any such inspection, investigation or testing. Seller acknowledges and agrees that standard testing and gathering of samples of asbestos, water samples and the like for a customary Phase I Environmental Site Assessment and soil borings shall not require Seller's prior written consent; however, Buyer shall not have any right to perform any boring within the building footprint of the building located on the Property, Buyer shall use best efforts to minimize any boring within paving located on the Property, and in no event shall any boring in concrete areas
be performed until after June, 2019. At least forty-eight (48) hours prior to any entry of the Property, Buyer shall: (i) deliver to Seller written notice of its intention to enter the Property, and Seller shall have the right to have one or more of its agents and/or representatives accompany the Buyer and (ii) provide Seller sufficient evidence to show that Buyer's agents, representatives and contractors who entered the Property are adequately covered by policies of insurance, issued by a carrier reasonably acceptable to Seller, insuring Buyer and Seller as an additional insured against any and all liability arising out of Buyer's or Buyer's agents', representatives' or contractors' entry upon and investigation respecting the Property. Neither Buyer nor its affiliates or agents ("Buyer Party") may initiate or continue any communication with Baylor Surgical or its related entities without Seller's prior, written consent, which may be withheld in Seller's sole and absolute discretion, concerning the Parking Lease or other arrangement whereby Baylor Surgical or its affiliates may enter into an agreement to utilize the Property for any use (the "Prohibited Activities"). Any such communications or negotiations with Baylor Surgical or its related entities by a Buyer Party in any way relating to the Prohibited Activities shall be an immediate Buyer default under the Contract which, in addition to the Earnest Money, Buyer shall pay Seller $100,000.00 as a fee for its default of the immediately preceding sentence (the "Baylor Lease Default Fee"). For purposes of clarity, the Baylor Lease Default Fee is only applicable in the event a Buyer Party engages in any Prohibited Activities without Seller's prior, written consent; in no other event shall the Baylor Lease Default Fee be a liability of Buyer. By way of example but not in limitation of the preceding sentence, in the event Baylor Surgical or its related entities contacts a Buyer Party regarding the Parking Lease, the Contract, this Addendum or the Property, such event will not be considered to be a Prohibited Activity as long as such Buyer Party immediately ends such communication without discussing the Parking Lease or other arrangement whereby Baylor Surgical or its affiliates may enter into an agreement to utilize the Property for any use, and Buyer notifies Seller within two (2) business days of such event. Buyer shall, at its sole cost and expense, comply with all applicable Federal, state and local laws, statutes, rules, regulations, ordinances or policies in connection with any investigation or inspection conducted by Buyer or its agents, representatives or contractors respecting the Property. The provisions of this Section 12 shall expressly survive the termination of the Contract.

13. The limitation of damages set forth in Section 15.A shall not apply to any indemnities, covenants or obligations of Buyer which expressly survive either the termination of the Contract or Closing, for which Seller shall be entitled to all rights and remedies available at law or in equity.

IS," "WHERE IS" AND "WITH ALL FAULTS" BASIS, WITHOUT REPRESENTATIONS, WARRANTIES AND COVENANTS, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE. PROVIDED, HOWEVER, NOTHING CONTAINED IN THIS SECTION SHALL LIMIT THE WARRANTIES SET FORTH IN THE CONTRACT OR DEED TO BE DELIVERED FROM SELLER TO BUYER AT THE CLOSING. THE EXPRESS INTENTION OF BUYER AND SELLER IS THAT BUYER SHALL PURCHASE THE PROPERTY FROM SELLER WITHOUT ANY REPRESENTATIONS, WARRANTIES OR COVENANTS, EXPRESS OR IMPLIED, FROM OR OF SELLER EXCEPT AS PROVIDED HEREIN. BUYER HEREBY WAIRES AND RELINQUISHES ALL RIGHTS AND PRIVILEGES ARISING OUT OF, OR WITH RESPECT OR IN RELATION TO, ANY REPRESENTATIONS, WARRANTIES, AND COVENANTS, WHETHER EXPRESS OR IMPLIED, WHICH MAY HAVE BEEN MADE OR GIVEN, OR WHICH MAY BE DEEMED TO HAVE BEEN MADE OR GIVEN, BY SELLER EXCEPT AS PROVIDED HEREIN. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER HEREBY FURTHER ACKNOWLEDGES AND AGREES THAT WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED FROM THE TRANSACTION CONTEMPLATED HEREBY, AS ARE ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND THAT SELLER HAS NOT WARRANTED, AND DOES NOT HEREBY WARRANT, THAT THE PROPERTY NOW OR IN THE FUTURE WILL MEET OR COMPLY WITH THE REQUIREMENTS OF ANY SAFETY CODE OR REGULATION. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER HEREBY ASSUMES ALL RISK AND LIABILITY (AND AGREES THAT SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, OR OTHER DAMAGES) RESULTING OR ARISING FROM OR RELATING TO THE OWNERSHIP, USE, CONDITION, LOCATION, MAINTENANCE, REPAIR, OR OPERATION OF THE PROPERTY. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING OR ANY TERMINATION HEREOF.

15. WAIVER OF JURY TRIAL. SELLER AND BUYER WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF, CONNECTED WITH, RELATED TO OR INCIDENTAL TO THE CONTRACT OR THIS ADDENDUM OR THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THE CONTRACT AND THIS ADDENDUM. ANY SUCH DISPUTES SHALL BE RESOLVED IN A BENCH TRIAL WITHOUT A JURY.

16. The following is a list of the Property Information Seller is to provide to Buyer, to the extent such items which relate to the Property are within Seller's possession or control:

- Existing surveys, elevation certificates, topographical maps, and zoning and land use maps for the Property;
- Topographical maps;
- Existing title insurance policies (which may be redacted for monetary amounts);
- List of pending litigation relating to the Property, if any;
• Engineering reports, drawings, and/or environmental reports or assessments, and soil tests;
• Copies of any appraisals relating to the Property;
• Copies of all current rent rolls for the Property; and
• Copies of any "as built" plans and specifications and all governmental approvals, permits, licenses for the improvements on the Property.

17. The parties hereto acknowledge that Don Howard Williams, Jr., being the trustee of Seller, is a licensed Texas Real Estate Broker. The parties further acknowledge that if Don Howard Williams, Jr., acts as Seller's Broker, such representation does not constitute a conflict of interest, or, in any manner, (i) constitute a basis by which a commission would not be due and payable to Don Howard Williams, Jr., as the Seller's Broker, or (ii) infer or require directly or by inference that Don Howard Williams, Jr. is to act for anyone in this transaction other than Seller.

18. Binding Effect. This Addendum shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, representatives and assigns.

19. Headings. Headings in this Addendum are for convenience and reference only and shall not be used to interpret or construe its provisions.

20. Counterparts. The Contract and this Addendum may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument. Any signature delivered by facsimile, email, or other forms of electronic transmission, such as a PDF, shall be considered an original signature by the sending party. Either party or both parties shall be permitted to electronically execute the Contract, this Addendum and all other related documents, in accordance with Texas Statutes Chapter 322.

21. Conflict. In the event of any conflict between the terms of the Contract and this Addendum, the terms of this Addendum shall prevail. Except as modified herein, the Contract remains unchanged and in full force and effect and is hereby ratified and confirmed in all respects.

[Signatures appear on following page]
IN WITNESS WHEREOF, the parties hereto hereby execute this Addendum as of the Effective Date.

SELLER:

WILLIAMS OPPORTUNITY TRUST

By: ____________________________
    Don Howard Williams, Jr., Trustee

Date: 12/19/2018

BUYER:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company, and/or assigns

By: ____________________________
    Lisa Stephens, President

Date: 12/19/2018
SECOND AMENDMENT TO COMMERCIAL CONTRACT – UNIMPROVED PROPERTY

THIS SECOND AMENDMENT TO COMMERCIAL CONTRACT – UNIMPROVED PROPERTY (this “Amendment”) is entered into as of the 29 day of March, 2019, by and between DON HOWARD WILLIAMS, JR., AS TRUSTEE OF WILLIAMS OPPORTUNITY TRUST (“Seller”), and SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Purchaser”).

RECITALS

WHEREAS, Seller and Purchaser heretofore entered into that certain Commercial Contract – Unimproved Property dated December 20, 2018 (the “Contract”), as modified and supplemented by that certain Addendum to Commercial Contract – Unimproved Property of even date therewith (the “Addendum”), as amended by that certain Amendment to Commercial Contract – Unimproved Property dated February 21, 2019 (the “First Amendment”; and together with the Contract and the Addendum, collectively, the “Agreement”), for the sale of that certain real property located in Tarrant County, Texas; and

WHEREAS, Purchaser and Seller desire to amend the Agreement as more particularly set forth herein.

NOW THEREFORE, in consideration of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, Seller and Purchaser hereby agree as follows:

1. RECITALS: The above recitals are true and correct and incorporated into this Amendment by this reference.

2. DEFINITIONS: Any capitalized terms not defined in this Amendment shall have the meaning given to such term in the Agreement.

3. DEPOSIT: Notwithstanding anything in the Agreement to the contrary, the parties hereby agree that payment of the Escrow Deposit shall be made as follows:

   (a) The parties acknowledge and agree that the amount of and payment of the “Initial Deposit” as set forth in the Agreement is hereby deleted in its entirety and replaced with the following:

   (i) The parties acknowledge that the Purchaser has previously deposited as an initial earnest money deposit with Escrow Agent the sum of $15,000.00.

   (ii) On or before April 1, 2019, Purchaser shall deposit with Escrow Agent an additional $5,000.00 (which, together with the $15,000.00 previously deposited with Escrow Agent (for a total of $20,000.00), is referred to as the “Initial Deposit”).

   (b) The parties acknowledge and agree that the term “Second Deposit”, as defined in Section 2(a) of the Addendum, shall mean $40,000.00, payable to Escrow Agent within two
(2) business days following the expiration of the Feasibility Period.

4. **FULL FORCE AND EFFECT:** Except as specifically modified by this Amendment, all other provisions of the Agreement remain in full force and effect. To the extent of any conflict between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall control.

5. **AUTHORITY:** Seller and Purchaser represent and warrant to the other that such party has the full right, power, and lawful authority to enter into, execute, and perform under this Amendment and that such actions do not violate any other agreement, covenant, or restriction placed upon such party. Seller and Purchaser further represent and warrant to the other that the person signing this Amendment on its behalf has been duly authorized to sign this Amendment.

6. **GOVERNING LAW:** This Amendment shall be governed by the laws of the State of Texas, without application of its conflict of law principles.

7. **BINDING EFFECT:** This Amendment shall be binding upon, and shall inure to the benefit of, Seller, Purchaser, and their respective successors or assigns.

8. **HEADINGS:** The headings contained in this Amendment are for convenience of reference only and shall not be construed as limiting or defining in any way the provisions of this Amendment.

9. **COUNTERPARTS:** This Amendment may be executed in counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument. Any signature delivered by facsimile or other forms of electronic transmission, such as a PDF, shall be considered an original signature by the sending party.

{remainder of this page intentionally left blank}
IN WITNESS WHEREOF, Seller and Purchaser have executed this Amendment as of the date and year first above written.

SELLER:

________________________________
Don Howard Williams, Jr., as Trustee of Williams Opportunity Trust

PURCHASER:

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: ____________________________________________
Lisa M. Stephens, President
LEASE AGREEMENT

This Lease Agreement (hereinafter referred to as the "Lease") is made and entered into this 15th day of February, 2015 (the "Effective Date"), by and between Williams Opportunity Trust (hereinafter referred to as "Lessor"), and Fort Worth Surgicare Partners, Ltd., d/b/a Baylor Surgical Hospital of Fort Worth (hereinafter referred to as "Lessee").

WITNESSETH:

1. Premises; Lease:

Lessor is the owner of a lot located at 1801-13 8th Avenue, Fort Worth, TX (including 1808 Hurley Avenue; the legal description of which is "Lots 1, 2, 3, 4, 5, 6, 7, 8, 27, 28, and 29, Block 11, Fairmount Addition, an addition to the City of Fort Worth, Tarrant County, Texas, according to plat recorded in Volume 63, Page 25, Plat Records, Tarrant County, Texas"), hereinafter referred to as the "Premises." Lessor leases the Premises to Lessee, and Lessee leases the Premises from Lessor, upon the terms and conditions set forth in this lease.

2. Quiet Possession:

Lessor covenants and agrees with Lessee that so long as Lessee keeps and performs all the covenants and conditions to be kept and performed by Lessee, including but not limited to payment of monthly rental, Lessee shall have quiet, undisturbed and continued possession of the Premises, free from claims, disturbance or interference by Lessor.

3. Term:

This Lease shall commence on the Effective Date and continue for a period of five (5) years thereafter (the "Term"). Lessee may cancel this Lease for any reason after the second anniversary of the Effective Date by giving Landlord not less than one hundred twenty (120) days advance written notice of termination. In the event the Lease is so terminated, neither party shall have any obligations hereunder other than with respect to those covenants that expressly survive the termination or expiration of this Lease.

4. Rent and Security Deposit:

(a) Lessee agrees to pay Lessor a monthly rental equal to Eight Thousand Nine Hundred Fifty Dollars ($8,950.00) (the "Rent"), in advance not later than the fourth day of each month during the Term. The Rent shall be prorated for any partial month in the event of termination prior to the end of the Term. The monthly rental rate shall increase on each anniversary of the Effective Date in an amount equal to two percent (2%) of the Rent payable during the immediately preceding twelve (12) month period.

(b) Landlord does not require a security deposit.

5. Maintenance and Repair:
(a) Lessee shall be solely responsible for completing all required maintenance and repair to the Premises as may be necessary or appropriate for Lessee's use of the Premises. Lessee agrees to use reasonable diligence in the care, protection and maintenance of the Premises during the term of this Lease, and to surrender the Premises at the termination of this Lease in as good condition as received, ordinary wear and tear and casualty damage excepted.

(b) Subject to Lessee having obtained all requisite governmental approvals and permits, Lessee at Lessee's expense shall have the right to do any or all of the following: install and alter driveways, curb-cuts, and paving, stripe parking areas, and plant and remove trees and shrubs, all as Lessee deems appropriate or necessary to its use of the Premises.

(c) Lessor shall have no obligation with respect to the condition, maintenance, or repair of any of the sidewalks which may be adjacent to or adjoin the Premises.

(d) Except as otherwise provided in the Lease, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and agents, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's tenancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees.

6. Alterations and Improvements:

(a) Lessee may make alterations and improvements, including the installation of appropriate signage, at Lessee's expense, to the Premises as may be required for the purpose of Lessee's business.

(b) Lessee may (if not in default hereunder) prior to the expiration of the Lease or any extension thereof, remove all fixtures and equipment which have been placed on the Premises by Lessee.

7. Use of Premises:

The Premises shall be used by Lessee for the purpose of operating a parking lot for use by the Lessee's customers and agents, for such ancillary purposes as are permitted by applicable governmental ordinances.

8. Insurance:

During the Term, Lessee agrees to maintain commercial general liability insurance with respect to Lessee's operations on the Premises:
9. **Assignment and Subletting:**

Lessees shall not assign this Lease in whole or in part, or sublet all or any part of the Premises without the prior written consent of Lessor in each instance, which consent shall be granted or withheld in Landlord’s sole discretion. Lessee expressly agrees that Landlord shall have the absolute right to refuse consent to any such assignment or sublease and that for the purposes of any statutory or other requirement of reasonableness on the part of Landlord such refusal shall be reasonable.

10. **Indemnity:**

Lessees shall defend, indemnify and hold Lessor harmless from and against any and all actions, costs, claims, losses, expenses and/or damages sustained by Lessor, including, without limitation, property damage and/or injury or death to any person or persons, (a) consisting of Lessee’s use and occupancy of the Premises, including but not limited to any complaints or claims from Lessee’s invitees and customers, (b) attributable to the reckless, carelessness or negligence of Lessee or any of its agents, servants, or employees from any cause, and/or (c) resulting from Lessee’s default in any of its obligations under this Lease, including but not limited to its failure to pay applicable taxes under Section 12 of this Lease.

11. **Destruction of, or Damage to Premises:**

If the Premises are totally destroyed by fire, storm, lightning, earthquake, or other casualty, and including destruction due to bombing, shelling, or other war damage, this Lease shall be terminated and of no further force or effect as of the date of such destruction. If the Premises are damaged but not wholly destroyed by any such casualty, Rent shall abate in such proportion as use of Premises has been reduced, or made inaccessible or unusable, and Lessor shall restore the Premises to substantially the same condition as existed prior to such casualty as speedily as is commercially practicable, whereupon Lessee shall pay full Rent.

12. **Taxes and Assessments:**

Lessor will be responsible for payment of all ad valorem real property taxes and special assessments on the Premises. Lessee shall pay all personal property taxes, parking taxes and fees, sales taxes and any other fees and charges associated with its use and occupancy of the Premises for the purpose set forth in Section 7 herein.

13. **Termination by Lessee:**

In the event of the permanent closing to vehicular traffic of 8th Avenue adjacent to the Premises by the City of Fort Worth, and so long as Lessee is not in default of its obligations under this Lease, Lessee shall, at its option, have the right to terminate this Lease by giving Lessor thirty (30) days written notice of such termination, after which this Lease shall be of no further force or effect.

14. **Miscellaneous Provisions:**
It is mutually covenanted and agreed by and between the parties as follows:

(a) This Lease shall be construed under the laws of the State of Texas.

(b) This Lease contains the entire agreement between the parties, and no rights are created in favor of either party other than as specified or expressly contemplated in this Lease.

(c) Time is of the essence of this Lease and all of its provisions.

(d) No waiver of any of the terms, covenants, provisions, conditions, rules and regulations imposed by this lease, and no waiver of any legal or equitable relief or remedy, shall be implied by the failure of Landlord to assert any rights, declare any forfeiture, or for any other reason.

(e) The captions of the Articles of this Lease are inserted for identification only, and shall not govern the construction, nor alter, vary, or change any of the terms, conditions, or provisions of this Lease or any Article thereof.

(f) Each provision herein shall be deemed separate and distinct from all other provisions, and if any one of them shall be declared illegal or unenforceable, the same shall not affect the legality or enforceability of the other terms, conditions, and provisions hereof, which shall remain in full force and effect.

(g) In the event that either party institutes legal proceedings to enforce its rights hereunder, the prevailing party in such legal proceeding shall be paid all of the costs it incurs, including reasonable attorney’s fees.

15. Notices:

In the event notices are required to be sent under the provisions of this Lease, they will be mailed, postage prepaid by certified or registered mail, return receipt requested, addressed as follows:

Lease:
Williams Opportunity Trust

Lessees:
Baylor Surgical Hospital of Fort Worth
1800 Park Place Avenue
Fort Worth, TX 76110

ATTN: Chief Executive Officer
donwilliamsreem@gmail.com

Either party may, by such notice, designate a new or other address to which notice may be mailed.
IN WITNESS WHEREOF, the parties hereto have caused their names to be hereto signed by their duly authorized officer on the date hereinbefore first written.

LESSOR:

WILLIAMS OPPORTUNITY TRUST

BY: DON HOWARD WILLIAMS, JR.
TRUSTEE

LESSEE:

FORT WORTH SURGICARE PARTNERS.
LT.D., by its General Partner, THVG FORT
WORTH GP, LLC

BY: JEFF ANDREWS, PRESIDENT
THVG FORT WORTH GP, LLC

Lease runs February 15, 2015 through February 15, 2020. - bps
Good afternoon,

We would like to acknowledge receipt of $5,000.00 from the Purchaser today pursuant to the 2nd Amendment to Contract.

Please let us know if you need anything further at this time.

Thanks,

Alicia Newburn  
Escrow Officer & Assistant  
Rattikin Title Company  
201 Main Street, Suite 800 | Fort Worth, TX 76102

O: 817-334-1309  
F: 817-877-4237  
E: ANewburn@RattikinTitle.com  
W: www.rattikintitle.com

WARNING! WIRE FRAUD ADVISORY – CALL BEFORE YOU WIRE!

Online banking fraud is prevalent.

- Wire fraud schemes involve Business Email Compromise.
- If you receive an email or any other communication containing wire transfer instructions from RATTIKIN TITLE COMPANY OR ANY OTHER SOURCE, CALL immediately to voice verify the information prior to sending funds.
- Rattikin Title Company WILL NOT ALTER WIRING INSTRUCTIONS – any communication to change them should be considered fraudulent.

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Shay/Alicia:

Attached please find the executed Second Amendment to Commercial Contract.

Per the amendment, the additional $5,000 deposit will be sent on Monday. Please confirm once it has been received.

Thanks,

Taylor

P. Taylor Yawney  
*Attorney at Law*
Good afternoon,

In regards to the above referenced transaction, and pursuant to paragraph 2a of the Addendum to Contract, as amended by the 2nd Amendment to Contact, we would like to acknowledge receipt of $40,000.00 from the Purchaser today as the Second Deposit.

Please let us know if you have any questions or if you need anything further at this time.

Thanks,

Alicia Newburn
Escrow Officer & Assistant
Rattikin Title Company
201 Main Street, Suite 800 | Fort Worth, TX 76102

O: 817-334-1309
F: 817-877-4237
E: ANewburn@RattikinTitle.com
W: www.rattikintitle.com

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2019 HTC
Full Application

Part 2 Tab 12

Supporting Documents:
Title Commitment
THE FOLLOWING COMMITMENT FOR TITLE INSURANCE IS NOT VALID UNLESS YOUR NAME AND THE POLICY AMOUNT ARE SHOWN IN SCHEDULE A, AND OUR AUTHORIZED REPRESENTATIVE HAS COUNTERSIGNED BELOW.

COMMITMENT FOR TITLE INSURANCE

Issued By

ALLIANT NATIONAL TITLE INSURANCE COMPANY, INC.

We (Alliant National Title Insurance Company, Inc.) will issue our title insurance policy or policies (the Policy) to You (the proposed insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule C. Our policy will be in the form approved by the Texas Department of Insurance at the date of issuance, and will insure your interest in the land described in Schedule A. The estimated premium for our Policy and applicable endorsements is shown on Schedule D. There may be additional charges such as recording fees, and expedited delivery expenses.

This Commitment ends ninety (90) days from the effective date, unless the Policy is issued sooner, or failure to issue the Policy is our fault. Our liability and obligations to you are under the express terms of this Commitment and end when this Commitment expires.

Authorized

RATTIKIN TITLE COMPANY

By: [Signature]

[Seal]

President

Attest:

Secretary
Title insurance insures you against loss resulting from certain risks to your title.

The commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The commitment is a legal document. You should review it carefully to completely understand it before your closing date.

El seguro de título le asegura en relación a perdidas resultantes de ciertos riesgos que pueden afectar el título de su propiedad. El Compromiso para Seguro de Título es la promesa de la compañía aseguradora de títulos de emitir la póliza de seguro de título. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y entenderlo completamente antes de la fecha para finalizar su transacción.

Your Commitment for Title Insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the title Insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy. The Policy is not an abstract of title nor does a Company have an obligation to determine the ownership of any mineral interest.

MINERALS AND MINERAL RIGHTS may not be covered by the Policy. The Company may be unwilling to insure title unless there is an exclusion or an exception as to Minerals and Mineral Rights in the Policy. Optional endorsements insuring certain risks involving minerals, and the use of improvements (excluding laws, shrubbery and trees) and permanent buildings may be available for purchase. If the title insurer issues the title policy with an exclusion or exception to the minerals and mineral rights, neither this Policy, nor the optional endorsements, ensure that the purchaser has title to the mineral rights related to the surface estate.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied or the Company will refuse to cover them. You may want to discuss any matters shown in Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your Policy is issued, the coverage will be limited by the Policy's Exception, Exclusions and Conditions, defined below.

**EXCEPTIONS** are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Conditions section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.

**EXCLUSIONS** are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.

**CONDITIONS** are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

You can get a copy of the policy form approved by the Texas Department of Insurance by calling the Title Insurance Company at (877)788-9800 or by calling the title insurance agent that issued the Commitment. The Texas Department of Insurance may revise the policy form from time to time.
TEXAS TITLE INSURANCE INFORMATION

(Continued)

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling (800)252-3439.

Before the Policy is issued, you may request changes in the policy. Some of the changes to consider are:

Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner's Policy, you must pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.

Allow the Company to add an exception to "rights of parties in possession". If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.
Commitment No. 18-4969, issued February 14, 2019, 8:00 AM

1. The policy or policies to be issued are:
   a. OWNER'S POLICY OF TITLE INSURANCE (Form T-1)
      (Not applicable for improved one-to-four family residential real estate)
      Policy Amount: $3,385,000.00
      PROPOSED INSURED: Everly Plaza, LLC, a Texas limited liability company
   b. TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE
      ONE-TO-FOUR FAMILY RESIDENCES (Form T-1R)
      Policy Amount: 
      PROPOSED INSURED:
   c. LOAN POLICY OF TITLE INSURANCE (Form T-2)
      Policy Amount: 
      PROPOSED INSURED:
      Proposed Borrower:
   d. TEXAS SHORT FORM RESIDENTIAL LOAN POLICY OF TITLE INSURANCE (Form T-2R)
      Policy Amount: 
      PROPOSED INSURED:
      Proposed Borrower:
   e. LOAN TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)
      Binder Amount: 
      PROPOSED INSURED:
      Proposed Borrower:
   f. OTHER
      Policy Amount: 
      PROPOSED INSURED:

2. The interest in the land covered by this Commitment is:
   Fee Simple

3. Record title to the land on the Effective Date appears to be vested in:
   DON HOWARD WILLIAMS, JR., TRUSTEE OF THE WILLIAMS OPPORTUNITY TRUST

4. Legal description of land:
   Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 27, 28 and 29, Block 11, FAIRMOUNT ADDITION to the City of Fort Worth, Tarrant County, Texas, according to plat recorded in Volume 63, Page 25, Deed Records of Tarrant County, Texas.
SCHEDULE B
Commitment No.: 18-4969
GF No.: 18-4969

EXCEPTIONS FROM COVERAGE

In addition to the Exclusions and Conditions and Stipulations, your Policy will not cover loss, costs, attorney's fees, and expenses resulting from:

1. The following restrictive covenants of record itemized below:
   
   In policy to be issued, Item No. 1 will be deleted.

2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.

3. Homestead or community property or survivorship rights, if any of any spouse of any insured. (Applies to the Owner's Policy only.)

4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
   
   a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
   
   b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
   
   c. to filled-in lands, or artificial islands, or
   
   d. to statutory water rights, including riparian rights, or
   
   e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.
   
   (Applies to the Owner's Policy only.)

5. Standby fees, taxes and assessments by any taxing authority for the year 2018, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year. (If Texas Short form Residential Loan Policy (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year 2018, and subsequent years.")

6. The terms and conditions of the documents creating your interest in the land.

7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Loan Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)

8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage. (Applies to Loan Policy (T-2) only.)
9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Loan Policy of Title Insurance (T-2R). (Applies to Texas Short Form Residential Loan Policy of Title Insurance (T-2R) only.) Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Loan Policy of Title Insurance (T-2R).

10. The following matters and all terms of the documents creating or offering evidence of the matters:

   a. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges and immunities relating thereto, appearing in the Public Records whether listed in Schedule "B" or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.

   b. Terms, conditions, and stipulations of Oil, Gas and Mineral Lease dated February 13, 2007, filed for record under Clerk's File No. D207079040, Deed Records of Tarrant County, Texas. Title to said Lease has not been checked subsequent to the date of recording of said Lease. (Affects Lots 9 - 14, Block 11)

   c. Terms, conditions, and stipulations of Oil, Gas and Mineral Lease dated February 7, 2007, filed for record under Clerk's File No. D207217490, Deed Records of Tarrant County, Texas. Title to said Lease has not been checked subsequent to the date of recording of said Lease. (Affects Lots 1 - 8 and 27 - 29, Block 11)

   d. Terms, conditions, and stipulations of Oil, Gas and Mineral Lease dated July 7, 2011, filed for record under Clerk's File No. D211169946, Deed Records of Tarrant County, Texas. Title to said Lease has not been checked subsequent to the date of recording of said Lease. (Affects Lots 1 - 8 and 27 - 29, Block 11)

   e. Terms, conditions, and stipulations of Oil, Gas and Mineral Lease dated July 7, 2011, filed for record under Clerk's File No. D211184124, Deed Records of Tarrant County, Texas. Title to said Lease has not been checked subsequent to the date of recording of said Lease. (Affects Lots 9 - 14, Block 11)

   f. Rights of tenants in possession, as tenants only, under any unrecorded leases or rental agreements.

   g. Rights of parties in possession. (Owners Policy Only)

   h. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the land. (Note: Upon receipt of a survey acceptable to Company, this exception will be deleted. Company reserves the right to add additional exceptions per its examination of said survey.)
SCHEDULE C

Commitment No.: 18-4969  
GF No.: 18-4969

Your Policy will not cover loss, costs, attorney's fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.

2. Satisfactory evidence must be provided that:
   a. no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,
   b. all standby fees, taxes, assessments and charges against the property have been paid,
   c. all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, sub-contractors, laborers and suppliers have been fully paid, and that no mechanic's, laborer's or materialmen's liens have attached to the property,
   d. there is legal right of access to and from the land,
   e. (on a Loan Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.

3. You must pay the seller or borrower the agreed amount for your property or interest.

4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.

5. OTHER SPECIFIC EXCEPTIONS:
   a. Unless otherwise requested in writing prior to closing of the subject transaction, all Endorsements to each Loan Policy of Title Insurance issued pursuant to this Commitment able to be incorporated by reference will be so incorporated in each said Loan Policy.
      i. The Company shall follow the Rules as set out by the Texas Department of Insurance in disbursing the funds provided by the Assured and/or Insured on Schedule A of this Commitment. Good Funds shall be as defined in Rule P-27; however, the Company requires that such funds be "collected funds" prior to disbursement, except for funds delivered to the Company by bank wire, cashier's check or cash. The Company does not accept any ACH (Automated Clearing House) funds of any type or form. The Company's wire transfer instructions are attached to this commitment.
      ii. Your policy will contain an arbitration provision. It allows you or the Company to require arbitration if the amount of insurance is $2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing the enclosed form and returning it to the Company at or before the closing of your real estate transaction. (Not applicable to Residential Owner Policy)
      iii. The Contract you entered into agreeing to purchase the property described in Schedule
A of this Commitment may provide that the standard Owner Title Policy contains an exception as to "discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping of improvements", and that Buyer, at Buyer's expense or at the expense of the party designated in the Contract, may have the exception amended to read, "shortages in area", thereby giving you coverage for these matters.

Also, the Texas Title Insurance Information portion of this Commitment for Title Insurance advises the Insured that the Policy will insure against loss because of such discrepancies or conflicts in boundary lines, encroachment or protrusions, or overlapping of improvements, so long as a survey is provided that is acceptable to the Company, and an additional premium for the coverage is paid.

The Owner Policy of Title Insurance to be issued in this transaction will contain the coverage described in the above paragraph, and, unless the Contract provides otherwise, the Insured will be charged the additional premium promulgated by the Texas Department of Insurance, unless an acceptable survey is not furnished, or, on or before the date of closing, the Insured advises the Company in writing that the Insured rejects this coverage.

(Applies to the Owner Title Insurance Policy only)

v. The Texas Title Insurance Information portion of this Commitment advises the Insured that the Policy is not an abstract of title and that the Company does not have an obligation to determine the ownership of any mineral interest(s). In addition, it states that minerals and mineral rights may not be covered by the Policy and that the Company may include an exclusion or exception as to minerals and mineral rights in the Policy. In the event the Company issues the Policy with an exclusion or exception to mineral and mineral rights, optional endorsements insuring certain risks involving minerals and the use of improvements (excluding lawns, shrubbery and trees) and permanent buildings, as applicable for the nature of the property to be insured, may be available upon payment of an additional premium. However, if the Policy is issued with an exclusion or exception as to minerals and mineral rights, neither this Policy, nor the optional endorsements insure that the Insured has title to the minerals or mineral rights related to the surface estate.

The Owner's Policy of Title Insurance to be issued in this transaction will contain the coverage described in the above paragraph, and the Insured will be charged the additional premium promulgated by the Texas Department of Insurance, unless, on or before the date of closing, (i) the Company chooses not to issue such coverage or, (ii) the Insured advises the Company in writing that the Insured rejects this coverage.

(Applies to the Owner's Policy of Title Insurance only.)

vi. All oil, gas, and/or other reservations created at closing of the subject transaction shall be included as an exception in the Policy/Policies issued.

vii. This transaction may be subject to a confidential order issued pursuant to the Bank Secrecy Act. Information necessary to comply with the confidential order must be provided prior to the closing. This transaction will not be insured until this information is submitted, reviewed and found to be complete.

6. Vendor's Lien retained in Deed dated December 13, 2013, from BARBARA DIANE MASSEY to DON HOWARD WILLIAMS, JR., TRUSTEE OF THE WILLIAMS OPPORTUNITY TRUST, filed for record under Clerk's File No. D213318436, Deed Records of Tarrant County, Texas, securing the payment of one note of even date therewith in the original principal sum of $520,000.00, payable to RIDGLEA BANK,
SCHEDULE C
(Continued)

and additionally secured by Deed of Trust of even date therewith to RON J. CASEY, Trustee, said Deed of Trust filed for record under Clerk's File No. D213318437, Deed Records of Tarrant County, Texas; including, but not limited to, the due on sale provisions, if any, contained in said Deed of Trust, and consequences of default arising from failure to obtain lender's written consent to the insured transaction. (Affects Lots 1, 2, 3, 4, 5, 6, 7, 8, 27, 28 and 29, Block 11)

Said lien has been modified by agreement dated effective July 21, 2015, filed for record under Clerk's File No. D215190380, Deed Records of Tarrant County, Texas.

7. Deed of Trust dated February 19, 2018, from DON HOWARD WILLIAMS, JR., TRUSTEE OF THE WILLIAMS OPPORTUNITY TRUST to RONNY D. KORB, Trustee, securing the payment of one note of even date therewith in the original principal sum of $200,000.00, payable to PINNACLE BANK, said Deed of Trust filed for record under Clerk's File No. D218044795, Deed Records of Tarrant County, Texas; including, but not limited to, the due on sale provisions, if any, contained in said Deed of Trust, and consequences of default arising from failure to obtain lender's written consent to the insured transaction. (Affects Lots 1, 2, 3, 4, 5, 6, 7, 8, 27, 28 and 29, Block 11)

Said note and the liens securing same are additionally secured by Assignment of Rents, from DON HOWARD WILLIAMS, JR., TRUSTEE OF THE WILLIAMS OPPORTUNITY TRUST to PINNACLE BANK, dated February 19, 2018, filed for record under Clerk's File No. D218044794, Deed Records of Tarrant County, Texas.

8. Vendor's Lien retained in Deed dated July 10, 2015, from KPW JOINT VENTURE to DON HOWARD WILLIAMS, JR., TRUSTEE OF THE WILLIAMS OPPORTUNITY TRUST, filed for record under Clerk's File No. D215151578, Deed Records of Tarrant County, Texas, securing the payment of one note of even date therewith in the original principal sum of $700,000.00, payable to RIDGLEA BANK, and additionally secured by Deed of Trust of even date therewith to RON J. CASEY, Trustee, said Deed of Trust filed for record under Clerk's File No. D215151579, Deed Records of Tarrant County, Texas; including, but not limited to, the due on sale provisions, if any, contained in said Deed of Trust, and consequences of default arising from failure to obtain lender's written consent to the insured transaction. (Affects Lots 9, 10, 11, 12, 13 and 14, Block 11)

Said note and the liens securing same are additionally secured by Assignment of Leases, Rents and Profits, from DON HOWARD WILLIAMS, JR., TRUSTEE OF THE WILLIAMS OPPORTUNITY TRUST to RIDGLEA BANK, dated July 10, 2015, filed for record under Clerk's File No. D215151580, Deed Records of Tarrant County, Texas.

9. Labor lien filed for record under Clerk's File No. D218265615, Deed Records of Tarrant County, Texas, filed by the City of Fort Worth in the sum of $264.70. (Affects Lots 9, 10, 11, 12, 13 and 14, Block 11)

10. Obtain copy of trust agreement and all amendments for review and possible further requirements. Said copy must be certified by the currently acting Trustee(s) as a complete and current copy of the Trust Agreement.

In the alternative, obtain a recordable certification or affidavit of trust from the Trustee(s) of the trust certifying:
(1) that the trust exists and providing the date the trust agreement was executed;
(2) the identity of the settler(s);
(3) the identity and mailing address of the current Trustee(s);
(4) one or more powers of the Trustee(s) or a statement that the trust powers include at least all of the powers granted a trustee under Subchapter A, Chapter 113, Texas Property code; however, the specific powers authorizing the Trustee(s) consummate the proposed transaction must be included;
(5) the revocability or irrevocability of the trust and the identity of any person holding a
power to revoke the trust;
(6) the authority of co-trustees to sign or otherwise authenticate and whether all or less than all of the co-trustees are required in order to exercise powers of the Trustee;
(7) the manner in which title to trust property should be taken;
(8) that the trust has not been revoked, modified or amended in any manner that would cause the representations in the certification to be incorrect; and
(9) that the trust does not constitute a "passive trust" as defined in Section 112.032 of the Texas Property Code.

11. In the event the subject property is the homestead of the Trustee(s) of the WILLIAMS OPPORTUNITY TRUST, Company requires such Trustee(s), as well as his/her spouse(s), to join in any deed or deed of trust individually in order to convey their individual homestead interest(s). In the event a beneficiary of said Trust resides in the subject property, Company requires a name search and joinder of same in the subject transaction.

4. Explanation of items 6-11 of Schedule C of the title commitment:
   a. Items 6, 7 and 8 are Deeds of Trust that must be released/satisfied at or prior to closing per Section 1(c)(ii) of the PSA Addendum. Typically, proceeds from the sale will be used to pay off the existing loans;
   b. Item 9 is a labor lien (for $264.70) that is required to be released/satisfied at or prior to closing per Section 1(c)(iii) of the PSA Addendum. As with 1 above, proceeds from the sale of the Property are typically used to pay-off existing encumbrances;
   c. Item 10 is a standard requirement where trusts are involved to establish authority of the trustee to convey the real property;
   d. Item 11 is also a standard title requirement that requires the joinder of the spouse of the Trustee if the property is the Trustee’s homestead.
SCHEDULE D

Commitment No.: 18-4969  
GF No.: 18-4969

Pursuant to the requirements of Rule P-21, Basic Manual of Rules, Rates and Forms for the writing of Title Insurance in the State of Texas, the following disclosures are made:

1. The following individuals are directors and/or officers, as indicated, of **Alliant National Title Insurance Company, Inc.**, as of December 31, 2018:

   - *Robert J. Grubb, President and Chief Executive Officer*
   - *Bruce Williamson*
   - *James O. Hutcheson*
   - *Dawn Enoch Moore*
   - *Victor Masaya*
   - Wyatt Miller
   - Aviva Shneider
   - Robert Scott Hendrickson, Treasurer
   - Phyllis J. Mulder, Secretary

   * Indicates Director

**Presidio Investors ATC Holdco, LLC**, owns 100% of the stock of **Alliant National Title Insurance Company, Inc.** and **Presidio Investors ATC, LP** owns ten percent or more of **Presidio Investors ATC Holdco, LLC**.

2. The following disclosures are made by the Title Insurance Agent issuing this commitment:

   **RATTIKIN TITLE COMPANY**, a Texas corporation, Title Insurance Agent

   The names of each shareholder, owner, partner, or other person having, owning or controlling one (1) percent or more of the Title Insurance Agent that will receive a portion of the premium are as follows: Jack Rattikin III, Alicia Rattikin Lindsey, Jeffrey Alan Rattikin and Allyson Rattikin Grona.

   The names of the president, the executive or senior vice-president, the secretary and the treasurer of Rattikin Title Company: Jack Rattikin, Jr., Chairman of the Board; Jack Rattikin III, President and CEO; Brian Grona, Senior Vice President; Richard M. Miles, Senior Vice President; Mark Moore, Vice President, Controller and Treasurer; Diane Harris, Vice President and Secretary; Jack Rattikin, Jr., Director; Glenda S. Rattikin, Director; Jack Rattikin III, Director; Alicia Rattikin Lindsey, Director; Jeffrey Alan Rattikin, Director; and Allyson Rattikin Grona, Director

3. You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm or corporation receiving any sum from the settlement of this transaction will be disclosed on the closing or settlement statement.

You are further advised that the estimated title premium* is:

<table>
<thead>
<tr>
<th>Owner's Policy</th>
<th>$16,737.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endorsement Charges</td>
<td>$2,560.55</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$19,297.55</td>
</tr>
</tbody>
</table>

Of this total amount: 15% will be paid to the policy issuing Title Insurance Company; 85% will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium will be paid to other parties as follows:

<table>
<thead>
<tr>
<th>Amount</th>
<th>To Whom</th>
<th>For Services</th>
</tr>
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<tbody>
<tr>
<td></td>
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</table>
SCHEDULE D
(Continued)

*The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance.

This commitment is invalid unless the insuring provisions and Schedules A, B, and C are attached.
DELETION OF ARBITRATION PROVISION
(Not applicable to the Texas Residential Owner's Policy)

Commitment No.: 18-4969
GF No.: 18-4969

ARBITRATION is a common form of alternative dispute resolution. It can be a quicker and cheaper means to settle a dispute with your Title Insurance Company. However, if you agree to arbitrate, you give up your right to take the Title Insurance Company to court and your rights to discovery of evidence may be limited in the arbitration process. In addition, you cannot usually appeal an arbitrator's award.

Your policy contains an arbitration provision (shown below). It allows you or the Company to require arbitration if the amount of insurance is $2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing this form and returning it to the Company at or before the closing of your real estate transaction or by writing to the Company.

The arbitration provision in the Policy is as follows:

"Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is $2,000,000 or less shall be arbitrated at the option of either the Company or the Insured, unless the Insured is an individual person (as distinguished from an Entity). All arbitrable matters when the Amount of Insurance is in excess of $2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction."

_________________________________________  ______________________________________
SIGNATURE  DATE
Rattikin Title Company

PRIVACY STATEMENT

Rattikin Title Company and its subsidiaries ("RTC") respect the privacy and security of your non-public personal information ("Personal Information") and protecting your Personal Information is one of our top priorities. This Privacy Statement explains RTC's privacy practices, including how we may use the Personal Information we receive from you and from other specified sources, and to whom it may be disclosed. RTC follows the privacy practices described in this Privacy Statement and, depending on the business performed, RTC companies may share information as described herein.

Personal Information Collected

We may collect Personal Information about you from the following sources:

- Information we receive from you on applications or other forms, such as your name, address, social security number, tax identification number, asset information, and income information;
- Information we receive from you through our internet websites, such as your name, address, email address, Internet Protocol address, the website links you used to get to our websites, and your activity while using or reviewing our websites;
- Information about your transactions with or services performed by us, our affiliates, or others, such as information concerning your policy, premiums, payment history, information about your home or other real property, information from lenders and other third parties involved in such transaction, account balances, and credit card information; and
- Information we receive from consumer or other reporting agencies and publicly recorded documents.

Disclosure of Personal Information

We may provide your Personal Information (excluding information we receive from consumer or other credit reporting agencies) to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Disclosures may include, without limitation, the following:

- To insurance agents, brokers, representatives, support organizations, or others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connection with an insurance transaction;
- To third-party contractors or service providers for the purpose of determining your eligibility for an insurance benefit or payment and/or providing you with services you have requested;
- To an insurance regulatory authority, or a law enforcement or other governmental authority, in a civil action, in connection with a subpoena or a governmental investigation;
- To companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements; and/or
- To lenders, lien holders, judgment creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing.

We may also disclose your Personal Information to others when we believe, in good faith, that such disclosure is reasonably necessary to comply with the law or to protect the safety of our customers, employees, or property and/or to comply with a judicial proceeding, court order or legal process.

Disclosure to Affiliated Companies - We are permitted by law to share your name, address and facts about your transaction with other RTC companies, such as insurance companies, agents, and other real estate service providers to provide you with services you have requested, for marketing or product development research, or to market products or services to you. We do not, however, disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent, in conformity with applicable law, unless such disclosure is otherwise permitted by law.

Disclosure to Nonaffiliated Third Parties - We do not disclose Personal Information about our customers or former customers to nonaffiliated third parties, except as outlined herein or as otherwise permitted by law.
Confidentiality and Security of Personal Information

We restrict access to Personal Information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard Personal Information.

Access to Personal Information/
Requests for Correction, Amendment, or Deletion of Personal Information

As required by applicable law, we will afford you the right to access your Personal Information, under certain circumstances to find out to whom your Personal Information has been disclosed, and request correction or deletion of your Personal Information. However, RTC's current policy is to maintain customers' Personal Information for no less than your state’s required record retention requirements for the purpose of handling future coverage claims.

For your protection, all requests made under this section must be in writing and must include your notarized signature to establish your identity. Where permitted by law, we may charge a reasonable fee to cover the costs incurred in responding to such requests. Please send requests to:

Rattikin Title Company
201 Main Street, Suite 800
Fort Worth, Texas, 76102
Attn: Diane Harris

Changes to this Privacy Statement

This Privacy Statement may be amended from time to time consistent with applicable privacy laws. When we amend this Privacy Statement, we will post a notice of such changes on our website. The effective date of this Privacy Statement, as stated above, indicates the last time this Privacy Statement was revised or materially changed.
IMPORTANT NOTICE

FOR INFORMATION, OR TO MAKE A COMPLAINT CALL OUR TOLL-FREE TELEPHONE NUMBER

(877)788-9800

ALSO YOU MAY CONTACT THE TEXAS DEPARTMENT OF INSURANCE AT

(800)252-3439

to obtain information on:
1. filing a complaint against an insurance company or agent,
2. whether an insurance company or agent is licensed,
3. complaints received against an insurance company or agent,
4. policyholder rights, and
5. a list of consumer publications and services available through the Department.

YOU MAY ALSO WRITE TO THE TEXAS DEPARTMENT OF INSURANCE
P.O. BOX 149104
AUSTIN, TEXAS 78714-9104
FAX NO. (512)490-1007

AVISO IMPORTANTE

PARA INFORMACIÓN, O PARA SOMETER UNA QUEJA LLAME AL NUMERO GRATIS

(877)788-9800

TAMBIEN PUEDE COMUNICARSE CON EL DEPARTAMENTO DE SEGUROS DE TEXAS AL

(800)252-3439

para obtener información sobre:
1. como someter una queja en contra de una compañía de seguros o agente de seguros,
2. si una compañía de seguros o agente de seguros tiene licencia,
3. quejas recibidas en contra de una compañía de seguros o agente de seguros,
4. los derechos del asegurado, y
5. una lista de publicaciones y servicios para consumidores disponibles a través del Departamento.

TAMBIEN PUEDE ESCRIBIR AL DEPARTAMENTO DE SEGUROS DE TEXAS
P.O. BOX 149104
AUSTIN, TEXAS 78714-9104
FAX NO. (512)490-1007
2019 HTC
Full Application

Part 2 Tab 12

Increase in Eligible Basis
This Tab is Not Applicable
2019 HTC
Full Application

Part 2 Tab 13

Multiple Site Information

NA
**Elected Officials**

- **US Representative**
  - District
  - **While Applicants are not required to notify US Representatives, the Department is required to notify them. Therefore, Applicant must identify the appropriate US Representative of the district containing the Development.**

- **State Senator**
  - District

- **State Representative**
  - District

- **City Mayor**

- **School Superintendent**
  - **While Applicants are not required to notify US Representatives, the Department is required to notify them. Therefore, Applicant must identify the appropriate US Representative of the district containing the Development.**

- **Support Letter**

- **Support Letter**

- **Support Letter**

- **County Judge**

- **Presiding officer of Board of Trustees**

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<tr>
<th>District/Precinct</th>
<th>Email or Phone</th>
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**Support Letter**

- **While Applicants are not required to notify US Representatives, the Department is required to notify them. Therefore, Applicant must identify the appropriate US Representative of the district containing the Development.**

- **No Pre-Application was submitted.**

Please identify all elected officials which represent the Development Site.

2/25/2019
Organizations were identified in the Pre-Application, and there have been no changes. (If above is checked, the rest of the form may be left BLANK)

Organizations have changed since the Pre-Application was submitted, and information regarding notifications or re-notifications is entered below.

No Pre-Application was submitted.

Identify all Neighborhood Organizations on record with the county or Texas Secretary of State as of the beginning of the Application Acceptance Period whose boundaries include the Development Site.

<table>
<thead>
<tr>
<th>Name of Organization</th>
<th>Contact Name</th>
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<tbody>
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<td>Address</td>
<td>City</td>
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<td>Zip</td>
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2/25/2019
2019 HTC
Full Application

Part 2 Tab 16

Certification of Notifications
CERTIFICATION OF NOTIFICATIONS (ALL PROGRAMS)

Pursuant to 10 TAC §11.203 of the Qualified Allocation Plan, evidence of notifications includes this sworn affidavit, and the Elected Officials and Neighborhood Organizations Forms. All Applicants must complete Parts 1 through 4 below:

Part 1. Notifications made at Pre-Application (Competitive HTC only):

I (We) certify that the pre-application included evidence of these notifications pursuant to 10 TAC §11.203, the pre-application met all threshold requirements, and no additional notifications were required with this full Application.

- Re-notifications made at Application (Competitive HTC only):
  - I (We) certify that the pre-application for this full Application met all threshold requirements, but all required entities were re-notified as required by 10 TAC §11.203.

- Notifications made at Application:
  - No pre-application was submitted, and I (We) certify that the all required entities were notified as required by 10 TAC §11.203.
  - One or more persons holding a position or role described changed between the submission of the pre-application and the Application, and I (We) certify that the new person(s) was notified as required by 10 TAC §11.203.
  - As applicable, all re-notifications or notifications made at Application are indicated in the Application on the Elected Officials and/or Neighborhood Organizations Form(s).

Part 2. Notifications - Form and Content:

- I (we) certify that the notifications are not older than 3 months from the first day of the Application Acceptance Period for Competitive HTC Applications and not older than three (3) months prior to the date Parts 5 and 6 of the Application are submitted for Tax Exempt Bond Developments, and not older than three (3) months prior to the date the Application is submitted for all other Applications.
- I (we) certify that the notifications do not contain any false or misleading statements. Without limiting the generality of the foregoing, the notification does not create the impression that the proposed Development will serve a Target Population exclusively or as a preference without such targeting or preference being documented in the Application and is or will be in full compliance with all applicable state and federal laws, including state and federal fair housing laws.
- I (we) certify that the notifications or any other communications do not contain any statement that violates Department rules, statute, code, or federal requirements.
- I (We) certify that, in addition to all of the required neighborhood organizations, the following entities were notified in accordance with 10 TAC §11.203. The notifications were in the format provided in the Applicant Notification Template. All of the following entities were notified and are correctly listed on the Elected Officials Form and Neighborhood Organizations Form:
  - Superintendent of the school district containing the Development;
  - Presiding officer of the board of trustees of the school district containing the Development;
  - Mayor of any municipality containing the Development;
  - All elected members of the Governing Body of any municipality containing the Development;
  - Presiding officer of the Governing Body of the county containing the Development;
  - All elected members of the Governing Body of the county containing the Development;
  - State senator of the district containing the Development; and
  - State representative of the district containing the Development.

- While not required to be submitted in this Application, I have kept evidence of all notifications made and this evidence may be requested by the Department at any time during the Application review.

Part 3. Neighborhood Organizations (Competitive HTC only):

- Pursuant to 10 TAC §11.203, I (We) certify that a reasonable search for applicable entities has been conducted and all Neighborhood Organizations for which this Application would be eligible to receive points under 10 TAC §11.9(d)(4) of the QAP or for which notification is required have been listed in the pre-application and/or the Application.

Certify on next page

2/11/2019
Competitive Housing Tax Credit Selection Self-Score

Criteria Promoting Development of High Quality Housing

- Unit Sizes: 6
- Unit Features: 9
- Sponsor Characteristics: 2
- High Quality Housing Total: 17

Criteria to Serve and Support Texans Most in Need

- Income Levels of Tenants: 16
- Rent Levels of Tenants: 11
- Tenant Services: 10
- Opportunity Index: 7
- Underserved Area: 3
- Tenant Populations with Special Housing Needs: 2
- Proximity to the Urban Core: 5
- Serve and Support Texans Most in Need Total: 54

Criteria Promoting Community Support and Engagement

- Commitment of Development Funding by Local Political Subdivision: 1
- Declared Disaster Area: 10
- Community Support and Engagement Total: 11
CERTIFICATION OF NOTIFICATIONS (continued)

Part 4.

By: ________________________________
Date: 2/12/19

Signature of Applicant/Development Owner

Lisa M. Stephens
Printed Name

Texas
Notary Public, State of

March 29, 2020
My Commission expires

Tarrant
County of

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of February, 2019

[Notary Public Signature]

KATHERINE E JOHNSON
Notary ID # 130604683
My Commission Expires March 29, 2020

2/11/2019
### Development Narrative

1. **The proposed Development is:** (Check all that apply)
   - [ ] New Construction
   - [ ] Adaptive Reuse
   - [ ] NA

   **and/or:**
   - [ ] NA

   (adaptive reuse select New Construction here and adaptive reuse in next box)

2. **The Target Population will be:**
   - [ ] Elderly
   - [ ] Elderly Plaza
   - [ ] Elderly Plaza

   **If Elderly is selected (10 TAC §11.1(d)(47))**:  
   - [x] Development meets the requirements of the Housing for Older Persons Act under the Fair Housing Act.
   - [ ] Development receives federal funding that has a requirement for a preference or limitation for elderly persons or households, but must accept qualified households with children.

   Selection is based on funding from (select from list):

3. **Staff Determinations regarding definitions of development activity obtained?**
   - [ ] If a determination under 10 TAC §11.1(k) was made prior to Application submission, provide a copy of such determination behind this tab.

4. **Narrative**
   - [x] The Development will not provide continual or frequent nursing, medical or psychiatric services to the residents.
   - [x] The Development does not violate the general public use requirement of Treasury Regulation §1.42-9 regarding units for use by the general public.
   - [ ] The Development does violate TR 1.42-9 and the Application includes a private letter ruling ("PLR").
   - [ ] Development financing includes a funding source that specifically allows for the intended Target Population. A copy of that funding sources’ authority to target the intended population is included behind this tab.
   - [x] Development does not violate the Department’s Integrated Housing Rule under 10 TAC §1.15 regarding restricting occupancy to persons with disabilities or in combination with other populations with special needs.

Briefly describe the proposed Development, including any relevant information not already identified above. If Adaptive Reuse, Additional Phase, or Scattered Site, or if any of the three main boxes above are not checked, include detailed information below.

*Everly Plaza is a four story, elevator served, elderly population development. There will be community space provided on each floor for the resident’s use.*

If a revised form is submitted, date of submission: 2/28/2019
b. An Application that has a priority within a set-aside that is submitted by March 1, 2019, will have a received by date of January 14, 2019.

3) Interest Rates.
   a. All Direct Loan requests structured as construction-to-permanent loans will be required to use the minimum required interest rate listed in the table below depending on the Set-Aside, Activity, whether or not HTC are also being requested, and whether or not the Direct Loan will be in first lien position during the permanent period. If the Debt Coverage Ratio is less than the minimum 1.15 with the minimum required interest rate as applicable, staff will make adjustments to the financing structure in accordance with 10 TAC §11.302(d)(4)(D)(ii) with the exception of 10 TAC §11.302(d)(4)(D)(ii)(a).

<table>
<thead>
<tr>
<th>Set-Aside</th>
<th>Activity</th>
<th>HTC layered</th>
<th>Direct Loan 1st Lien during Permanent Period</th>
<th>Minimum Required Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHDO or General</td>
<td>NC</td>
<td>Y</td>
<td>Y</td>
<td>2.0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>N</td>
<td>2.5%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>N</td>
<td>3.0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>N</td>
<td>3.5%</td>
</tr>
<tr>
<td>CHDO or Preservation</td>
<td>A/R, R</td>
<td>Y</td>
<td>Y</td>
<td>0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>N</td>
<td>1.0%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>N</td>
<td>1.5%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>N</td>
<td>2.0%</td>
</tr>
<tr>
<td>Supportive Housing/ Soft Repayment</td>
<td>NC, A/R, R, Refi MR</td>
<td>Y or N</td>
<td>Y or N</td>
<td>0%</td>
</tr>
</tbody>
</table>

b. All Direct Loan requests structured as construction only loans, regardless of the Set-Aside and Activity, may request an interest rate as low as 0% with the principal amount of the Direct Loan due upon the end of the 24 month development period.

4) Maximum Per Unit Subsidy Limits. The maximum per unit subsidy limits that an Applicant can use to determine the amount of Direct Loan funds they may request are listed in the table below:

<table>
<thead>
<tr>
<th>Bedrooms</th>
<th>Non-elevator property</th>
<th>Elevator-served property</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 bedroom</td>
<td>$131,022</td>
<td>$137,882</td>
</tr>
<tr>
<td>1 bedroom</td>
<td>$151,072</td>
<td>$158,063</td>
</tr>
<tr>
<td>2 bedroom</td>
<td>$182,196</td>
<td>$192,204</td>
</tr>
<tr>
<td>3 bedroom</td>
<td>$233,217</td>
<td>$248,652</td>
</tr>
<tr>
<td>4 bedroom or more</td>
<td>$259,814</td>
<td>$272,941</td>
</tr>
</tbody>
</table>

Smaller per unit subsidies are allowable and incentivized as point scoring items in 10 TAC §13.6.

5) Potential waivers of rules for Applications proposing Acquisition/Rehabilitation, Rehabilitation, or Refinancing with Minimal Rehabilitation. The Department will consider waivers of the following rules in 10 TAC Chapter 11 on a case-by-case basis for Applications
5. Funding Request:
Complete the table below to describe this Application’s funding request. If applying for Multifamily Direct Loan funds, please select only one type of loan.

<table>
<thead>
<tr>
<th>Department Funds applying for with this Application</th>
<th>Requested Amount</th>
<th>If funds will be in the form of a Direct Loan by the Department or for Private Activity Bonds, the terms will be:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multifamily Direct Loan: Const. to Perm. (Repayable)</td>
<td>$2,200,000</td>
<td>Interest Rate (%)</td>
</tr>
<tr>
<td>Multifamily Direct Loan: Construction Only (Repayable)</td>
<td>0.00%</td>
<td>2.50%</td>
</tr>
<tr>
<td>Multifamily Direct Loan: Const. to Perm. (Soft Repayable)</td>
<td>0.00%</td>
<td></td>
</tr>
<tr>
<td>CHDO Operating Expenses Grant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Housing Tax Credits</td>
<td>$1,439,065</td>
<td></td>
</tr>
<tr>
<td>Private Activity Mortgage Revenue</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6. §11.5 - Set-Aside (For Competitive HTC & Multifamily Direct Loan Applications Only)
Identify any and all set-asides the application will be applying under with an "x". Set-Asides can not be added or dropped from pre-application to full Application for Competitive HTC Applications.

<table>
<thead>
<tr>
<th>Competitive HTC Only</th>
<th>Multifamily Direct Loan Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>At-Risk</td>
<td>Nonprofit</td>
</tr>
<tr>
<td>USDA</td>
<td>CHDO</td>
</tr>
<tr>
<td>SH/CR</td>
<td>Preservation</td>
</tr>
</tbody>
</table>

By selecting the set-aside above, I, individually or as the general partner(s) or officers of the Applicant entity, confirm that I (we) are applying for the above-stated Set-Aside(s) and Allocations. To the best of my (our) knowledge and belief, the Applicant entity has met the requirements that make this Application eligible for this (these) Set-Aside(s) and Allocations and will adhere to all requirements and eligibility standards for the selected Set-Aside(s) and Allocations.

7. Previously Awarded State and Federal Funding
Has this site/activity previously applied for TDHCA funds? Yes
Has this site/activity previously received TDHCA funds? Yes
If "Yes" Enter Project Number: NA and TDHCA funding source: NA
Has this site/activity previously received non-TDHCA federal funding? No
If yes, source: NA
Will this site/activity receive non-TDHCA federal funding for costs described in this Application? No

8. Qualified Low Income Housing Development Election (HTC Applications only)
Pursuant to §42(g)(1)(A) - (C), the term “qualified low income housing development” means any project for residential rental property, if the Development meets one of the requirements below, whichever is elected by the taxpayer. Once an election is made, it is irrevocable. Select only one:

- At least 20% or more of the residential units in such development are both rent restricted and occupied by individuals whose income is 50% or less of the area median gross income, adjusted for family size.
- At least 40% or more of the residential units in such development are both rent restricted and occupied by individuals whose income is 60% or less of the median gross income, adjusted for family size.
- Applicant elects to use the Average Income for the Development.

If a revised form is submitted, date of submission: 2/28/2019
2019 HTC
Full Application

Part 3 Tab 18

Development Activities Part I
Development Activities I

1. Common Amenities (ALL Multifamily Applications) [10 TAC §11.101(b)(5)]

<table>
<thead>
<tr>
<th># of Units</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>88</td>
<td>10</td>
</tr>
</tbody>
</table>

   Development will provide sufficient common amenities to qualify for the number of points indicated above, pursuant to 10 TAC §11.101(b)(5). Applications for scattered site developments should refer to 10 TAC §11.101(b)(5)(B).

2. Unit Requirements (ALL Multifamily Applications) [10 TAC §11.101(b)(6)(A) and (B)]

   A. Unit Sizes

<table>
<thead>
<tr>
<th>Bedroom Size</th>
<th>Square Footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>500</td>
</tr>
<tr>
<td>1</td>
<td>600</td>
</tr>
<tr>
<td>2</td>
<td>800</td>
</tr>
<tr>
<td>3</td>
<td>1,000</td>
</tr>
<tr>
<td>4</td>
<td>1,200</td>
</tr>
</tbody>
</table>

   Development is New Construction or Reconstruction and will meet the minimum Unit Size requirements:

   OR:

   Development is proposing Rehabilitation (excluding Reconstruction) or Supportive Housing, and is not required to meet the size requirements above.

   B. Unit Amenities (For Competitive HTC Applications, see Tab 19 for Unit and Development Features scoring)

   Application is a Tax Exempt Bond Development and will meet a minimum of nine (9) points as outlined in 10 TAC §11.101(b)(6)(B).

   **Rehabilitation Developments and Supportive Housing Developments will start with a base score of five (5) points.**

   Application is Direct Loan not layered with Housing Tax Credits and will meet a minimum of four (4) points as outlined in 10 TAC §11.101(b)(6)(B).

3. Resident Supportive Services (For Competitive HTC Applications and Direct Loan Applications seeking to qualify for points under 10 TAC §13.6, see Tab 19 for Tenant Services scoring elections)

   Application is a Tax Exempt Bond Development and will meet a minimum of eight (8) points as outlined in 10 TAC §11.101(b)(7).

   Application is Direct Loan not layered with Housing Tax Credits and will meet a minimum four (4) points as outlined in 10 TAC §11.101(b)(7).

4. Development Accessibility Requirements (ALL Multifamily Applications) [10 TAC §1.207]; [10 TAC §11.101(b)(8)]

   Development will meet all specifications and accessibility requirements reflected in the Certification of Development Owner form pursuant to 10 TAC §11.101(b)(8).

   All Units accessed by the ground floor or by elevator (“affected units”) comply with the visitability requirements in clauses (i) – (iii) of 10 TAC §11.101(b)(8)(B).

   and

   Development has a minimum of 5% of all units in the development set aside for the mobility impaired and an additional 2% set aside for the hearing and/or visually impaired.

Regardless of building type, ALL Units accessed by the ground floor or by elevator (“affected units”) must comply with the visitability requirements in clauses (i) – (iii) of 10 TAC §11.101(b)(8)(B).

2/25/2019
Development Activities Part II
Development Activities II

1. **Size and Quality of Units (Competitive HTC Applications only) [10 TAC §11.9(b)(1)]**

   - Development is Rehabilitation (excluding Reconstruction), Supportive Housing, or USDA financed; OR meets the minimum size requirements below:
     - Points claimed: 6
     - Construction Size
       - 0, 1, 2, 3, 4
       - Square Footage: 550, 650, 850, 1,050, 1,250
     - Specific amenities and quality features will be provided in every Unit at no extra charge to the resident; Development will maintain the points selected and associated with those amenities as outlined in 10 TAC §11.101(b)(6)(B).*

   - Points claimed: 9
   - The Average Income for the proposed Development will be 56% or lower (12 points).

2. **Rent Levels of Residents and Tiebreaker (Direct Loan Applications only) [10 TAC §13.6(5)]**

   - At least 20 percent of all low-income Units at 30% or less of AMGI* Direct Loan Points: 0
   - At least 10 percent of all low-income Units at 30% or less of AMGI or, tor a Development located in a Rural Area, 7.5 percent of all low-income Units at 30% or Direct Loan Points: 0
   - At least 5 percent of all low-income Units at 30% or less of AMGI* Direct Loan Points: 0

   - In the event of a tie with another application or applications, this percentage of 30% AMGI MFDL units within the Development would be converted to be available to households at 15% AMGI.

   - * Applicants electing to restrict units at 30% AMGI for Competitive HTC purposes may not count those same units for scoring points under §13.6(5). However, 50% AMGI and 60% AMGI units that are layered with 30% AMGI units for Direct Loan purposes may count for point scoring under §13.6(5). Points claimed here will not appear on the Self Score tab.

3. **Income Levels of Residents (Competitive HTC Applications only) [10 TAC §11.9(c)(1)]**

   - Application proposes to use the 20-50 or 40-60 election under §42(g)(1)(A) or §42(g)(1)(B) of the Code, respectively.
     - Points claimed: 16
     - Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA; or Development proposed in all other areas.

   - * Applicants electing the 30% boost for additional 30% units are advised to ensure the units used to support the boost are not included in the units needed to achieve the Application’s scoring elections.

   - OR
     - Application proposes to use the Average Income election under §42(g)(1)(C) of the Code, and
       - Development located in Non-Rural Area of Dallas, Fort Worth, Houston, San Antonio or Austin MSA
         - The Average Income for the proposed Development will be 54% or lower (16 points).
         - The Average Income for the proposed Development will be 55% or lower (14 points).
         - The Average Income for the proposed Development will be 56% or lower (12 points).
     - OR
       - Development proposed in all other areas.
         - The Average Income for the proposed Development will be 55% or lower (16 points).
         - The Average Income for the proposed Development will be 56% or lower (14 points).
         - The Average Income for the proposed Development will be 57% or lower (12 points).
Application is seeking points for Income Levels of Residents.

Points Claimed: 16

4. **Rent Levels of Residents (Competitive HTC Applications only) [§11.9(c)(2)]**

Mark *only one* box below:

- At least 20% (less Units used for eligibility for boost) of all low-income Units are restricted at 30% or less of AMGI; development is Supportive Housing proposed by a Qualified Nonprofit Organization.  
  - [ ] 0
- Development is urban and at least 10% (less Units used for eligibility for boost) of all low-income Units are restricted at 30% or less of AMGI; or
  - [ ] 11
- Development is located in a Rural Area and 7.5% (less Units used for eligibility for boost) of all low-income Units are restricted at 30% or less of AMGI; or
  - [ ] 0
- At least 5% of all low-income Units at 30% or less of AMGI
  - [ ] 0

Application is seeking points for Rent Levels of Residents.

Points Claimed: 11

5. **Resident Services (Competitive HTC Applications and Direct Loan Applications) [§11.9(c)(3) and §13.6(6)]**

Development will provide a combination of supportive services as identified in §11.101(b)(7) and those services will be recorded in the Development’s LURA.

- Supportive Housing Development proposed by a Qualified Nonprofit
  - [ ] 0
- All other Developments.
  - [ ] 9
- The Applicant certifies that the Development will contact local service providers, and will make Development community space available to them on a regularly-scheduled basis to provide outreach services and education to the tenants.
  - [ ] 1

Application is seeking points for Income level of Tenants.

Points Claimed: 10

6. **Tenant Populations with Special Housing Needs (Competitive HTC, MFDL, and Section 811 Applications) [§11.9(c)(6); §13.6(6)]**

A HTC and MFDL Applicants pursuing these points must try to score first under item B below by committing an Existing Development, and then under item C below by committing the proposed Development. Only if an HTC Applicant or Affiliate cannot meet the requirements of subparagraphs (B) or (C) may an HTC Application qualify for points under subparagraph (D). **MFDL Applications that are not layered with 2019 9% HTC cannot elect to score points under subparagraph (D).**

B [ ] Applicant or Affiliate Owns or Controls an Existing Development that is included on the List of Qualified Existing Developments for Participation in the Section 811 PRA Program (See 10 TAC §8.3 and 10 TAC 8.4)

Existing Development Name:  

TDHCA #:

- Attached behind this tab is the executed Certification for Section 811 PRA Program Participation.
  - [ ] 0

OR

C [ ] If not scoring under B above, Applicant or Affiliate is committing at least 10 Units in the proposed Development for participation in the Section 811 PRA Program

To establish its lack of legal authority where an Applicant Owns or Controls an Existing Development that otherwise meets the criteria established by 10 TAC §11.9(c)(6)(B), the Application must include the information as described in clauses (i) – (iii) of that subparagraph in the Section 811 PRA Program Supplement Packet.

The packet must be uploaded along with but separate from the Application.

- Applicant or Affiliate has attached behind this tab an explanation and documentation regarding the Applicant's or Affiliate's lack of Ownership interest or Control of any Existing Development that is included on the List of Qualified Existing Developments for Multifamily Programs;
  - [ ] 2

OR

D [ ] If cannot score under A or B above, Applicant elects to set-aside at least 5 percent of the total Units for Persons with Special Needs. The Department will require an initial minimum twelve-month period during which Units must either be occupied by Persons with Special Needs or held vacant, unless the units receive HOME funds from any source.

- Applicant or Affiliate has attached behind this tab an explanation and documentation regarding the Applicant's or Affiliate's

2/25/2019
The Development is located in a coastal high hazard area (V Zone) or regulatory floodway.

**Other disqualifying factor** (please explain)

<table>
<thead>
<tr>
<th>Points Claimed: 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Development</strong> is requesting Pre-Application Points. 6</td>
</tr>
<tr>
<td><strong>Development</strong> will maintain a 35 year Affordability Period. 2</td>
</tr>
<tr>
<td><strong>Application</strong> requests points for Tenant Populations. 2</td>
</tr>
<tr>
<td><strong>Application</strong> is seeking points for Tenant Populations. 2</td>
</tr>
<tr>
<td><strong>Application</strong> is eligible for five (5) points. 0</td>
</tr>
<tr>
<td><strong>Development</strong> Owner agrees to provide a Right of First Refusal to purchase the Development upon or following the end of the Compliance Period. 1</td>
</tr>
<tr>
<td><strong>Application</strong> reflects funding request for no more than 100% of the amount available in the subregion or set-aside as of 12/3/2018. 1</td>
</tr>
</tbody>
</table>

---

<table>
<thead>
<tr>
<th>Application is seeking points for Tenant Populations.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Points Claimed: 2</td>
</tr>
<tr>
<td><strong>Development</strong> is requesting Pre-Application Points. 6</td>
</tr>
<tr>
<td><strong>Development</strong> will maintain a 35 year Affordability Period. 2</td>
</tr>
</tbody>
</table>

---

<table>
<thead>
<tr>
<th>Application contains a letter from the Texas Historical Commission (THC) determining preliminary eligibility for federal or state historic (rehabilitation) tax credits.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Development</strong> requests points for Historic Preservation. 2</td>
</tr>
<tr>
<td><strong>Application</strong> contains a letter from the Texas Historical Commission (THC) determining preliminary eligibility for federal or state historic (rehabilitation) tax credits. 2</td>
</tr>
<tr>
<td><strong>Application</strong> includes documentation from the Texas Historical Commission that the property is currently a Certified Historic Structure or determining preliminary eligibility for status as a Certified Historic Structure. 2</td>
</tr>
<tr>
<td><strong>Development</strong> will be able to document receipt of historic tax credits by the time Forms 8609 are issued. 2</td>
</tr>
<tr>
<td><strong>At least 75% of the residential units will be within the Certified Historic Structure.</strong> 2</td>
</tr>
<tr>
<td><strong>Attached behind this tab are the THC letter and other documentation described above.</strong> 2</td>
</tr>
<tr>
<td><strong>Application</strong> is eligible for five (5) points. 0</td>
</tr>
</tbody>
</table>

---

<table>
<thead>
<tr>
<th>Right of First Refusal (Competitive HTC Applications only) [§11.9(e)(7)]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Development</strong> Owner agrees to provide a Right of First Refusal to purchase the Development upon or following the end of the Compliance Period. 1</td>
</tr>
</tbody>
</table>

---

<table>
<thead>
<tr>
<th>Funding Request Amount (Competitive HTC Applications only) [§11.9(e)(8)]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Application</strong> reflects funding request for no more than 100% of the amount available in the subregion or set-aside as of 12/3/2018. 1</td>
</tr>
</tbody>
</table>
Section 811 Project Rental Assistance Program “PRA” Certification

On behalf of the Applicant and all Affiliates of the Applicant (“Applicant”), I (We) hereby certify that the Applicant is familiar with the provisions of HUD’s Section 811 Project Rental Assistance (“PRA”) program, enacted by Section 811 of the Cranston Gonzalez National Affordable Housing Act (Pub L. 111-374) and the Frank Melville Supportive Housing Investment Act of 2010, the Texas Department of Housing and Community Affairs (“TDHCA”) Rules as published in Title 10 of the Texas Administrative Code, HUD Handbook 4350.3 REV-1 (Occupancy Requirements of Multifamily Housing Programs), and the Section 811 Project Rental Assistance Program Cooperative Agreement, including the Rental Assistance Contract (“RAC”) and the Use Agreement. I (We) hereby certify that the Applicant will comply with future guidance regarding the Section 811 PRA Program provided by HUD and/or TDHCA, including Rules, FAQs, and program manuals.

I (We) hereby certify that Applicant will execute a Section 811 PRA Owner Participation Agreement, in a form to be provided by TDHCA, for a TDHCA approved Existing Development, or if authorized by TDHCA, for the awarded Development included in this Application. Once an Owner Participation Agreement has been executed, I (We) hereby certify that I (We) understand that TDHCA will market the property under the Owner Participation Agreement to potential Section 811 PRA tenants at any time during the term of the Owner Participation Agreement, and I (We) hereby certify that I (We) will furnish to TDHCA, all marketing materials generated, including pictures and unit features, at the time the Owner Participation Agreement is signed and returned to TDHCA to do such marketing. If requested by TDHCA, I (We) hereby certify that I (We) will execute a RAC and record the required Use Agreement in the county deed records.

I (We) understand, that even though the Owner or the Owner of the Existing Development will be required to execute an Owner Participation Agreement, TDHCA may never require the Development to execute a RAC and therefore the Development may not be required to serve Section 811 PRA tenants.

I (We) hereby certify that I (We) will comply with all HUD regulations, court rulings, related administrative rules, and eligibility guidelines and restrictions during the application process and in the event of award, for the duration of the Section 811 Owner Participation Agreement or the Use Agreement, whichever has a longer term.

I (We) hereby make application to the TDHCA to participate in the Section 811 PRA Program. The undersigned hereby acknowledges that an award by the TDHCA does not warrant that the Existing Development or the Development proposed in the Application is deemed qualified to participate in the Section 811 PRA Program. I (We) agree that the TDHCA or any of its directors, officers, employees, and agents will not be held responsible or liable for any representations made to the undersigned or its investors relating to the Section 811 PRA Program; therefore, I (We) assume the risk of all damages, losses, costs, and expenses related thereto and agree to indemnify and save harmless the TDHCA and any of its officers, employees, and agents against any and all claims, suits, losses, damages, costs, and expenses of any kind and of any nature that the TDHCA may hereinafter suffer, incur, or pay arising out of its decision concerning this application involving Section 811 PRA funds or the use of information concerning the 811 PRA Program.

Page | 29
December 17, 2018
I (We) hereby acknowledge that this Application is subject to disclosure under Chapter 552, Texas Government Code, the Texas Public Information Act, unless a valid exception exists.

I (We) acknowledge all representations, undertakings, and commitments made by Applicant in the application process for a Development, whether with respect to eligibility criteria, selection criteria or otherwise, shall be deemed to be a condition to any Commitment or Contract for such Development, the violation of which shall be cause for cancellation of such Commitment or Contract by the TDHCA and if concerning the ongoing features or operation of the Development, shall be enforceable by the TDHCA and the tenants of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the LURA. The obligation to sign an Owner Participation Agreement is binding. I (We) must sign an Owner Participation Agreement if the Development receives an award and is requested to do so by the Department.

I (We) agree the TDHCA may, at its discretion, request additional information and/or documentation in its evaluation of this Application to garner required information relating to the qualification of the Development for the 811 Program. I (We) hereby assert that the information contained in this Application as required or deemed necessary by the materials governing the 811 PRA program are true and correct and that I (We) have undergone sufficient investigation to affirm the validity of the statements made.

Further, I (We) hereby assert that I (We) have read and understand all the information contained in the Application. By signing this document, I (We) affirm that all statements made in this government document are true and correct under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification and subject to criminal penalties as defined by the State of Texas. TEX. PENAL CODE ANN. §37.01 et seq. (Vernon 2011).

I (We) understand and agree that if false information is provided in this Application which has the effect of increasing the Applicant's competitive advantage, the TDHCA will disqualify the Applicant and may hold the Applicant ineligible to receive 811 PRA funds or until any issue of restitution is resolved.

If, at any time, including after the signing a Section 811 PRA Program Owner Participation Agreement, it is discovered that I (We) provided false or misleading information to TDHCA, TDHCA may terminate the Applicant’s HUD RAC and/or the Section 811 PRA Program Owner Participation Agreement and recapture all Section 811 PRA funds expended.

I (We) hereby certify that I (We) will comply with applicable fair housing and civil rights requirements in 24 CFR §§5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act. Further, I (We) certify that I (We) shall not, in the provision of services, or in any other manner, discriminate against any person on the basis of race, color, religion, sex, national origin, familial status, or disability. I (We) certify that I (We) will comply with HUD’s Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity requirements. See 24 C.F.R. §§ 5.100, 5.105(a)(2), 5.403. I (We) hereby certify that I (We) understand that the Development must prominently display HUD’s Fair Housing Poster (HUD Form 928.1) in all offices in which rental activity takes place. This includes property management leasing offices located at their projects with Section 811 PRA units, and may include a designated place where information or
other business regarding the Section 811 PRA program is conducted with potential tenants. I (We) will comply with any requirements of the Section 811 PRA Program that require changes to the Development’s tenant selection plans, house rules, marketing materials, or application.

I (We) will at all times indemnify and hold the TDHCA harmless against all losses, costs, damages, expenses, and liabilities of any nature directly or indirectly resulting from, arising out of or relating to the TDHCA’s acceptance, consideration, approval or disapproval of this request and the issuance or non-issuance of a RAC or 811 PRA funds herewith.

I (We) have written below the name of the individual(s) authorized to execute the TDHCA Owner Participation Agreement, the HUD RAC, the HUD Use Agreement, and any and all future commitments and contracts related to this Application. I (We) hereby certify that this individual(s) has the full authority and has been authorized by all of the Parties, Affiliates, or associates with interest in the Development in this Application. If this individual is replaced by the organization, I (We) must inform the TDHCA within 30 days of the person authorized to execute agreements, commitments and/or contracts on behalf of the Applicant.

I (We) certify that I (We) do not and will not knowingly employ an undocumented worker, where “undocumented worker” means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States.

If, after receiving a public subsidy (including Section 811 PRA Program funds), I (We) are convicted of a violation under 8 U.S.C Section 1324a(f), I (We) shall repay the amount of the public subsidy with interest, at the rate and according to the other terms provided by an agreement under Tex. Government Code §2264.053, not later than the 120th day after the date TDHCA notifies the Applicant of the violation.

I (We) certify that I (We) am eligible to apply for funds or any other assistance from the TDHCA. I (We) certify that all audits are current at the time of application. I (We) certify that any Audit Certification Forms have been submitted to the TDHCA in a satisfactory format on or before the Application deadline for funds or other assistance pursuant to 10 TAC §1.3(b).

Property Condition Standards Certification

I (We) certify that I (We) will meet local and state housing code, ordinances, and zoning requirements, Texas Minimum Construction Standards, Uniform Physical Construction Standards and Inspection Requirements under 24 CFR Section 5 Subpart G, including any changes in the regulation and related directives and will 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.

I (We) certify that TDHCA approved Existing Development, or if allowed by TDHCA in writing, the Development referenced in this Application is or will be in compliance and that during the term of the Section 811 Participation Agreement and/or RAC the Applicant will respond to all requests for compliance deficiency resolution within the timeframes mandated by the Texas Administrative Code Rules at 10 TAC Chapters 1, 2, 8, 10, and 11, or other requirements associated with the satisfactory provision of a unit as required by the 811 PRA program.

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December 17, 2018
Federal Cross-Cutting Certifications

The Federal Cross-Cutting Certifications that apply to the Development identified to receive the 811 PRA assistance include but are not limited to:

**Lead Based Paint**

I (We) certify that documentation of compliance with 24 CFR Part 35 (Lead Safe Housing Rule), including but not limited to the documentation reflected in the following clauses, will be maintained in project files. I (We) understand that standard forms are available in the Federal Register, as indicated by the sources noted below.

Applicability Form 24 CFR §35.115 – A copy of a statement indicating that the property is covered by or exempt from the Lead Safe Housing Rule.

a. If the property is exempt, the file should include the reason for the exemption and no further documentation is required.

b. If the property is subject to the Rule, the file should include the appropriate documentation to indicate basic compliance, as listed below:

i. Summary Paint Testing Report or Presumption Notice 24 CFR §35.930(a) – A copy of any report to indicate the presence of lead-based paint (LBP) for projects receiving up to $5,000 per unit in rehabilitation assistance. If no testing was performed, then LBP is presumed to be on all disturbed surfaces;

ii. Notice of Evaluation 24 CFR §35.125(a) – A copy of a notice demonstrating that an evaluation summary was provided to residents following a lead-based paint inspection, risk assessment or paint testing;

iii. Clearance Report 24 CFR §35.930(b)(3) – A report indicating a “clearance examination” was performed of the work-site upon completion; and

iv. Notice of Hazard Reduction Completion 24 CFR §35.125(b) – Upon completion, a copy of a notice to show that a LBP remediation summary was provided to residents.

**Environmental**

I (We) understand that the environmental effects of each activity carried out with funds provided under this Application must be assessed in accordance with the provisions of the Section 811 PRA Cooperative Agreement, § PRA.215 and § PRA.216. Each activity must have an environmental review completed and support documentation prepared complying with HUD regulations. No Section 811 Owner Participation Agreement may be signed and no Section 811 PRA funds can be provided for a unit before the completion of the environmental review process and the provision of written clearance by TDHCA.
I (We) certify that I (We) have read and understand the requirements of the HUD Section 811 PRA Cooperative Agreement, § PRA.215 and § PRA.216.

**Energy and Water Conservation**

I (We) certify to comply with Energy and Water Conservation standards and requirements as outlined in § PRA.214.

**Procurement of Recovered Materials**

I (We) certify to comply with the Procurement of Recovered Materials requirements as outlined in § PRA.219.

**Housing Standards for Assisted Units**

I (We) certify to comply with Housing Standards for Assisted Units as outlined in § PRA.307 for Section 811 PRA units and as outlined in 10 TAC Chapter 1 Subchapter B and Chapter 10 “Uniform Multifamily Rules.”

**Eligibility and Threshold Certification**

On behalf of the Applicant and all affiliates of the Applicant, I (We) hereby certify that the Applicant is familiar with the provisions and requirements of the Section 811 PRA Program for which I (We) am applying.

I (We) understand that housing units occupied by eligible tenants participating in the program must be affordable to Extremely Low-Income persons. I (We) understand that mixed income rental Developments may only apply PRA to units that meet 811 program affordability standards. I (We) understand that the Development identified to receive the 811 PRA assistance must adhere to the TDHCA’s Integrated Housing Rule at 10 TAC §1.15, 10 TAC Chapter 8 and Exhibit 5 of the Section 811 PRA Cooperative Agreement § PRA.305.

I (We) certify that the units identified for 811 PRA assistance will be dispersed throughout the property and must not be segregated to one area of a building or Development.

I (We) certify to follow the requirements of § PRA.403 regarding the Selection and Admission of Eligible Tenants. In addition, I (We) understand that prior to receiving referrals for Section 811 tenants, I (We) must submit and receive approval by the TDHCA for the Development’s Tenant Selection Plan. I (We) understand that the Applicant or their designated property management staff will accept referrals of Section 811 applicants from the TDHCA and determine eligibility based on the TDHCA-approved Tenant Selection Plan. I (We) understand that upon the request of TDHCA or HUD, the Applicant must furnish copies of all applications to HUD and/or TDHCA.

I (We) understand that the Applicant or their designated property management staff will be responsible for:
(1) obtaining and verifying income through the use of Enterprise Income Verification (EIV), pursuant to 24 CFR. §5.233(a)(2). Applicant or their designated property management staff shall refer to HUD Handbook 4350.3 REV-1, Chapter 3-30 for further guidance;

(2) obtaining and verifying information related to income eligibility of Eligible Families in Assisted Units in accordance with 24 CFR Part 5, subpart F. Applicant or their designated property management staff shall refer to HUD Handbook 4350.3 REV-1, Chapter 3-30 for further guidance;

(3) preventing crime in the Assisted Units, including the denial of admission to persons engaged in criminal activity or has certain criminal histories, in accordance with 24 CFR Part 5, Subpart H. Applicant or its designated property management staff shall refer to HUD Handbook 4350.3 REV-1, Chapter 4-27, E. for further guidance;

4) complying with protections for victims of domestic violence, dating violence, sexual assault, or stalking, pursuant to 24 CFR Part 5, Subpart L; and

(5) complying with all other applicable requirements, including but not limited to the RAC, Project Rental Assistance Program Guidelines, 10 TAC Chapters 1, 2, 8, and any other HUD administrative requirements.

I (We) understand that the Section 811 tenants’ participation in supportive services is voluntary and cannot be required as a condition of admission or occupancy.

I (We) understand that if the Applicant or their designated property management staff determines that an applicant is ineligible on the basis of income or Household composition, or because of failure by an Section 811 applicant to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, or that the Applicant or their designated property management staff is not selecting the Section 811 applicant for other reasons, the Applicant or their designated property management staff will promptly notify the Section 811 applicant in writing of the determination and its reasons, and that the applicant has the right to meet with the Applicant or their designated property management staff and has the right to request a reasonable accommodation, if applicable. I (We) understand that the Section 811 applicant may also exercise other rights if the applicant believes that he or she is being discriminated against on the basis of race, color, national origin, religion, sex, disability or familial status. I (We) understand that records on Section 811 applicants and Section 811 tenants, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three (3) years. I (We) shall refer to HUD Handbook 4350.3 REV-1, Chapter 4-9 for further guidance on rejecting Section 811 applicants and denial of rental assistance.

I (We) certify that no Section 811 PRA Program funds will be attached to units receiving any other form of federal or state housing operating assistance or units that have received any form of long-term operating housing subsidy within a six-month period prior to receiving PRA funds. I (We) additionally certify that 811 PRA subsidy funds will not be attached to any unit that is currently a 30% AMI rent and income restricted unit or any unit that is currently operating with an existing use
restriction or contractual obligation to exclusively serve persons with disabilities or persons 62 and older.

I (We) understand that funding through the full, initial 20 year term of a RAC contract to provide 811 PRA assistance will be conditional based upon available appropriations during each 5 year renewal cycle and may be moved or dissolved by TDHCA at anytime. Additionally, I (We) understand that the total number of assisted units, and their number of bedrooms may be adjusted at anytime by TDHCA for a maximum number of units committed in the Section 811 PRA Owner Participation Agreement.

**Management Practices Certification**

I (We) certify that the Applicant or their designated property management staff will immediately notify TDHCA of all unit vacancies until all Section 811 PRA units are occupied. I (We) certify that, after a RAC is executed, any available units of a type identified in the RAC will be held vacant for an 811 PRA tenant referred by TDHCA, if a tenant has been referred to the property by TDHCA, for up to 60 days before the unit will be re-rented to a non-811 PRA applicant.

I (We) certify that the Applicant or their designated property management staff will comply with any current or future requirement for marketing or outreach of the units and I (We) certify that I (we) will follow all HUD Fair Housing and Equal Opportunity requirements.

I (We) certify that I (we) will furnish all required documentation, reports, and forms as necessary to assist TDHCA in entering necessary eligibility and income information in HUD systems as required; information requested for reporting on performance measures to HUD will be furnished within the timelines as specified by TDHCA.

I (We) certify that we understand that all Applicants who are States, Territories, Urban Counties, and Metropolitan cities shall be subject to the requirements of 24 CFR Part 85, and further that all Applicants who are Nonprofits shall be subject to the requirements of 24 CFR Part 84.

I (We) certify that the initial lease between the Development and any 811 PRA assisted tenant will be a minimum of one year; I (we) further certify that the HUD model lease form HUD-92236-PRA will be used as required by the Cooperative Agreement, Section XII. GRANTEE PROGRAM ADMINISTRATION.

In addition, I (We) certify that we understand that all lease addendums must be approved by TDHCA. TDHCA will consider lease addendums on a case by case basis and may opt to request approval from HUD. Owners may only modify the lease terms with a tenant at the end of the initial term or a successive term by serving an appropriate notice to the tenant, together with the provision of a revised TDHCA approved agreement or addendum.

I (We) certify to follow requirements of § PRA.406. I (We) understand that prior to occupancy of a Section 811 unit, that an Eligible Section 811 Household must be given the opportunity to be present for the move-in unit inspection. I (We) understand that the inspection of the Section 811 Unit will be completed by both the Applicant or the designated Property Management staff and the Eligible Section 811 Household and both shall certify, on a form prescribed or approved by TDHCA that they have inspected the Section 811 Unit and have determined it to be Decent, Safe, and
Sanitary condition in accordance with the criteria provided in the form. The Applicant or the designated Property Management staff shall keep a copy of this inspection and make part of the lease as an attachment to the lease. If the Eligible Section 811 Household waives the right to this inspection, a form prescribed or approved by the TDHCA would be signed by the Eligible Household indicating they have waived this right.

In addition, I (We) certify that the Applicant or the designated Property Management staff shall perform unit inspections of the Section 811 Units on at least an annual basis to determine whether the appliances and equipment in the unit are functioning properly and to assess whether a component needs to be repaired or replaced. This will ensure that the Applicant is meeting its obligation to maintain the Assisted Units in Decent, Safe, and Sanitary condition.

In addition, I (We) understand that the TDHCA and/or HUD may ask, and must be permitted, to review the records related to the RAC at least annually to determine compliance. I (We) understand that HUD may independently inspect project operations and Section 811 Units at any time with reasonable notice prior to inspection; and Equal Opportunity reviews may be conducted by HUD at any time.

I (We) certify that the Applicant or the designated Property Management staff shall comply with the Overcrowded and Under Occupied Unit requirements set by TDHCA and will ensure that Section 811 tenants are not over or under housed according to those requirements.

I (We) certify that the Applicant or the designated Property Management staff shall comply and participate with any dispute resolution processes as required by TDHCA.

I (We) certify, as referenced in § PRA.409, that the Applicant shall not impede the reasonable efforts of tenants of the Assisted Units to organize pursuant to 24 CFR Part 245, or any successor regulations of 24 CFR Part 245, or unreasonably withhold the use of any community room or other available space appropriate for meetings which is part of the mortgaged property when requested by: (i) a resident tenant organization in connection with the representational purposes of the organization; or (ii) tenants seeking to organize or to consider collectively any matter pertaining to the operation of the mortgaged property.

I (We) certify that the Development site referenced in this Application will take reasonable steps to ensure meaningful access to its programs and activities to Limited English Proficiency tenants. Additionally, I (We) certify that all communications provided to Eligible Applicants and Eligible Households at the Development referenced in this Application are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 and, as applicable, the Americans with Disabilities Act.

I (We) certify that Development staff will assist 811 PRA tenants with annual re-certification of income and program requirements as required by HUD; property staff are or will be familiar with HUD income verification requirements and tenant re-certification policies as published in the HUD Handbook 4350.3 REV-1.
I (We) certify that Development staff has the capacity and agrees to participate in the Tenant Rental Assistance Certification System for Section 811 PRA tenants, and that requests for payment will be made from this System within 60 calendar days of a tenant’s initial move in date. I (We) certify that if TDHCA procures a third party for one or more duties of the 811 PRA program, the Development will respond and comply with that third party in all ways as required of their obligations to TDHCA.

I (We) certify that the Development will obtain and maintain any information technology systems required of the PRA Program will be utilized at the Development at no expense to the TDHCA.

I (We) certify that any updated screening, eligibility, lease addenda or fee criteria established for tenants of the identified Development in this Application will be provided to TDHCA 30 calendar days prior to property implementation; additionally, upon request TDHCA will receive copies of tenant re-certifications completed by property staff.

I (We) certify that TDHCA will receive upon request any notices advising of property or resident rental increases.

I (We) certify that a copy of the Development’s property management plan, tenant selection criteria (or plan) and Affirmative Fair Housing Marketing plan will be provided to and discussed with onsite Development staff.
Section 811 PRA Program Certification

By: [Signature of Authorized Representative]

Lisa M. Stephens
Printed Name

President
Title

2-12-19
Date

The State of Texas

COUNTY OF Tarrant

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24th day of February, 2019

(Seal)

KATHERINE E. JOHNSON
Notary Public Signature

Notary ID # 130304693
My Commission Expires March 29, 2020

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December 17, 2018
START 811
START 811
Tenant Populations with Special Housing Needs
Section 811 Explanation

The Applicant is part of the ownership structure of the following developments that are included on the List of Eligible Existing Developments for Participation in the Section 811 PRA Program released December 15, 2017: Summit Parque, Liberty Pass, Kaia Pointe, Mistletoe Station, and Canova Palms.

Summit Parque: Applicant is a 40% HUB member. Per the Section 811 Program Rental Assistance Rule, Section 8.2(8), "For full applications made on or after January 1, 2018, Existing Developments do not include properties for which the only Ownership interest is through the participation of a Historically Underutilized Business, which owns less than 50% of an Existing Development." This development is not an eligible option under the Section 811 Rules.

Liberty Pass: Applicant is a 40% HUB member. Per the Section 811 Program Rental Assistance Rule, Section 8.2(8), "For full applications made on or after January 1, 2018, Existing Developments do not include properties for which the only Ownership interest is through the participation of a Historically Underutilized Business, which owns less than 50% of an Existing Development." This development is not an eligible option under the Section 811 Rules.

Kaia Pointe: Applicant is a 44.1% HUB member. Per the Section 811 Program Rental Assistance Rule, Section 8.2(8), "For full applications made on or after January 1, 2018, Existing Developments do not include properties for which the only Ownership interest is through the participation of a Historically Underutilized Business, which owns less than 50% of an Existing Development." This development is not an eligible option under the Section 811 Rules. Additionally, the Applicant requested approval from the Third Party Lender and Syndicator to add Section 811 units to this development, but the Third Parties withheld approval. The Section 811 PRA Program Supplemental Packet has been uploaded separately.

Mistletoe Station: The Applicant requested approval from the Third Party Lender and Syndicator to add Section 811 units to this development, but the Third Parties withheld approval. The Section 811 PRA Program Supplemental Packet has been uploaded separately.

Canova Palms: The Applicant requested approval from the Third Party Limited Partner to add Section 811 units to this development, but the Third Party Limited Partner withheld approval. The Section 811 PRA Program Supplemental Packet has been uploaded separately.

Due to the above, this Application is unable to score points and meet the requirements of subparagraph (B).

This Application has selected points under subparagraph (C) because it is located within a participating MSA for the Section 811 Program and will commit least 10 Section 811 PRA Program Units in the proposed Development for participation in the Section 811 PRA Program unless the Rules limit the Development to fewer than 10 Section 811 PRA Program Units.
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Introduction

The purpose of this Packet is to formalize the process by which an Applicant establishes its lack of legal authority to commit Section 811 PRA Program Units in a Development as described pursuant to 10 TAC §11.9(c)(6)(A) of the Qualified Allocation Plan ("QAP").

This Packet is required only if all of the following conditions are true:

1) An Applicant is selecting points under Tenant Populations with Special Housing Needs pursuant to 10 TAC §11.9(c)(6) AND

2) An Applicant is seeking to establish its lack of legal authority where an Applicant or Affiliate Owns or Controls an Existing Development that otherwise meets the criteria established by 10 TAC §11.9(c)(6)(B) of the QAP.

One Packet must be submitted for each Existing Development for which the Applicant or Affiliate is seeking a determination that the needed legal authority is lacking and that the Development can be excluded from consideration.

Instructions: Complete the Questionnaire on page 2 of this packet, then complete the fields on each of the subsequent form cover pages, and attach the denoted documentation for each item behind each included cover pages. Submit each Packet, including Attachments in PDF format and include bookmarks for each item. The Packet must be saved and uploaded as one standalone file to the Serv-U folder associated with each 2019 Multifamily Application.

This Packet and all supporting documentation must be uploaded to the Department’s Serv-U system at the same time as, but as a separate document from, the Application. Refer to the Multifamily Programs Procedures Manual posted at http://www.tdhca.state.tx.us/multifamily/apply forfunds.htm for an explanation of the process to set-up a Serv-U Account if needed.

Questions about this Packet may be submitted to Spencer Duran: spencer.duran@tdhca.state.tx.us
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet
Questionnaire

2019 Uniform Multifamily Application  19285 & 19277

1) Selecting Points under 10 TAC §11.9(c)(6)?
☐ No – STOP. PACKET SUBMISSION NOT NEEDED
☒ Yes – CONTINUE TO QUESTION 2

2) To obtain Points under 10 TAC §11.9(c)(6), Applicants must first attempt to meet the requirements in §11.9(c)(6)(B).

Does the Applicant Own or Control an Existing Development that appears on the List of Qualified Existing Developments?
☐ No – STOP. PACKET SUBMISSION NOT NEEDED
☒ Yes – CONTINUE TO QUESTION 3

3) Is the Applicant seeking to establish its lack of legal authority where an Applicant Owns or Controls an Existing Development that appears on the List of Qualified Existing Developments?
☐ No - STOP. PACKET SUBMISSION NOT NEEDED
☒ Yes – CONTINUE TO QUESTION 4

4) Can the Applicant provide all three of the following items listed under §11.9(c)(6)(A)(i)-(iii)?
☐ No - STOP. PACKET SUBMISSION NOT NEEDED
☒ Yes – CONTINUE TO COVER PAGES

(i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement);

(ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program); AND

(iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party identified in (ii) that they are denying an Existing Development from participation).
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Legal Right to Withhold Cover Page §11.9(c)(6)(A)(i)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Canova Palms

(i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement)

Describe the specific legally enforceable agreement being attached: First Amended & Restated Operating Agreement

Provide the name of the Third Party: Hunt Capital Partners

List the specific citation in the agreement that clearly denotes the Third Party has a legal right to withhold consent: Section 5.3 - Restrictions on Authority, para (a)(xix) & (a)(xviii)

List the page number in the agreement that clearly denotes the Third Party has a legal right to withhold consent: 43-45

ATTACH PDF OF THE LEGALLY ENFORCEABLE AGREEMENT BEHIND THIS PAGE.
THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED BY THIS FIRST AMENDED AND RESTATED OPERATING AGREEMENT HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933 ("1933 ACT") OR PURSUANT TO APPLICABLE STATE SECURITIES LAWS ("BLUE SKY LAWS"). ACCORDINGLY, THE LIMITED LIABILITY COMPANY INTERESTS CANNOT BE RESOLD OR TRANSFERRED BY ANY PURCHASER THEREOF WITHOUT REGISTRATION OF THE SAME UNDER THE 1933 ACT AND THE BLUE SKY LAWS OF SUCH STATE(S) AS MAY BE APPLICABLE, EXCEPT IN A TRANSACTION WHICH IS EXEMPT FROM THE REGISTRATION REQUIREMENTS OF THE 1933 ACT AND THE BLUE SKY LAWS OR WHICH IS OTHERWISE IN COMPLIANCE THEREWITH. IN ADDITION, THE SALE OR TRANSFER OF SUCH LIMITED LIABILITY COMPANY INTERESTS IS SUBJECT TO CERTAIN RESTRICTIONS SET FORTH IN THIS AGREEMENT.
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Preliminary Statement

Canova Palms, LLC (the “Company”) was formed as a Texas limited liability company as evidenced by a certificate of formation filed with the Office of the Secretary of the State of Texas (the “Filing Office”) on August 9, 2018 by and between Saigebrook Canova, LLC, a Texas limited liability company, as a managing member (the “Co-Managing Member”) and Lisa M. Stephens, as an investor member (the “Withdrawing Investor Member”).

A Company Agreement was entered into with respect to the Company as of August 9, 2018 (the “Original Agreement”) by and between the Co-Managing Member and the Withdrawing Investor Member.

THIS FIRST AMENDED AND RESTATED OPERATING AGREEMENT (this “Agreement”) is made and entered into as of February 1, 2019 (the “Closing Date” or “Closing”) by and among the Co-Managing Member, O-SDA Canova, LLC, a Texas limited liability company (the “Administrative Member”) HCP-ILP, LLC, a Nevada limited liability company (“Investor Member”), and the Withdrawing Investor Member.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties hereto agree that the Original Agreement is hereby amended and restated in its entirety to read as follows:

ARTICLE 1
DEFINED TERMS

In addition to the terms defined above, the following terms used in this Agreement shall have the meanings specified below:

Access Laws has the meaning set forth in Section 5.2(u).

Access Laws Certification means a certification to the Company concluding that the Apartment Complex is in compliance with applicable Access Laws, with such certification being prepared by the Architect.

Accountants means Tidwell Group of Birmingham, Alabama or such other firm of independent certified public accountants as may be engaged by the Managing Member at the expense of the Company with the Consent of the Investor Member, which Consent shall not be unreasonably withheld, conditioned or delayed, to prepare the Company income tax returns.

Actual Housing Tax Credits means, with respect to any period of time, the total amount of the Housing Tax Credits allocated by the Company to the Investor Member, representing ninety-nine and ninety-nine hundredths percent (99.99%) of the Housing Tax Credits reported
and claimed by the Company and its Members on their respective federal information and income tax returns, and not disallowed by any taxing authority.

**Additional Managing Member** has the meaning set forth in Section 9.2(a).

**Adjusted Capital Account** means, with respect to each Member, the Capital Account balance of such Member after giving effect to the following adjustments: (i) credit to such Capital Account the sum of (A) any amounts which such Member is obligated to restore pursuant to any provision of this Agreement, plus (B) an amount equal to such Member’s share of Company Minimum Gain as determined under Regulation Section 1.704-2(g)(1) and such Member’s share of Member Nonrecourse Debt Minimum Gain as determined under Regulation Section 1.704-2(i)(5), plus (C) any amounts which such Member is deemed to be obligated to restore pursuant to Regulation Section 1.704-1(b)(2)(ii)(c); and (ii) debit to such Capital Account the items described in Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition is intended to comply with the provisions of Regulation Section 1.704-1(b)(2)(ii)(d), and shall be interpreted consistently therewith.

**Administrative Member** means O-SDA Canova, LLC, a Texas limited liability company, and any other Person admitted as an administrative member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including a Replacement Managing Member.

**Administrative Member Pledge** means the Pledge and Security Agreement dated as of the date hereof by the Administrative Member for the benefit of the Investor Member in the form of Exhibit G-2, wherein the Administrative Member pledges and grants a first priority security interest in the Administrative Member’s Interest in the Company to secure the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement.

**Affiliate** means, as to any named Person or Persons (or as to any Member if no Person is specifically named): (i) such Person; (ii) each member of the Immediate Family of such Person; (iii) each legal representative, successor or assignee of any Person referred to in the preceding clauses (i) or (ii); (iv) each trustee of a trust for the benefit of any Person referred to in the preceding clauses (i) or (ii); or (v) any other Person (a) who directly or indirectly controls, is controlled by, or is under common control with such Person, (b) who owns or controls ten percent (10%) or more of the outstanding voting securities of such Person, (c) of which ten percent (10%) or more of the outstanding voting securities is owned by such Person or any of the Persons referred to in the foregoing clauses (i) through (iii), (d) who is an officer, director, partner or trustee of such Person, or (e) for which such Person acts in the capacity of officer, director, partner or trustee.

**Affiliated Entity** means (a) a limited partnership in which the Managing Member, the Developer, any Guarantor or an Affiliate of the Managing Member, the Developer or the Guarantor is a general partner, and in which an Affiliate of Hunt is a limited partner, or (b) a limited liability company in which the Managing Member, the Developer, any Guarantor or an Affiliate of the Managing Member, the Developer or the Guarantor is a managing member, and in which an Affiliate of Hunt is a member.
**AFR** means the “applicable federal rate” as defined in Section 1274(d) of the Code.

**Agency** means Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, or any successor in its capacity as the housing credit agency of the State.

**Agreement** means this First Amended and Restated Operating Agreement, including all Exhibits hereto, as amended from time to time.

**AIA** means the American Institute of Architects.

**ALTA As-Built Survey** means a current recertification of the plat of survey for the Apartment Complex, which shall (i) be prepared by a land surveyor licensed in the state in which the Apartment Complex is located, (ii) be certified for the benefit of the Company, Investor Member and their successors and assigns, and Title Company as having been made in compliance with ALTA minimum detail requirements, and with such certification being otherwise in form and substance satisfactory to the Title Company and Investor Member, (iii) show the location of all improvements located within the boundaries of the Apartment Complex, and (iv) certifying at least: (a) the legal description and boundaries of the Apartment Complex; (b) that the location of each improvement located on the Apartment Complex does not encroach upon any setback lines or violate any building or other restriction of record; (c) the location of all easements appurtenant to or affecting the Apartment Complex, whether visible or of record; (d) the location of all encroachments onto the Apartment Complex from buildings or other improvements on adjacent property; (e) all lot, set-back and building lines on the Apartment Complex; (f) all encroachments by the improvements located on the Apartment Complex over or onto any such easements or over any such lot, set-back or building lines created since the date of the prior survey; and (g) indicate whether the Apartment Complex is in a flood plain and other such items as may apply detailed in Exhibit Q.

**ALTA Survey** means a survey for the Apartment Complex prepared by a land surveyor licensed in the state in which the Apartment Complex is located and certified for the benefit of the Company, Investor Member and Title Company as having been made in compliance with ALTA minimum detail requirements, and with such certification being otherwise in form and substance satisfactory to the Title Company and Investor Member. The survey shall indicate whether the Apartment Complex is in a flood plain and other such items as may apply detailed in Exhibit Q.

**Amendment** has the meaning set forth in Section 4.16.

**Annual Budget** means a pro forma budget of the Company’s expected Cash Receipts and Cash Expenditures for any particular year, which is to be prepared in a sufficiently detailed format reasonably acceptable to the Investor Member, and is to be submitted to the Investor Member as set forth in Section 18.7(a).

**Anti-Corruption Laws** means all laws, rules, statutes, codes and regulations of any governmental entity applicable to the Managing Member, its Affiliates or the Company concerning or relating to corruption or bribery, including laws prohibiting an offer, payment, promise to pay, or authorization of the payment or giving of money or anything else of value, to
anyone, while knowing or believing that all or some portion of the money or thing of value will
be offered, given, promised to, or retained by a Government Official or any other person for the
purposes of obtaining or retaining business, securing any improper advantage or the improper
performance of that person’s or Government Official’s function, or misuse of that person’s or
Government Official’s position.

**Apartment Complex** means the Land and the 58-unit multifamily rental housing
development and other improvements to be constructed, owned and operated thereon by the
Company and to be known as Canova Palms, 1717 W. Irving Blvd., Irving, Dallas County,
Texas.

**Applicable Fraction** has the meaning set forth in Section 42(c)(1)(B) of the Code.

**Applicable Percentage** means the percentage by which the Qualified Basis of a building
in the Apartment Complex is multiplied in order to determine the amount of Housing Tax
Credits available to such building in the Apartment Complex, as more particularly defined in
Code Section 42(b).

**Application** means the Company’s Low Income Housing Tax Credit Application for
Credit Reservation submitted to and approved by the Agency for any undertaking with respect to
the development and operation of the Apartment Complex, including any amendments thereto
approved by the Agency.

**Architect** means Miller Slayton, a Texas corporation, as the architect for the Apartment
Complex pursuant to the Architect’s Contract, or such other Architect as Consented to by the
Investor Member.

**Architect’s Contract** means the AIA Standard Form of Agreement Between Owner and
Architect dated September 17, 2018 by and between the Company and the Architect.

**Asset Management Fee** has the meaning set forth in Section 10.5.

**Assignment** means a valid sale, exchange, pledge, transfer or other disposition of all or
any portion of an Interest made in accordance with the terms of this Agreement.

**Bankruptcy Code** has the meaning set forth in Section 7.2(b)(v).

**BBVA Lender** means BVA Compass Bancshares, Inc.

**BBVA Loan** means that certain construction and permanent loan from the BBVA Lender
to the Partnership in the amount of up to $[8,787,679] at the Closing Date, which is to be
evidenced by the promissory note given by the Company to the BBVA Lender at the Closing
Date, and which is to be secured by the BBVA Loan Mortgage and other related security
documents and financing statements, the terms of which will be subject to the Consent of the
Investor Member, and which will be nonrecourse to the Partnership and the Partners from and
after Conversion.
**BBVA Loan Mortgage** means the mortgage or deed of trust to be given by the Partnership at the Closing in favor of the BBVA Lender, as holder of the BBVA Loan Mortgage, securing the BBVA Loan.

**Business Day** means a day (other than a Saturday or Sunday) on which banks generally are open in New York, New York for the conduct of substantially all of their commercial lending activities.

**Capital Account** means the capital account of a Member as described in Section 13.6.

**Capital Contribution** means, with respect to each Member, the total value of cash or property contributed and agreed to be contributed to the Company by each Member pursuant to Article 4. Any reference in this Agreement to the Capital Contribution of a then Member shall include a Capital Contribution previously made by any prior Member for the Interest of such then Member.

**Capital Contribution Account** has the meaning set forth in Section 4.2(b)(ix).

**Capital Transaction** means any transaction the proceeds of which are attributable to the sale, refinance, exchange, transfer, assignment or other disposition (including a condemnation, to the extent proceeds are not used to rebuild the Apartment Complex, or foreclosure) of all or any portion of the Apartment Complex or a casualty (to the extent proceeds are not used to rebuild the Apartment Complex) affecting the Apartment Complex, but excluding the payment of Capital Contributions.

**Carryover Allocation** means the carryover allocation of Housing Tax Credits issued to the Company by the Agency on December 20, 2018 in an annual amount of not less than $890,850 made pursuant to Code Section 42(h)(1)(E) which requires the Apartment Complex be Placed in Service by the end of the second year after the date of the Carryover Allocation.

**Carryover Certification** means the written certification of the Accountants that the Company had incurred capitalizable costs with respect to the Apartment Complex within one (1) year after the date of the Carryover Allocation of at least ten percent (10%) of the Company’s reasonably expected basis in the Apartment Complex.

**Cash Expenditures** means all disbursements of cash during the applicable period, including, without limitation, cash expenditures for Operating Expenses, Debt Service Expense, including, but not limited to, the monthly funding of the Replacement Reserve and any other reserves required under this Agreement or by any Lender. Cash Expenditures shall not include payments and distributions to be made pursuant to Article 14 of this Agreement, refunds to tenants of security deposits, and expenditures from the Replacement Reserve and other reserves required to be maintained under this Agreement or by any Lender. For purposes of this definition, Cash Expenditures without a specific maturity date shall be paid on a sixty (60) day current basis.

**Cash Flow** means, for any period of time, the excess, if any, of Cash Receipts for such period over Cash Expenditures for such period.
**Cash From Capital Transaction** means the proceeds of a Capital Transaction after (i) payment of all reasonable and customary expenses associated with the Capital Transaction, (ii) repayment of all secured Company debts required by any Lender to be paid with respect to such Capital Transaction, and (iii) application of such proceeds to the repair and restoration of the Apartment Complex as provided under the terms of this Agreement. Cash from Capital Transaction shall not include Cash Flow or proceeds of any Loan.

**Cash Receipts** means all cash receipts of the Company from whatever source, including, without limitation, operating income, subsidy payments, interest or investment earnings on the Replacement Reserve or other reserves required by any Lender and assets of the Company, cash from the forfeiture or application of tenant security deposits and the cash from the release of reserves held by any Lender to the Company other than for application to the expense for which they were set aside. Cash Receipts shall not include Cash From Capital Transaction, cash from Capital Contributions, proceeds from a loan to the Company (including, without limitation, Operating Deficit Loans, IM Loans and MM Loans) and the deposit by tenants of security deposits and any interest payable to tenants thereon.


**Certificate** means the Certificate of Formation of the Company filed with the Filing Office on August 9, 2018, as such certificate may be amended from time to time.

**Closing Date** or **Closing** has the meaning set forth in the Preliminary Statement.

**Co-Managing Member** means Saigebrook Canova, LLC, a Texas limited liability company, and any other Person admitted as a co-managing member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including a Replacement Managing Member.

**Co-Managing Member Pledge** means the Pledge and Security Agreement dated as of the date hereof by the Co-Managing Member for the benefit of the Investor Member in the form of Exhibit G-1, wherein the Co-Managing Member pledges and grants a first priority security interest in the Co-Managing Member’s Interest in the Company to secure the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement.

**Code** means the Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of succeeding law.

**Company** means Canova Palms, LLC, a Texas limited liability company.

**Completion** means the date on which all of the following have occurred, in the reasonable judgment of the Investor Member; (i) Substantial Completion has been achieved; (ii) the lien-free and defect-free completion of Construction of the Apartment Complex in a good and workmanlike manner, in compliance with the Plans and Specifications with only such immaterial variations as to which Consent is not required under this Agreement and other changes approved by the Investor Member in accordance with the terms and provisions of this Agreement and the terms and provisions of the Project Documents; (iii) the issuance of all
necessary permanent certificates of occupancy (with no outstanding issues relating to improvements of the Apartment Complex) from the applicable governmental jurisdictions and authorities for the Apartment Complex, allowing for immediate occupancy of one hundred percent (100%) of the Units, and any other written acknowledgement required by the Project Documents that the Apartment Complex has been completed satisfactorily and Placed in Service; (iv) delivery and installation in the Apartment Complex of all necessary and appropriate fixtures, equipment and personal property, including, without limitation, installation of all required appliances in the residential units in the Apartment Complex has occurred; (v) all amounts owing to the Contractor for the construction or rehabilitation of the Apartment Complex have been or will be with the Fourth Installment paid-in-full, as evidenced by a final application for payment (as evidenced by the Architect’s Certificate for Payment AIA Forms G702 and G703); (vi) the payment and release of all liens of subcontractors, materialmen, and other providers of labor, equipment, material and/or services to the Land and the Apartment Complex as evidenced by the receipt of all unconditional lien releases from all such subcontractors, materialmen and all other providers of labor, equipment, material and/or services to the Land and the Apartment Complex and (vii) the Completion Documentation has been provided to, and approved by, the Investor Member, with such approval not to be unreasonably withheld.

**Completion Date** means the date on which Completion is achieved.

**Completion Documentation** means any documentation that the Investor Member may reasonably require to demonstrate that the criteria for Completion have been satisfied, including but not limited to: (i) fully-executed AIA documents G704, G706, G706A, and (if a payment and performance bond had been issued) G707; (ii) a letter from the Contractor to the Company stating that the Contractor’s warranty has commenced; (iii) a letter from the Architect to the Company stating that all “work” described in the Construction Contract, including completion of all “punch work,” has been completed; (iv) the ALTA As-Built Survey; (v) electronic copies of the “as-built” plans and specifications; (vi) if applicable, chain-of-custody and disposal records for any Hazardous Material disposal; (vii) engineer certification pertaining to soil compaction and concrete stress testing; (viii) if applicable, written approval by appropriate professionals pertaining to the fulfillment of any “green building” or EnergyStar requirements; (ix) if requested by the Investor Member, or otherwise if required by the municipality, written approvals of completed work from the mechanical, electrical, plumbing, and/or landscape design professionals; (x) if applicable in the State, a copy of the filed public notice of completion; and (xi) if requested by the Investor Member due to reasonable concerns about the as-completed Apartment Complex’s compliance with Access Laws, an Access Laws Certification.

**Compliance Period** means with respect to each building in the Apartment Complex, the period of fifteen (15) taxable years beginning with the first taxable year of the Credit Period, as more particularly defined in Code Section 42(i).

**Consent** means the prior written consent or approval of the Investor Member at its sole discretion (except where otherwise stated) and/or any other Member, as the context may require, to do the act or thing for which the consent is solicited.

**Construction** means construction, renovation or rehabilitation, as applicable, of the Apartment Complex.
**Construction Contract** means the [Partnership’s Construction Contract] with the General Contractor’s.

**Construction Loan Draw** has the meaning set forth in Section 4.4.

**Construction Loan Closing** means the date upon which the Construction Loan is closed and the initial disbursement is made thereunder. The Construction Loan Closing is anticipated to occur on or before the Closing Date.

**Construction Period** means the period commencing on Construction Loan Closing and ending on the Completion Date.

**Continued Compliance Sale** has the meaning set forth in Section 5.5.

**Contractor** means, collectively, General Contractor and such other contractor subject to the Consent of the Investor Member.

**Contribution Date** has the meaning set forth in Section 4.13.

**Controlling Interest** means the power to direct the management and policies of any Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

**Controlling Person** has the meaning given to it in the context of Section 15 of the Securities Act of 1933, as amended.

**Conversion** means the first date upon which each of the following shall have occurred as reasonably determined and approved in writing by the Investor Member: (a) the Completion Date, (b) the BBVA Loan shall have been converted to its permanent phase in accordance with Section 8.4(a), (c) amortization of the BBVA Loan shall commence within thirty (30) days of Conversion, (d) the full disbursement of the HOME Loan, and (e) such other conditions as the Investor Member may require.

**Cost Certification** means the written certification of the Accountants, in form and substance satisfactory to the Investor Member, as to the itemized amounts of the acquisition, construction and development costs of the Apartment Complex and the Eligible Basis and Applicable Percentage pertaining to each building in the Apartment Complex, together with evidence of submission thereof to the Agency.

**Cost Savings** means the amount, if any, by which Permitted Sources exceed Development Costs.

**Counsel for the Company** means Shutts & Bowen LLP or such other firms as may be engaged by the Managing Member with Consent of the Investor Member.

**Credit Period** means the “credit period” with respect to each of the buildings in the Apartment Complex, as defined in Code Section 42(f).
DDF Election has the meaning set forth in Section 8.1(b).

Debt Service Coverage Ratio means, for the applicable period, the Net Operating Income divided by the Debt Service Expense. The calculation of the Debt Service Coverage Ratio shall be prepared by the Managing Member and approved in good faith by the Investor Member in its sole discretion, notwithstanding any other provision herein to the contrary.

Debt Service Expense means, with respect to any period, the debt service expense incurred by the Company on an accrual basis, including interest expense and required principal payments, late charges and any other fees and expenses incurred during such period and solely relating to the BBVA Loan; provided that where the Debt Service Expense is being calculated for purposes of Rental Achievement and Loan sizing pursuant to Section 8.4(a) for the period prior to Rental Achievement (other than in connection with calculation of Development Costs), it shall equal the Debt Service Expense that would have been incurred by the Company if Rental Achievement (assuming the anticipated BBVA Loan terms at the time of the calculation) had occurred prior to such period.

Default IM Loans means IM Loans (or portions thereof) made pursuant to Section 4.12 that arise from a default by the Managing Member in its obligations to the Company under this Agreement. For example, an IM Loan made to fund Operating Deficits that the Managing Member failed to fund in breach of the Operating Deficit Guaranty shall constitute a Default IM Loan.

Deferred Development Fee means the deferred portion, if any, of the Development Fee payable by the Company to the Developer pursuant to the Development Agreement and Article 14. The amount of the Deferred Development Fee is expected to be $245,024.

Deficit Restoration Contribution has the meaning set forth in Section 4.2(c)(ii).

Deficit Restoration Obligation has the meaning set forth in Section 4.2(c)(ii).

Developer means, collectively, Saigebrook Development, LLC, a Florida limited liability company and O-SDA Industries, LLC, a Texas limited liability company.

Developer Pledge means the Pledge and Security Agreement dated as of the date hereof by the Developer for the benefit of the Investor Member in the form of Exhibit H.

Development Agreement means the Development Agreement dated as of February 1, 2019 between the Developer and the Company, in the form set forth in Exhibit E.

Development Budget means the construction, development and financing budget for the Apartment Complex, including, without limitation, the construction of the Apartment Complex, the furnishing of all personalty in connection therewith, and the operation of the Apartment Complex prior to Rental Achievement, which is attached hereto as Exhibit B, and any amendments thereto made with the Consent of the Investor Member.

Development Costs means all direct or indirect costs paid or accrued by the Company related to the acquisition of the Land and the development and Completion of the Apartment
Complex through and including Rental Achievement, including, without limitation, all amounts due under and pursuant to the Construction Contract, all costs of completing punchlist items regardless of when incurred and all direct or indirect costs paid or accrued by the Company related to the operation of the Apartment Complex prior to and including Rental Achievement, including, without limitation, the following: (i) costs of acquiring, financing, developing and constructing the Apartment Complex, as described in and as contemplated by the Plans and Specifications and the Project Documents, including, without limitation, any construction cost overruns, the cost of any change orders and all costs necessary to achieve Completion and Rental Achievement; (ii) all Debt Service Expense which is due and payable or accrues at any time prior to Rental Achievement; (iii) all costs, payments and deposits needed to avoid a default under the BBVA Loan, including, without limitation, all required deposits to satisfy any requirements of the BBVA Lender and the Investor Member to keep the BBVA Loan “in balance” prior to Rental Achievement; (iv) all monthly payments required to be made to the Replacement Reserve upon and prior to Rental Achievement; (v) all costs and expenses relating to remediying any environmental problem or condition of Hazardous Materials that existed on or prior to Rental Achievement; (vi) all costs, expenses and other charges incurred in connection with the operation of the Apartment Complex on or prior to Rental Achievement, including, without limitation, local taxes, utilities, mortgage insurance premiums and casualty and liability insurance premiums and other amounts which are required pursuant to the BBVA Loan; (vii) all other costs and expenses of the Company accrued on or prior to Rental Achievement, including, without limitation, legal fees, and fees of other professionals; (viii) any fees paid or due to the Managing Member and its Affiliates, including the Development Fee; (ix) all costs to achieve Construction Loan Closing, Conversion and Rental Achievement, including costs to date down Owner’s Title Policy; and (x) funding of the Operating Reserve, Rental Achievement Reserve (if applicable) and any other reserve in accordance with Section 5.10 hereof.

**Development Deficit** means, as of any date, the amount, if any, by which the Development Costs which the Company has an obligation to pay as of such date exceed the sum of Permitted Sources as of such date.

**Development Fee** means the fee payable by the Company to the Developer pursuant to the Development Agreement and as set forth in Section 5.9(a).

**Due Diligence Documents** means the documents requested and provided to the Investor Member in connection with its review of the transaction reflected herein.

**Economic Risk of Loss** has the meaning set forth in Regulation Section 1.752-2.

**Eligible Basis** has the meaning set forth in Code Section 42(d) and the Regulations and rulings thereunder.

**Entity** means any general partnership, limited partnership, corporation, limited liability company, joint venture, trust, business trust, cooperative, association, the State or any agency or political subdivision thereof.
**Environmental Documents** means that certain Phase I Environmental Site Assessment prepared by Terracon Consultants, Inc., of Dallas, Texas, [dated January 12, 2018 and updated on February 1, 2019.]

**Environmental Laws** means any law, regulation, code, license, permit, order, judgment, decree or injunction from any governmental authority relating to the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substance Control Act, the Safe Drinking Water Control Act, CERCLA, the Occupational Safety and Health Act and any other federal, state or local laws, regulations, ordinances or decrees governing Hazardous Material or hazardous substances or the protection or preservation of public and/or human health or the environment (including air, water, soil and natural resources) or the presence, transportation, recycling, storage, treatment, use, handling, disposal, release or threat of release, or exposure to Hazardous Material, in each such case which has the force of law and is in force at the date of this Agreement.

**Equity Lender** means the financial institution which advances funds to the Investor Member to pay its Capital Contribution obligations under this Agreement.

**Event of Bankruptcy** means, with respect to the Company, a Managing Member, the Management Agent, a Guarantor or a Person with a Controlling Interest in any of them (i) the voluntary or involuntary filing of a petition in bankruptcy by or against such person under the federal Bankruptcy Code (11 U.S.C. §§1101 et seq.), as amended, or any successor statute thereto, or the commission of an act of bankruptcy (except if the filing of the petition in bankruptcy or act of bankruptcy is susceptible to cure or dismissal and is so cured or dismissed within ninety (90) days), (ii) the voluntary or involuntary commencement of an assignment for the benefit of creditors, a receivership or other insolvency proceeding pursuant to state law or as determined by court proceedings; or (iii) with respect to a Managing Member, any of the following:

(a) The making of an assignment for the benefit of creditors or the filing of a voluntary petition in bankruptcy by the Managing Member;

(b) The filing of an involuntary petition in bankruptcy against the Managing Member which is not dismissed within ninety (90) days after filing or the adjudication of the Managing Member as a bankrupt or insolvent;

(c) The filing by the Managing Member of a petition or answer seeking for the Managing Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule;

(d) The filing by the Managing Member of an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Managing Member in any proceeding of a nature described under sub-paragraph (c) above;

(e) The seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator by any Person with a Controlling Interest in the Managing Member or of all or a substantial part of the Managing Member’s properties;
(f) The commencement of a proceeding against the Managing Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule not dismissed within ninety (90) days after commencement of the proceeding;

(g) The appointment, without the Managing Member’s Consent, of a trustee, receiver or liquidator, either of the Managing Member or of all or a substantial part of the Managing Member’s properties, which is not vacated or stayed on or before the ninetieth (90th) day after such appointment and, if stayed, is not vacated on or before the ninetieth (90th) day after expiration of the stay;

(h) The inability of the Managing Member to pay its debts as they become due;

(i) The Managing Member becoming “insolvent” by the taking of any action or the making of any transfer or otherwise, as insolvency is or may be defined pursuant to the Federal Bankruptcy Code, the Uniform Fraudulent Transfers Act, any similar state or federal act or law, or the ruling of any court, or

(j) If either (I) any one or more judgments or orders against the Managing Member with respect to a claim or claims involving in the aggregate liabilities exceeding $50,000.00, which judgment or order is not covered in full by insurance or is not stayed, bonded, paid or discharged within thirty (30) days after such judgment or order, or (II) any writ of attachment or execution or any similar process is (A) issued or levied against such Person’s property and (B) is not discharged or stayed within thirty (30) days thereof.

**Event of Default** means an event of default listed in Section 7.1.

**Excess IM Loan Amount** means the amount, if any, by which the outstanding balance of all IM Loans, including principal and accrued interest, exceeds the outstanding balance of all MM Loans, including principal and accrued interest.

**Excess MM Loan Amount** means the amount, if any, by which the outstanding balance of all MM Loans, including principal and accrued interest, exceeds the outstanding balance of all IM Loans, including principal and accrued interest.

**Extended Use Agreement** means the extended low-income housing commitment executed by the Company and the Agency related to the Apartment Complex, which commitment satisfies the requirements of Code Section 42(h)(6)(B) which is required to be recorded prior to the end of the first year in which Housing Tax Credits are claimed.

**Facility** has the meaning given to it in CERCLA, and shall also include any meaning given to it in any similar state or local statutes, ordinances or regulations.

**Fifth Installment** has the meaning set forth in Section 4.2(b)(v).

**Filing Office** has the meaning set forth in the Preliminary Statement.
FinCen has the meaning set forth in Section 6.1(ggg).

First Installment has the meaning set forth in Section 4.2(b)(i).

Forms 8609 means the IRS Forms 8609 issued by the Agency for each residential building of the Apartment Complex which allocates Housing Tax Credits to such residential building.

Fourth Installment has the meaning set forth in Section 4.2(b)(iv).

Funding Conditions means the conditions to funding of the Investor Member’s Capital Contributions as set forth on Exhibit C hereto.

General Contractor means Maker Bros., LLC of [Addison, Texas], pursuant to the General Contractor’s Construction Contract.

General Contractor’s Construction Contract means the AIA Standard Form of Agreement Between Owner and Contractor dated [___________], by and between the Company and the General Contractor relating to the construction of the Apartment Complex, and subject to the Consent of the Investor Member.

Government Official means an officer, employee or official of a government, government owned or controlled entity, political party or public international organization, or a candidate for political office.

Gross Operating Revenues means, with respect to any given period of time, actual monthly collections from the customary operations of the Apartment Complex, including, without limitation, any and all of the following: (i) rent paid by tenants; (ii) rental assistance subsidy payments that are actually paid during such period or up to 90 days accrual; (iii) late charges and interest paid by tenants; (iv) rents, receipts and fees from cellular towers, laundry facilities and similar items; (v) fees from Apartment Complex amenities, including parking, cable television and telephone revenues; and (vi) earnings on the Replacement Reserve, Operating Reserve, Rental Achievement Reserve (if applicable) or other reserves, accounts and investments of the Company; (vii) tenant security deposits forfeited by tenants or applied against amounts due from tenants; and (viii) any rental assistance subsidy payments received by the Company in excess of maximum rents allowed under Section 42 of the Code. Gross Operating Revenues shall not include any revenues from condemnation or casualty proceeds (other than rental interruption insurance), any cash advances from the Company, refunds or rebates from suppliers or vendors, revenue from the sale of any personal or real property of the Company. Gross Operating Revenues shall not include prepaid rent until such time the rent is due. For purposes of determining whether Rental Achievement has occurred, and the applicable Debt Service Coverage Ratio at any time, Gross Operating Revenues shall not exceed the amount of Gross Operating Revenues that could have been achieved by applying a 7% vacancy rate to potential gross income and shall specifically exclude (1) any non-project based rental assistance subsidy payments received by the Company in excess of maximum rents allowed under Section 42 of the Code, (2) fees from parking in excess of the amount underwritten by the Investor Member to be included in Gross Operating Revenues, (3) non-recurring or unpredictable sources of income such as late fees, penalties, security deposits, interest income on security deposits,
prepaid rent and rental receipts prior to the month to which they relate, tenant application fees, interest or other income earned on investment of Company funds, and (4) rents paid by (a) any commercial space tenant, and (b) any tenant in a Housing Tax Credit Unit who does not qualify as low income under the requirements of Section 42 of the Code and the Project Documents.

**Groundbreaking Activities** has the meaning set forth in Section 6.1(eee).

**Guarantors** means, jointly and severally, the Co-Managing Member, the Administrative Member, the Developer, Lisa M. Stephens, individually and Megan D. Lasch, individually.

**Guaranty** means the guaranty of the performance of certain of the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement for the benefit of the Investor Member given by the Guarantors, which Guaranty is in the form of Exhibit F.

**Hazardous Material** has the collective meanings given to the terms “hazardous material”, “hazardous substances” and “hazardous wastes” in CERCLA, and to the term “radioactive materials” (including, without limitation, any source and special nuclear by-product material) as defined by or in the context of the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., as amended or hereafter amended, and also includes any hazardous, toxic or polluting contaminant, substance or waste, including without limitation any solid waste, toxic substance, hazardous substance, hazardous material, hazardous chemical, pollutant or hazardous or acutely hazardous waste defined or qualifying as such in (or for purposes of) any Environmental Law. In addition, the term “Hazardous Material” also includes, but is not limited to, petroleum (including, without limitation, crude oil and any fraction thereof), petroleum products, asbestos containing materials, microbial contaminants, polychlorinated biphenyls or lead-based paint, radon and any other substance known to be hazardous.

**HOME Act** has the meaning set forth in Section 6.1(q).

**HOME Lender** means the City of Irving, Texas, in its capacity as holder of the HOME Loan, or its successors or assigns in such capacity, or such other HOME Lender subject to the Consent of the Investor Member.

**HOME Loan** means the construction and permanent loan in the anticipated principal amount of $1,000,000 to be made to the Company by the HOME Lender in part at the Construction Loan Closing, which is to be evidenced by the promissory note given by the Company to the HOME Lender at the Construction Loan Closing, and which is to be secured by the HOME Mortgage and other related security documents and financing statements, the terms of which are subject to the Consent of the Investor Member.

**HOME Minimum Set-Aside Test** means the HOME Program set aside test required to be met by the Apartment Complex as set forth in the [HOME Regulatory Agreement] entered or to be entered into between the Company and the HOME Lender in connection with the HOME Loan.
**HOME Mortgage** means the mortgage or deed of trust to be given by the Company at the Construction Loan Closing in favor of the HOME Lender, as holder of the HOME Loan, securing the HOME Loan.

**HOME Program** means the HOME Investment Partnerships Program established under the Cranston Gonzalez National Affordable Housing Act of 1990.

**Housing Tax Credit Compliance Guaranty** means the guaranty of the Managing Member to make payments described in Section 8.3.

**Housing Tax Credit Disallowance Event** means (a) the filing of a tax return by the Company or an amendment by the Company to a tax return evidencing a reduction in the Qualified Basis of the Apartment Complex causing a recapture or disallowance of Housing Tax Credits previously allocated to the Investor Member, (b) a reduction in the Qualified Basis or a change in the Applicable Percentage of the Apartment Complex following an assessment or audit by the Service which results in the assessment of a deficiency by the Service against the Company with respect to any Housing Tax Credits previously claimed in connection with the Apartment Complex, unless the Company shall timely file a petition with respect to such deficiency with the United States Tax Court or any other federal court of competent jurisdiction and the collection of such assessment shall be stayed pending the disposition of such petition, (c) a decision by the United States Tax Court or any other federal court of competent jurisdiction upholding the assessment of a deficiency against the Company associated with a reduction in Qualified Basis of the Apartment Complex or change in the Applicable Percentage with respect to any Housing Tax Credits previously claimed in connection with the Apartment Complex, unless the Company shall timely appeal such decision and the collection of such assessment shall be stayed pending the disposition of such appeal, or (d) the decision of a federal court of competent jurisdiction affirming such decision.

**Housing Tax Credit Excess** has the meaning set forth in Section 4.2(d).

**Housing Tax Credit Price** means $0.94.

**Housing Tax Credit Shortfall** means any reduction in Housing Tax Credits of which 99.99% are allocable to the Investor Member as a result of (a) Actual Housing Tax Credits being less than the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits), or (b) as a result of a Housing Tax Credit Disallowance Event.

**Housing Tax Credit Shortfall Payment** means any amounts payable by reason of the provisions of Section 4.2(d) or Section 8.3 as a result of a Housing Tax Credit Shortfall.

**Housing Tax Credit Units** has the meaning set forth in Section 6.1(p).

**Housing Tax Credits** means the low-income housing tax credits allowable to the Company pursuant to Code Section 42.

**Hunt** means Hunt Capital Partners, LLC, a Delaware limited liability company, or its successor in interest.
**Hunt Entity** means an Affiliate of Hunt or the Investor Member.

**Hunt Indemnified Parties** means the Investor Member, and its Affiliates, and all past and present officers, directors, managers, employees, partners, agents, shareholders, members, trustees, predecessors, successors, subrogees, attorneys, insurance carriers and assigns of the Investor Member and its Affiliates. For the avoidance of doubt, any Person holding more than 10% of the investor member interests in the Investor Member is an Affiliate of the Investor Member and shall constitute one of the Hunt Indemnified Parties.

**IM Loans** has the meaning set forth in Section 4.12.

**Immediate Family** means with respect to any Person, such Person’s spouse, parents, parents-in-law, descendants, nephews, nieces, brothers, sisters, brothers-in-law, sisters-in-law, children-in-law and grandchildren-in-law.

**Imputed Underpayment** means that amount of tax finally determined to be due under Section 6225 of the Code with respect to adjustments to the Company’s items of income, gain, loss, deduction, or credit for any Company taxable year.

**Initial 100% Occupancy** means that Construction has been completed and one hundred percent (100%) of all units (excluding the Market Rate Units) in the Apartment Complex including the Housing Tax Credit Units shall have been leased to and shall have been physically occupied by Qualified Tenants.

**Initial Operating Reserve Amount** has the meaning set forth in Section 5.10(b).

**Initiating Member** has the meaning set forth in Section 4.13.

**Installment or Installments** has the meaning set forth in Section 4.2(b).

**Interest** means the entire interest of a Member in the Company at any particular time, including the right of such Member to any and all benefits to which a Member may be entitled hereunder and the obligation of such Member to comply with the terms of this Agreement.

**Investor Member** means HCP-ILP, LLC, a Nevada limited liability company, its successors and/or assigns and any Person or Persons who replaces it as a Substitute Investor Member.

**Involuntary Withdrawal** has the meaning set forth in Section 7.2(b)(i).

**Land** means the tract of land currently owned or leased or to be purchased or leased by the Company upon which the Apartment Complex will be located, as more particularly described in Exhibit A hereto.

**Lender** means any Person who makes a loan to the Company for so long as such loan remains outstanding, or its successors and assigns in such capacity.

**Lending Member** has the meaning set forth in Section 4.16.
**Limited Recourse Liability** has the meaning set forth in Section 8.3(d).

**Liquid Assets** means cash or cash equivalents that can be converted to cash within forty-eight (48) hours.

**Liquidator** means the Managing Member or, if there is none at the time in question, such other Person who may be appointed in accordance with applicable law and who shall be responsible for taking all action necessary or appropriate to wind up the affairs of, and distribute the assets of, the Company upon its dissolution.

**Loans** means, collectively, the BBVA Loan and the HOME Loan.

**Management Agent** means Accolade Property Management, Inc., a Texas corporation, and/or any successor or assign who is selected by the Managing Member with the Consent of the Investor Member to provide management services with respect to the Apartment Complex in accordance with Article 16.

**Management Agreement** means the agreement between the Company and the Management Agent substantially in the form attached hereto as Exhibit I, providing for the marketing and property management of the Apartment Complex by the Management Agent.

**Management Fee** means the fee payable by the Company to the Management Agent pursuant to the Management Agreement.

**Managing Member** means the Co-Managing Member and the Administrative Member and any other Person admitted as a managing member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including the Replacement Managing Member.

**Managing Member Pledge** means the Co-Managing Member Pledge and the Administrative Member Pledge.

**Managing Member’s Special Capital Contribution** has the meaning set forth in Section 4.1(c).

**Market Rate Units** has the meaning set forth in Section 6.1(p)(ii).

**Member** means the Co-Managing Member, the Administrative Member, and the Investor Member.

**Member Loans** means collectively the IM Loans and the MM Loans.

**Minimum Set-Aside Test** means the set aside test selected by the Company pursuant to Code Section 42(g) whereby at least forty percent (40%) of the Housing Tax Credit Units in the Apartment Complex must be occupied by individuals with incomes equal to sixty percent (60%) or less of area median income; *provided, that* five (5) of the Housing Tax Credit Units must be occupied by persons whose incomes are at or below 30% of the established median gross income, twenty (20) of the Housing Tax Credit Units must be occupied by persons whose...
incomes are at or below 50% of the established median gross income and twenty-five (25) of the Housing Tax Credit Units must be occupied by persons whose incomes are at or below 60% of the established median gross income, as set forth in the Application and in all cases as adjusted for family size. There will be eight (8) Market Rate Units.

**MM Incentive Management Fee** means the fee payable by the Company to the Managing Member pursuant to the provisions of Sections 5.9(b) and 14.1(a).

**MM Loans** have the meaning set forth in Section 4.11.

**Net Operating Income** means, with respect to any given period of time, the aggregate Gross Operating Revenues for such period of time minus the aggregate Operating Expenses for such period of time.

**New Allocation** has the meaning set forth in Section 13.5(b).

**No Cure Sections** has the meaning set forth in Section 7.2(c)(i).

**Non-Initiating Members** has the meaning set forth in Section 4.13.

**Notice, Notification and Notify** each have the meaning set forth in Section 19.1.

**Notice of Default** has the meaning set forth in Section 7.2(a).

**O&M** has the meaning set forth in Section 6.2.

**Occupancy Commencement Date** means the first date a Unit is leased and occupied.

**Operating Deficit** means, for any specified period of time, the amount by which Cash Expenditures for such period exceeds Cash Receipts for such period.

**Operating Deficit Guaranty** means the guaranty of the Managing Member to fund Operating Deficits during the Operating Deficit Guaranty Period.

**Operating Deficit Loan** means a loan from a Managing Member to the Company to fund Operating Deficits pursuant to Section 8.2.

**Operating Deficit Loan Cap** has the meaning set forth in Section 8.2.

**Operating Deficit Guaranty Period** means the period commencing on Rental Achievement and terminating sixty (60) months after Rental Achievement, provided that such sixty (60) month period shall be extended for additional periods of twelve (12) consecutive months unless and until (i) the Company achieves an average Debt Service Coverage Ratio of at least 1.15 to 1.0 during the last twelve (12) calendar months of the Operating Deficit Guaranty Period as so extended and (ii) the balance of the Operating Reserve is at least the $236,000.

**Operating Expenses** means, with respect to any given period of time, all expenses of the Company in connection with the ownership, operation, leasing and occupancy of buildings in the Apartment Complex attributable to such period as determined on an accrual basis, (except that
seasonal expenses shall be averaged over the entire year), excluding Debt Service Expense and all expenses and payments set forth in Section 14.1(a), but including, without limitation, any and all of the following: (i) general real estate taxes; (ii) special assessments or similar charges; (iii) personal property taxes, if any; (iv) sales and use taxes applicable to such operating expenses; (v) cost of utilities for the Apartment Complex; (vi) maintenance and repair costs of the Apartment Complex (to the extent not funded from the Replacement Reserve); (vii) operating and management expenses and fees; (viii) premiums of insurance carried on or with respect to the Apartment Complex; (ix) marketing costs, leasing commissions and advertisement and promotional costs, to obtain leases and the cost of work performed to ready space in the Apartment Complex for occupancy under leases; (x) accounting and auditing fees and costs, attorneys’ fees and other administrative and general expenses and disbursements of the Company (excluding the Asset Management Fee and the MM Incentive Management Fee) in connection with the ownership, operation, leasing and management of the Apartment Complex and the Company; (xi) amounts required to fund the Replacement Reserve and any other reserve required pursuant hereto or under the Project Documents; and (xii) any capital expenditures not funded from reserves. For purposes of calculating the Debt Service Coverage Ratio at any time, Operating Expenses (excluding annual deposits for Replacement Reserves) means the greater of (1) actual Operating Expenses, as calculated in the preceding sentence, inclusive of fully assessed real estate taxes, or (2) $[4,276] [Drafter’s Note: Subject to final underwriting] per unit times 58 per year plus actual real estate taxes if available, otherwise $[5,345] [Drafter’s Note: Subject to final underwriting] per unit per year.

**Operating Reserve** has the meaning set forth in Section 5.10(b).

**Opinion of Counsel** means the opinion(s) of counsel to be rendered by Counsel for the Company and the Managing Member to the Investor Member and its counsel, as required herein, in form and substance satisfactory to the Investor Member.

**Original Agreement** has the meaning set forth in the Preliminary Statement.

**Partnership Minimum Gain** means the amount determined by computing, with respect to each Partnership Nonrecourse Liability, the amount of gain, if any, that would be realized by the Company if it disposed of (in a taxable transaction) the property subject to such liability in full satisfaction of such liability, and by then aggregating the amounts so computed. Such computations shall be made in a manner consistent with Regulation Sections 1.704-2(d) and (k).

**Partnership Nonrecourse Debt** means any Company liability (a) that is considered nonrecourse under Regulation Section 1.1001-2 or for which the creditor’s right to repayment is limited to one or more assets of the Company and (b) for which any Member or Related Person bears the Economic Risk of Loss.

**Partnership Nonrecourse Debt Minimum Gain** means the amount of partner nonrecourse debt minimum gain and the net increase or decrease, as the case may be, in partner nonrecourse debt minimum gain determined in a manner consistent with Regulation Sections 1.704-2(d), 1.704-2(g)(3), 1.704-2(i)(3) and 1.704-2(k).
**Partnership Nonrecourse Liability** means any Company liability (or portion thereof) for which no Member or Related Person bears the Economic Risk of Loss.

**Partnership Representative** has the meaning set forth in Section 15.2(a).

**Payment Date** means the date which is seventy-five (75) days after the end of the Company’s fiscal year with respect to the preceding fiscal year.

**Percentage Interest** means ninety-nine and ninety-nine hundredths percent (99.99%) as to the Investor Member, sixty one-thousandth percent (0.0060%) as to the Co-Managing Member and forty one-thousandth percent (0.0040%) as to the Administrative Member; provided, however, if a Replacement Managing Member replaces the Managing Member pursuant to Section 7.2(b)(i) and (ii), then the Replacement Managing Member shall have a Percentage Interest of eight one-thousandth percent (0.01%).

**Permanent Loan Shortfall** has the meaning set forth in Section 8.4(b).

**Permitted Sources** means (i) proceeds of the Loans; (ii) the right to defer the Development Fee pursuant to this Agreement and the Development Agreement; (iii) the Capital Contributions required by the Members under this Agreement (other than the Special Additional Capital Contribution, the Managing Member’s Special Capital Contribution); and (iv) Cash Receipts prior to Rental Achievement.

**Person** means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such individual or Entity as the context may require.

**Placed in Service** or **Placement in Service** means the placement in service of all dwelling units in the Apartment Complex for purposes of Section 42 of the Code.

**Placed in Service Date** means the date by which all dwelling units in the Apartment Complex have been Placed in Service.

**Plans and Specifications** means the plans and specifications for the Apartment Complex stamped with the seal of an architect and/or engineer, which have been approved in writing by the Investor Member, and any changes thereto made in accordance with the terms of this Agreement. The Plans and Specifications approved by the Investor Member, and the date thereof, are listed on Exhibit P.

**Pledged Payments** has the meaning set forth in Section 5.11.

**Predevelopment Loan** means the pre-development loan made to the Company by HCP-ILP, LLC, a Nevada limited liability company on January 30, 2019 in the principal amount of $400,000, evidenced by the promissory note given by the Company to the HCP-ILP, LLC, a Nevada limited liability company, and to be paid off with proceeds of the First Installment.

**Prime Rate** means the “prime rate” of interest as published in The Wall Street Journal from time to time.
**Project Documents** means and includes (i) all documentation related to the Loans; (ii) the Construction Contract, the Architect’s Agreement, the Development Agreement, the Guaranty, the Management Agreement and documentation relating thereto, (iii) the Plans and Specifications, (iv) the Application, (v) the reservation, Carryover Allocation, Carryover Certification and related documents pertaining to the Housing Tax Credits, (vi) the Extended Use Agreement, (vii) the Section 811 Subsidy Contract, (viii) [Reserved], (ix) all other instruments delivered to (or required by) any Lender and/or any Agency, (x) the Managing Member Pledge and the Developer Pledge, (xi) the Purchase Option Agreement, and (xii) all other documents relating to the Apartment Complex and by which the Company is bound, in each case as amended or supplemented from time to time.

**Projected Housing Tax Credits** means Housing Tax Credits that the Managing Member has projected to be the total amount of the Housing Tax Credits which will be allocated to the Investor Member by the Company, constituting 99.99% of the Housing Tax Credits which are projected to be available to the Company. The Projected Housing Tax Credits as of the date hereof are allocated to the following Fiscal Years in the following respective amounts (subject to adjustment if the Projected Housing Tax Credits are revised pursuant to Section 4.2(d)):

- 2020: $578,995
- 2021-2029: $890,761
- 2030: $311,766

**Purchase Option Agreement** means the Purchase Option Agreement attached hereto as Exhibit O.

**Purposes** means the various reasons and purposes for which the Company has been formed as recited in Section 3.1.

**Qualified Basis** means that portion of the Eligible Basis of the Apartment Complex upon which the Company is able to receive Housing Tax Credits, as more particularly defined in Code Section 42(c).

**Qualified Income Offset Item** means (1) an allocation of loss or deduction that, as of the end of each year, reasonably is expected to be made (a) pursuant to Section 704(e)(2) of the Code to a donee of an interest in the Company, (b) pursuant to Section 706(d) of the Code as the result of a change in any Member’s Interest, or (c) pursuant to Regulation Section 1.751-1(b)(2)(ii) as the result of a distribution by the Company of unrealized receivables or inventory items and (2) a distribution that, as of the end of such year, reasonably is expected to be made to a Member to the extent it exceeds offsetting increases to such Member’s Capital Account which reasonably are expected to occur during or prior to the Company taxable year in which such distribution reasonably is expected to occur.

**Qualified Tenant** means a tenant (i) with income on the date of the initial occupancy of the tenant’s unit not exceeding that permitted by the Minimum Set-Aside Test or the HOME Minimum Set-Aside Test, as applicable, and any other additional set-asides applicable to the Apartment Complex, who leases a Unit in the Apartment Complex under a lease having an
original term of not less than twelve (12) months and at a rent which satisfies the Rent Restriction Test and (ii) complying with any other requirements imposed by the Project Documents.

**Recourse Obligations** has the meaning set forth in Section 13.4(a).

**Regulations** means the regulations promulgated under the Code.

**Related Person** means a Person related to a Member within the meaning of Regulation Section 1.752-4(b).

**Rent Restriction Test** means the test pursuant to Code Section 42(g) whereby the gross rent, including utility allowances, charged to tenants of Housing Tax Credit Units in the Apartment Complex is not allowed to exceed thirty percent (30%) of the imputed income limitation levels applicable to such Housing Tax Credit Units based on the applicable area median income levels under the Minimum Set-Aside Test or the HOME Minimum Set-Aside Test, as applicable.

**Rental Achievement** means the first date on which the Apartment Complex has attained, as reasonably determined and approved by the Investor Member in writing, all of the following: (a) either (i) a 1.15 to 1.00 Debt Service Coverage Ratio with respect to the BBVA Loan, each month for a period of three (3) consecutive calendar months of operations ending within 60 days immediately preceding the anticipated date of Rental Achievement, or (ii) full funding of the Rental Achievement Reserve, (b) physical occupancy of at least ninety percent (90%) of the units in the Apartment Complex each month over the same three (3) month period, including at least ninety percent (90%) physical occupancy of the Housing Tax Credit Units each month over the same three (3) month period by Qualified Tenants, (c) Conversion, (d) Initial 100% Occupancy, (e) no continuing Event of Default hereunder, and (f) continuing compliance with the Minimum Set Aside Test.

**Rental Achievement Reserve** has the means set forth in Section 5.10(d).

**Replacement Managing Member** has the meaning set forth in Section 7.2(b)(ii).

**Replacement Reserve** means (a) the Replacement Reserve to be established by the Company and administered in accordance with Section 5.10(a), and (b) any funds of the Company held by any Lender as a reserve for repairs and replacements.

**Revised Projected Housing Tax Credits** has the meaning set forth in Section 4.2(d)(vii).

**Second Installment** has the meaning set forth in Section 4.2(b)(ii).

**Section 4.16 Capital Contributions** has the meaning set forth in Section 4.16.

**Section 811 Subsidy Contract** means a Section 811 Project Rental Assistance Program Owner Participation Agreement entered to by the Managing Member, with the Consent of the Investor Member, to provide rental subsidy for 10 units restricted at 50% or 60% of the
established median gross income and occupied by Eligible Tenants (as defined in the Section 811 Subsidy Contract) for a term of 30 years.

**Service** means the Internal Revenue Service.

**Shortfall Year** has the meaning set forth in Section 4.2(d)(ii).

**Special Additional Capital Contribution** has the meaning set forth in Section 4.2(c).

**State** means the State of Texas.

**Substantial Completion** means the date on which all of the following have occurred to the reasonable satisfaction of the Investor Member: (i) the issuance of all necessary certificates of occupancy (which may be temporary or conditional) from the applicable governmental jurisdictions and authorities for the Apartment Complex, allowing for immediate occupancy of one hundred percent (100%) of the Units; (ii) completion of all “work” described in the Construction Contract, with the exception of “punch work” items; (iii) AIA document G704 containing a list of all “punch work” items and cost estimates provided by the Architect to the Company, with a copy to the Investor Member; and (iv) any necessary radon mitigation has occurred and all planned and required actions pertaining to Hazardous Materials have been properly completed.

**Substantial Completion Date** means the date on which Substantial Completion was achieved.

**Substitute Investor Member** means any Person admitted to the Company as an Investor Member pursuant to Section 11.2.

**Tax Law Change** means any change in the Code which occurs after the date of this Agreement. A Tax Law Change includes any changes in the Regulations.

**Ten Percent Test** means, with respect to the Carryover Allocation of Housing Tax Credits, that the Company’s basis in the Apartment Complex, which shall be determined by the Accountants, as of the date which is one year from the issuance date of the Carryover Allocation or such earlier date required by the Credit Agency, is greater than ten percent (10%) of the reasonably expected basis of the Apartment Complex as provided in Section 42(h)(1)(E) of the Code.

**Third Installment** has the meaning set forth in Section 4.2(b)(iii).

**Title Commitment** means the commitment for title insurance issued by the Title Company evidencing ownership of the Apartment Complex in a form and substance acceptable to the Investor Member.

**Title Company** means First American Title Insurance Company.

**Title Policy** means the owner’s title insurance policy conforming to the requirements set forth in Exhibit Q to be issued to the Company by the Title Company pursuant to the Title
Commitment, which policy will, among other things, update the title of the Apartment Complex through a date not earlier than the Construction Loan Closing, provide for insurance in an amount equal to not less than $[11,588,838] and evidence the Company’s ownership of the Apartment Complex. The Title Policy shall be amended and, if available, its effective date brought forward in the manner set forth in this Agreement.

Uniform Act means the Texas Business Organizations Code, Title 3, Chapter 101, as may be amended from time to time during the term of the Company.

Units has the meaning set forth in Section 5.2(b).

USA Patriot Act means Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 of the United States of America, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

Vessel has the meaning given to it in CERCLA, and shall also include any meaning given to it in any similar state or local statutes, ordinances or regulations.

Voluntary Withdrawal means, as to any Managing Member, a Withdrawal or the assignment, pledge or encumbrance of any part of its Interest in violation of Section 9.1.

Withdrawal (including the forms “Withdraw,” “Withdrawing” and “Withdrawn”) means, as to a Managing Member, dissolution, liquidation, voluntary withdrawal or removal of the Managing Member from the Company for any reason, including whenever a Managing Member may no longer continue as Managing Member by law or pursuant to any terms of this Agreement. “Withdrawal” shall also mean the sale, assignment or transfer by a Managing Member of its interest as Managing Member.

Withdrawning Investor Member means Lisa M. Stephens, who is hereby withdrawing as Investor Member from the Company simultaneously with the admission of the Investor Member.

ARTICLE 2
NAME AND BUSINESS

2.1 Name; Continuation. The name of the Company is Canova Palms, LLC. The Members agree to continue the Company, which was formed pursuant to the provisions of the Uniform Act.

2.2 Admission. The Investor Member and Administrative Member are hereby admitted to the Company.

2.3 Withdrawal. The Withdrawning Investor Member hereby withdraws as a Member of the Company, and represents and warrants that she has no direct interest in the Company and is not directly entitled to any fees, distributions, compensation or payments from the Company and that she has no direct interest in any property or assets of the Company.
2.4 **Office and Resident Agent.** The principal office of the Company is 689 FM 3028, Millsap, Texas 76066 at which office there shall be maintained those records required by the Uniform Act to be kept by the Company. The Company may have such other or additional offices as The Managing Member shall deem desirable. The Managing Member may at any time change the location of the Company offices and shall give Notice thereof to the Investor Member. The Managing Member shall at all times maintain the principal office in the State.

(a) The name and address of the resident agent in the State for the Company for service of process is Antoinette M. Jackson, 811 Main Street, Suite 2900, Houston, Texas 77002.

2.5 **Term and Dissolution.** The term of the Company commenced August 8, 2018, the date of filing of the Certificate with the Secretary of State of the State, and shall continue in perpetuity, unless the Company is sooner dissolved in accordance with the provisions of this Agreement.

2.6 **Filing of Certificate.** Upon the execution of this Agreement by the parties hereto, the Managing Member shall take all actions necessary to assure the prompt filing of an amendment to the Certificate if and as required by the Uniform Act, including filing with the Secretary of the State of the State. All fees for filing shall be paid out of the Company’s assets. The Managing Member shall take all other necessary action required by law to perfect and maintain the Company as a limited liability company under the laws of the State, and shall register the Company under any assumed or fictitious name statute or similar law in force and effect in the State.

**ARTICLE 3**

**PURPOSE OF THE COMPANY**

3.1 **Purpose of the Company.** The purposes for which the Company has been formed and which shall determine its activities shall be the following: (a) to acquire, hold, invest in, construct, develop, improve, maintain, operate, lease, sell, mortgage and otherwise deal with the Apartment Complex; (b) to operate the Apartment Complex in accordance with Code Section 42 and any applicable Lender and Agency regulations and requirements; (c) to secure for the Investor Member the economic and tax advantages afforded by Code Section 42 pertaining to low income housing tax credits, and any other Federal or state tax credit programs, as applicable, and allocated under this Agreement; and (d) to assure all Members the economic, tax, investment and operational advantages allocated to them under this Agreement. The Company shall not engage in any other business or activity.

**ARTICLE 4**

**MEMBERS, PERCENTAGE INTERESTS, CAPITAL CONTRIBUTIONS, MEMBER LOANS**

4.1 **Managing Member.**

(a) **Name, Address and Percentage Interest.** The Co-Managing Member’s name and address is Saigebrook Canova, LLC, 220 Adams Drive Ste. 280 #138, Weatherford,
Texas 76086. The Co-Managing Member’s Percentage Interest is sixty-one-thousandth percent (0.0060%). The Administrative Member’s name and address is O-SDA Canova, LLC, 5714 Sam Houston Circle, Austin, Texas 78731. The Administrative Member’s Percentage Interest is forty-one-thousandth percent (0.0040%)

(b) Capital Contributions. Concurrently with the execution of this Agreement, each Managing Member shall make a Capital Contribution to the Company in an amount equal to $100.00. Each Managing Member represents and warrants that as of the date of this Agreement the balance of its Capital Account is $100.00.

(c) Managing Member’s Special Capital Contributions. If the Company has not paid all or part of the Deferred Development Fee when the final payment is due pursuant to the terms of the Development Agreement (i.e. by the earlier of thirteen (13) years following the Placed in Service Date or the date of liquidation of the Company) or, solely with respect to the Managing Member’s Special Capital Contribution, if the Managing Member Withdraws pursuant to Article 9 (including Involuntary Withdrawal), the Managing Member shall contribute to the Company an amount equal to the remaining balance of the Deferred Development Fee (the “Managing Member’s Special Capital Contribution”) and the Company shall thereupon pay the Deferred Development Fee. If the Managing Member fails to make the Managing Member’s Special Capital Contribution, such payment shall be deemed to have been made as of the applicable date. Notwithstanding the foregoing, the amount of the Managing Member’s Special Capital Contribution shall be reduced to the extent the Investor Member reasonably determines on or before the end of the first year of the Credit Period that any portion of the remaining balance of the Deferred Development Fee is not necessary to be included in Eligible Basis in order to allocate Projected Housing Tax Credits to the Investor Member throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Payments of the Deferred Development Fee pursuant to Section 14.1(a) shall be deemed applied first to the portion of the Deferred Development Fee represented by the Managing Member’s Special Capital Contribution, as adjusted herein, and then to the remaining balance of the Deferred Development Fee, if any. Other than as set forth in this Section 4.1(c) or as may be required by this Agreement, in no event shall any Managing Member make any additional Capital Contributions to the Company without the Consent of the Investor Member.

4.2 Investor Member.

(a) Name, Address and Percentage Interest. The Investor Member’s name and address is HCP-ILP, LLC. The address of the Investor Member is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436. The Investor Member’s Percentage Interest is ninety-nine and ninety-nine hundredths percent (99.99%).

(b) Capital Contributions. The Investor Member will make Capital Contributions to the Company, subject to adjustment as provided in Section 4.2(d), of $8,373,153 representing the product of the Projected Housing Tax Credits and the Housing Tax Credit Price which will be paid to the Company in five (5) installments (the “Installments”) as follows:
(i) **First Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $837,315 (the “First Installment”) upon the latest of (i) the Closing Date and (ii) satisfaction of the Funding Conditions relating to the First Installment, with such funds to be used solely for site acquisition, development and construction costs, including an expense reimbursement of $65,000 to the Investor Member or an Affiliate of the Investor Member for its review and approval costs in connection with the Closing, and to pay a portion of the Development Fee.

(ii) **Second Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $837,315 (the “Second Installment”), subject to reduction as provided in Section 4.2(d), after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Second Installment have been fully satisfied, with such funds to be used to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member.

(iii) **Third Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $837,315 (the “Third Installment”), subject to reduction as provided in Section 4.2(d), after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Third Installment have been fully satisfied, with such funds to be used first to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member, second to repay a portion of the BBVA Loan and to pay a portion of the Development Fee.

(iv) **Fourth Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $5,811,208 (the “Fourth Installment”), subject to adjustment as provided in Section 4.2(d) after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Fourth Installment have been fully satisfied, with such funds to be used first to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member, second to pay-down the BBVA Loan to its permanent phase, third to fully fund the Operating Reserve and fourth to pay a portion of the Development Fee.

(v) **Fifth Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $50,000 (the “Fifth Installment”), subject to adjustment as provided in Section 4.2(d) after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Fifth Installment have been fully satisfied, with such funds to be used to pay a portion of the Development Fee.

(vi) **Source of Funding of Installments.** The Investor Member, in its sole discretion, may fund any Installment on or prior to satisfaction of the Funding Conditions by providing funds from one or more of the following: (A) itself or (B) funds arranged by Hunt to be provided from any Entity as equity or debt but without any security interest in or lien on the Apartment Complex.

(vii) **Withholding of Capital Contributions.** The Investor Member may withhold any Installment if at any time it determines, in its sole discretion, that a Development Deficit exists or is projected to exist prior to such Installment, and shall not fund such
Installment until such Development Deficit or projected Development Deficit is cured by the Managing Member.

(c) Special Additional Capital Contributions and Investor Member Deficit Restoration Obligation.

(i) If, in any fiscal year of the Company, the Investor Member’s Capital Account balance may be reduced to or below zero, the Investor Member may, in its sole and absolute discretion, make a special additional Capital Contribution to the Company in an amount reasonably required to avoid the reduction of the Investor Member’s Account balance to or below zero (a “Special Additional Capital Contribution”).

(ii) Notwithstanding any other provision herein to the contrary, the Investor Member hereby agrees, pursuant to this Section 4.2(c), that if there is a deficit balance in its Capital Account as of the last day of 2019 and/or 2020, determined after taking into account all Capital Account adjustments for 2019 and/or 2020, the Investor Member shall be unconditionally obligated to restore the amount of such deficit by contributing to the Company the dollar amount of such deficit (a “Deficit Restoration Contribution”), as so determined, not later than the last day of the year in which the liquidation of the Company or the Investor Member’s Interest in the Company occurs (or, if later, within 90 days after the date of such liquidation) (the “Deficit Restoration Obligation”); provided, however, that in no event shall the Deficit Restoration Obligation exceed the unpaid Capital Contribution Obligations of the Investor Member, as adjusted pursuant to Section 4.2(d). Any subsequent Capital Contributions of the Investor Member made in 2019 and/or 2020 or thereafter shall reduce the Deficit Restoration Obligation on a dollar-for-dollar basis. If the dollar amount of such subsequent Capital Contributions equals or exceeds the Deficit Restoration Obligation, then the Deficit Restoration Obligation shall be deemed satisfied in full.

(iii) If the Investor Member makes a Special Additional Capital Contribution or a Deficit Restoration Contribution to the Company pursuant to this Section 4.2(c), the Investor Member shall receive a guaranteed payment pursuant to Section 4.9 for the use of its Special Additional Capital Contribution or Deficit Restoration Contribution, as applicable.

(d) Adjustment to Capital Contributions of the Investor Member.

(i) If upon the issuance of Forms 8609 by the Agency for any or all of the buildings comprising the Apartment Complex, or if upon delivery of the Cost Certification, the Investor Member (in its reasonable discretion) or the Accountants determine that there is a Housing Tax Credit Shortfall for the Credit Period because the Actual Housing Tax Credits available to the Investor Member pursuant to Section 42(a) of the Code are less than the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits for such year), the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment equal to the Housing Tax Credit Shortfall multiplied by the Housing Tax Credit Price. If upon such issuance of Forms 8609 by the Agency, the Investor Member (in its reasonable discretion) or the Accountants determine that the Actual Housing Tax Credits available to the Investor Member pursuant to Section 42(a) of the Code are greater than the
Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits for such year), giving rise to a “Housing Tax Credit Excess,” then the Investor Member’s Capital Contribution shall be increased by an amount equal to the Housing Tax Credit Price multiplied by the Housing Tax Credit Excess; provided, however, that any such increase shall be subject to the limitation set forth in Section 4.2(d)(vi) hereof.

(ii) In the event that there is a Housing Tax Credit Shortfall because the Actual Housing Tax Credits for any of 2020 or 2021 (determined separately for each year) are less than the Projected Housing Tax Credits for such year (or, if applicable, the Revised Projected Housing Tax Credits for such year) solely by reason that the Applicable Fraction for such year with respect to any buildings in the Apartment Complex was, by reason of the application of Section 42(f)(2) of the Code, lower than the Applicable Fraction projected in the Projected Housing Tax Credits (or Revised Projected Housing Tax Credits, if applicable) (each, a “Shortfall Year”), as determined by the Investor Member, upon receipt of final Company tax returns for the subject year or in advance of receipt of such final Company tax returns, estimated on a monthly basis by the Investor Member, the Service or the Accountants, the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment in an aggregate amount equal to the product of (x) Projected Housing Tax Credits (or if applicable, Revised Projected Housing Tax Credits) less Actual Housing Tax Credits delivered to the Investor Member for such Shortfall Year (determined separately for each year) and (y) $0.60. Notwithstanding the foregoing, if any building in the Apartment Complex does not achieve Initial 100% Occupancy by the end of the first year of the Credit Period for such building and, as a result, any portion of the Housing Tax Credits with respect to such building will be available over 15 years, then the reduction to the Investor Member’s Capital Contribution shall be the sum of (1) the amount determined under the first sentence of this Section 4.2(d)(ii), plus (2) the amount, if any, that the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits) for years 2020 (year 1) through 2030 (year 11) exceed the Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits) projected to be available in years 2020 (year 1) through 2029 (year 10), as calculated by the Investor Member at the end of the first year of the Credit Period.

(iii) If at any time the Investor Member (in its reasonable discretion) or the Accountants determine that, for any Fiscal Year or portion thereof during the Company’s operation, by reason of any event other than an event described in Sections 4.2(d)(i) and/or 4.2(d)(ii) hereof (but not including a Tax Law Change or a transfer by the Investor Member of its Interests), there is (a) a Housing Tax Credit Shortfall because the Actual Housing Tax Credits for such Fiscal Year or portion thereof are less than the Projected Housing Tax Credits, or the Revised Projected Housing Tax Credits, if applicable, for such Fiscal Year or portion thereof, including, without limitation, the Apartment Complex not being Placed in Service by the end of the second calendar year after the year in which the Housing Tax Credits were allocated or the failure of the Company to operate the Apartment Complex so as to have 100% of the Housing Tax Credit Units therein eligible for the Housing Tax Credits, (b) a Housing Tax Credit Disallowance Event, or (c) a failure of the Company to allocate 99.99% of the Housing Tax Credits shown on the IRS Forms 8609 for each building comprising the Apartment Complex to the Investor Member over the Credit Period, the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment equal to the Housing Tax Credit Shortfall and further reduced by all additions to the tax of the Investor Member, and all penalties and
interest assessed (including, without limitation, the "recapture amount" provided for in Section 42(j)(2) of the Code) against the Investor Member or any of its constituent partners as a result of the event giving rise to the Housing Tax Credit Shortfall.

(iv) Whenever in this Section 4.2(d) it is provided that the Investor Member’s Capital Contribution shall be reduced, each remaining installment of the Investor Member’s Capital Contribution then outstanding shall be reduced first, if such deferral is permitted pursuant to Section 8.1(b), for scheduled payments of Development Fees, which shall become Deferred Development Fees and second, pro rata so that the aggregate contributions, when made, will total the new reduced amount of the Investor Member’s Capital Contribution. If the outstanding balance of the Investor Member’s Capital Contribution has been reduced to zero by reason of the aforesaid adjustments to the Investor Member’s Capital Contribution and/or payments previously made thereon or offsets applied thereto, then either (1) the Managing Member shall within fifteen (15) days make a Capital Contribution to the Company in the amount owed to the Investor Member (including, without limitation, interest thereon at 12% per annum from the date that the Investor Member’s Capital Contribution(s) were made), from its own funds, and shall cause the Company immediately to distribute such amount to the Investor Member, or (2) if tax counsel to the Investor Member determines that such a Capital Contribution and distribution would cause Company profits, losses, and credits to be allocated other than in accordance with the Percentage Interests of the Members, the Managing Member shall pay the amount owed to the Investor Member (including, without limitation, any interest thereon at 12% per annum from the date that the Investor Member’s Capital Contribution(s) were made) plus any amount needed to cause the net amount of the payment received by the Investor Member to be the same, on an after-tax basis as the amount of payment that would have been received under clause (1) above), from their own funds, directly to the Investor Member; provided, however, to the extent that the Managing Member fails to pay any such amount owed to the Investor Member, such unpaid amounts shall be payable from Cash Flow and Sale or Refinancing Transaction Proceeds as provided in Sections 14.1(a) and 14.1(b), respectively, hereof, but the Managing Member shall remain in default hereunder.

(v) In the event that the Actual Housing Tax Credits 2020 exceeds the Projected Housing Tax Credits for such year (or, if applicable, the Revised Projected Housing Tax Credits for such year) (an “Excess Year”), as determined by the Investor Member, upon receipt of the Company’s final tax returns for the subject year, the Investor Member’s Fifth Installment with respect to 2020 shall be increased by the “Housing Tax Credit Surplus Payment”, which is an aggregate amount equal to the product of (x) Actual Housing Tax Credits delivered to the Investor Member, less the Projected Housing Tax Credits (or if applicable, Revised Projected Housing Tax Credits) for the Excess Year, and (y) $0.50. The Housing Tax Credit Surplus Payment shall be paid within 30 days of such determination or, if the Fifth Installment is not yet due, upon the payment of the Fifth Installment. In no event shall any Housing Tax Credit Surplus Payment exceed $90,000 and shall be subject to the limitations set forth in Section 4.2(d)(vi). The Company shall use the increase in the Fifth Installment to (i) pay any amounts then owed to the Investor Member and/or Hunt, (ii) then to pay any unpaid Development Fee or Deferred Development Fee, (iii) then to repay any Development Deficit Loans then outstanding, and (iv) then distributed in accordance with Section 14.1(a) of this Agreement.
(vi) With respect to any increase in the Investor Member’s Capital Contribution pursuant to this Section 4.2(d), in no event shall the amount of the Investor Member’s Capital Contribution increase exceed 10% of the Investor Member’s Capital Contribution as originally set forth herein. To the extent that an increase in the amount of Housing Tax Credits would have otherwise resulted in an increase in excess of 10% of the Investor Member’s Capital Contribution, the Investor Member shall have the option to either (1) increase the Investor Member’s Capital Contribution in excess of such 10%, provided that such additional increase over 10% shall be based on the lesser of the Housing Tax Credit Price or the Investor Member’s then-current pricing available generally for investments in Housing Tax Credits, or (2) reduce its Interest so that the Investor Member shall be in the same economic position (i.e., the allocations provided in this Agreement shall be adjusted accordingly by the Managing Member) as if the increase in Housing Tax Credits had not resulted in an increase in the Investor Member’s Capital Contribution in excess of 10% thereof. Any Investor Member’s Capital Contribution payable as a result of any such increase in the available Housing Tax Credits pursuant to Section 4.2(d)(i) shall be payable with the Fifth Installment of the Investor Member’s Capital Contribution set forth herein, provided that all IRS Forms 8609 have been received.

(vii) Whenever there is an adjustment pursuant to this Section 4.2(d) to the Investor Member’s Capital Contribution and/or the Interest of the Investor Member, then the amount of the Projected Housing Tax Credits shall be increased or reduced, as the case may be, and shall thereafter be referred to as the “Revised Projected Housing Tax Credits”.

4.3 Reserved.

4.4 Draws. Prior to Permanent Loan Closing, the Investor Member shall be entitled to conduct monthly inspections of the progress of construction of the Apartment Complex, and review and approve construction draw requests submitted to the BBVA Lender or HOME Lender (“Construction Loan Draw”). Each month prior to Permanent Loan Closing, the Managing Member shall provide proposed Construction Loan Draw requests to the Investor Member simultaneous with submission to the BBVA Lender and HOME Lender. The Investor Member shall Notify the Managing Member to the extent that it disapproves and requires changes in a Construction Loan Draw request within ten (10) Business Days after submission. The Managing Member will cause the BBVA Loan documents and HOME Loan documents to require that the Managing Member shall not accept and the BBVA Lender and HOME Lender, as applicable, shall not disburse on Construction Loan Draws until approved by the BBVA Lender or HOME Lender, as applicable, based on the finding of such Lender’s construction consultant, or the written approval of the Investor Member, the Managing Member shall not accept and the applicable lender shall not disburse on Construction Loan Draws until approved by the Investor Member.

4.5 Liability of the Investor Member. No Investor Member shall be liable for any debts, liabilities, contracts or obligations of the Company and each Investor Member shall only be liable to pay their respective Capital Contributions as and when the same are due hereunder and under the Uniform Act.
4.6 **Interest on Capital Contributions.** No interest shall be paid on any Capital Contribution. No Member shall have the right to withdraw its Capital Contribution or to demand and receive property of the Company in return for its Capital Contribution, except as may be specifically provided in this Agreement or required by law.

4.7 **Deposit of Capital Contributions.** The cash portion of the Capital Contributions of each Member shall be deposited at the Managing Member’s discretion in a checking, savings and/or money market or similar account to be established and maintained in the name of the Company or invested in government securities or certificates of deposit issued by any bank. Thereafter, such amounts shall be utilized for the conduct of the Company business pursuant to the terms of this Agreement and withdrawals can only be made upon the signatures as the Managing Member determines with the Consent of the Investor Member.

4.8 **Payment of Third Party Costs.** The Company shall pay the legal fees, costs and expenses incurred by the Investor Member in connection with this Agreement, the due diligence activities of the Investor Member, the Closing and costs incurred in making the Capital Contributions pursuant to Section 4.2(b) of this Agreement in an amount of $65,000. To the extent that third party costs exceed $65,000, the Investor Member’s Capital Contribution may be increased at the option of the Investor Member and used by the Company to pay such costs.

4.9 **Guaranteed Payment.** No later than ninety (90) days after the end of the Company’s fiscal year, if the Investor Member has made a Special Additional Capital Contribution pursuant to Section 4.2(c), it shall receive, as a guaranteed payment for the use of its capital, an amount equal to the annual interest earned by the Company, if any, on such Special Capital Contributions. The Company shall invest any amounts contributed pursuant to Section 4.2(c) in a federally insured interest-bearing account in such banking institutions as the Managing Member shall determine in accordance with Section 4.7. Any guaranteed payment due to a Member shall be deemed an expense of the Company for purposes of determining Cash Flow. Any guaranteed payment which is not paid when due shall remain a liability of the Company and shall bear interest at the rate of 15% per year.

4.10 **Return of Capital Contributions.** Except as provided in this Agreement, no Member shall be entitled to demand or receive the return of its Capital Contribution.

4.11 **MM Loans.** The Managing Member has the right, but not the obligation, after funding all other obligations under this Agreement, including, without limitation, its obligation to fund Development Deficits under its Construction Completion Guaranty in accordance with Section 8.1 hereof or to fund Operating Deficits under its Operating Deficit Guaranty in accordance with Section 8.2 hereof, to make loans pursuant to this Section 4.11 to fund Operating Deficits of the Company or to fund other reasonable and necessary obligations of the Company (together with interest thereon, “MM Loans”); provided, however, that the Managing Member shall not have such right to make such MM Loans at any time when it has an unsatisfied obligation to pay Development Deficits and to make Operating Deficit Loans or to make a Managing Member Capital Contribution as required under this Agreement. MM Loans shall be on the following terms: (i) interest shall accrue on the MM Loans at an annual interest rate not to exceed 5% per annum, compounded annually; (ii) MM Loans shall be repayable solely as set forth in Sections 14.1(a), 14.1(b) and 17.2 of this Agreement; and (iii) MM Loans shall be an
unsecured, nonrecourse obligation of the Company. By making a MM Loan, the Managing Member does not waive any claim of, or remedies with respect to, a default, if any, by the Investor Member in its obligations under this Agreement. Notwithstanding the foregoing, no MM Loan shall be made without the Consent of the Investor Member, which Consent shall not be unreasonably withheld, delayed or conditioned.

4.12 IM Loans. The Investor Member or its designee has the right, but not the obligation, to make loans pursuant to this Section to fund Operating Deficits of the Company or to fund other reasonable and necessary obligations of the Company (together with interest thereon, “IM Loans”). IM Loans shall be on the following terms: (i) interest shall accrue on Default IM Loans at an annual interest rate of eight percent (8%) per annum, compounded annually; (ii) interest shall accrue on the Excess IM Loan Amount (other than Default IM Loans) at an annual interest rate of eight percent (8%) per annum, compounded annually, and on any other IM Loans at an annual interest rate of eight percent (8%) per annum, compounded annually; (iii) IM Loans shall be repayable solely as set forth in Sections 14.1(a), 14.1(b) and 17.2 of this Agreement; and (iv) IM Loans shall be an unsecured, nonrecourse obligation of the Company. By making an IM Loan, neither the Investor Member, nor its designee, waives any claim of, or remedies with respect to, a default, if any, by the Managing Member in its obligations under this Agreement.

4.13 Notice of Member Loans. Except for any Operating Deficit Loans that may be required of the Managing Member under the terms of this Agreement, if the Company shall require a Member Loan to fund Operating Deficits or to satisfy other reasonable and necessary obligations of the Company, a Member (the “Initiating Member”) may give the other Members (the “Non-Initiating Members”) Notice of the Initiating Member’s intent to fund a Member Loan, which Notice shall state (i) the total amount of such Member Loan proposed to be funded, (ii) the purpose for such Member Loan, and (iii) the proposed funding date of such Member Loan, which date (the “Contribution Date”) shall not be less than ten (10) days following the date of such Notice; provided that the Notice requirement shall be shortened to the extent necessary to permit a Member to fund a Member Loan for the purpose of curing a default under a Loan. The Initiating Member and the Non-Initiating Members shall each fund the portion of the Member Loan it agreed to make by the Contribution Date. If a Member fails to make such Member Loan to the Company on or before the Contribution Date, any Member who makes such Member’s share of the Member Loan may, at such Member’s option, advance to the Company the amount of the non-lending Member’s share of the Member Loan. No Member has the right to propose and fund a Member Loan to fund distributions and/or payments to be made pursuant to Sections 14.1(a), 14.1(b) or 17.2. Notwithstanding anything herein to the contrary, the Managing Member is obligated to make an Operating Deficit Loan during the Operating Deficit Guaranty Period and a MM Loan after the expiration of the Operating Deficit Guaranty Period to fund any Operating Deficits.

4.14 Documentation of Member Loans. At the request of a Member, any Member Loan shall be evidenced by a non-negotiable promissory note or notes reflecting any such Member Loans made during or prior to the preceding calendar quarter. Member Loans shall be unsecured loans by such Member. Except as set forth in Section 4.16, Member Loans shall not be considered Capital Contributions, and shall not increase such Member’s Capital Account.
4.15 **Usury Savings Clause.** Notwithstanding anything to the contrary herein or in any note evidencing a Member Loan, in no event shall interest accrue on any Member Loan at a rate in excess of the highest rate permitted by applicable law.

4.16 **Capital Contribution Alternative.** If a Member which has made or intends to make a Member Loan (a “Lending Member”) reasonably concludes that the operation of the usury savings clause in Section 4.15 will result in a reduction in the interest rate otherwise specified in Article 4, or if the Investor Member reasonably concludes that it may now have or sometime in the future likely will have a negative Capital Account, then the Lending Member may request that its existing or proposed Member Loans be restructured as Capital Contributions. In such event, all the Members shall cooperate to negotiate and execute an amendment to this Agreement (the “Amendment”), at the expense of the requesting Member, which shall include the following terms: (i) each of the Investor Member (or its designee) and the Managing Member has the right to make Capital Contributions pursuant to the Amendment (“Section 4.16 Capital Contributions”) either instead of making IM Loans and MM Loans, respectively, or to fund the concurrent repayment by the Company of IM Loans or MM Loans, respectively; (ii) with respect to such Section 4.16 Capital Contributions, the Member(s) making them shall be entitled to receive (A) guaranteed payments or a preferred return in amounts and at times corresponding to interest payments that would have been due had the Section 4.16 Capital Contributions been made as Member Loans, and (B) distributions as a return of capital in amounts and at times corresponding to principal payments that would have been due had the Section 4.16 Capital Contributions been made as Member Loans; and (iii) Article 14 shall be revised to the maximum extent feasible to provide that such guaranteed payments or a preferred return and return of capital distributions shall have the same amounts, timing, priority of payment and tax consequences as the corresponding payments of Member Loans would have had. Notwithstanding the foregoing, the Investor Member shall have no obligation to consent to any Amendment pursuant to this Section 4.16, which it concludes could adversely affect the timing or amount of the allocation to the Investor Member of Housing Tax Credits, losses, income or gains.

**ARTICLE 5**
**MANAGING MEMBER RIGHTS, DUTIES AND OBLIGATIONS**

5.1 **Management of the Company.** Subject to the terms of this Agreement, the Managing Member shall have the sole and exclusive right to manage the business and affairs of the Company; provided, however, that the Managing Member must do so only so as to accomplish the Purposes of this Company. In so doing, the Managing Member shall take all actions necessary or appropriate to protect the interests of the Investor Member and the Company.

5.2 **Duties and Obligations.**

(a) The Managing Member shall ensure that all requirements shall be met which are necessary to obtain or achieve (i) compliance with the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test, the Rent Restriction Test, and any other requirements necessary for the Apartment Complex to initially qualify, and to continue to qualify, for Housing Tax Credits.
Tax Credits, including all applicable requirements set forth in the Extended Use Agreement, (ii) issuance of Forms 8609, (iii) issuance of all necessary permanent, unconditional certificates of occupancy, including all governmental approvals required to permit occupancy of all of the apartment units in the Apartment Complex, (iv) Construction Loan Closing and Conversion; (v) compliance with all material provisions of the Project Documents, (vi) compliance with all provisions contained in the Application, including, without limitation, those as to which the Agency awarded points pursuant to its scoring or award procedures, and (vii) compliance with all provisions contained in the Carryover Allocation.

(b) During the period the Extended Use Agreement is in effect, the Managing Member shall (i) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that (A) 86.21% of the residential rental units in the Apartment Complex will qualify as “low-income units” under Code Section 42(i)(3), (B) and the Applicable Fraction as defined in Section 42(c) of the Code is at least 84.88%; (ii) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that no less than eighty percent (80%) of the gross income from the Apartment Complex in every year is rental income from or with respect to dwelling units in the Apartment Complex used to provide living accommodations not on a transient basis (“Units”); (iii) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that the Apartment Complex will qualify as a “qualified low-income housing project” under Code Section 42(g); (iv) develop and maintain the Apartment Complex as a first class property; and (v) make, or cause to be made, all certifications required by Code Section 42(l).

(c) The Managing Member shall promptly take all action which may be necessary or appropriate for the proper development, construction, maintenance and operation of the Apartment Complex in accordance with the provisions of this Agreement, the Project Documents and applicable laws and regulations including making any required Capital Contributions pursuant to Section 4.1 and as otherwise required by this Agreement.

(d) While conducting the business of the Company, the Managing Member shall not act in any manner which it knows or should have reasonably known after due inquiry will (i) cause the termination of the Company for federal income tax purposes without the Consent of the Investor Member, or (ii) cause the Company to be treated for federal income tax purposes as an association taxable as a corporation.

(e) The Managing Member shall, during and after the period in which it is a Member, provide the Company with such information and sign such documents as are necessary for the Company to make timely, accurate and complete submissions of federal and state income tax returns.

(f) The Managing Member shall use its best efforts to cause the Company to generate Cash Flow for distribution to the Members at the maximum realizable level in view of (i) any applicable Agency and other regulations, (ii) the Minimum Set-Aside Test and the HOME Minimum Set-Aside Test and (iii) the Rent Restriction Test, and, if necessary, the Managing Member shall also use its best efforts to obtain approvals and implementation of appropriate adjustments in the rental schedule of the Apartment Complex.
(g) The Managing Member shall cause the Company to obtain and keep in force, during the term of the Company, insurance in accordance with Exhibit D hereto. The Managing Member shall provide the Investor Member with written evidence of all insurance required by Exhibit D hereto, in each case in form and substance reasonably acceptable to the Investor Member and, for each particular insurance coverage, both (i) within fifteen (15) days after the first day on which such coverage is required by Exhibit D hereto and (ii) from time to time, as the Investor Member may reasonably request. The Managing Member shall provide the Investor Member with Notice of any cancellation, reduction in coverage, or other coverage changes within 15 days of receipt of notice from the insurance provider. The Investor Member shall have the right to acquire any insurance required by Exhibit D at the expense of the Company if the Managing Member fails to do so and such purchase shall not cure the Managing Member’s default hereunder. In addition, the Managing Member shall indemnify and hold the Hunt Indemnified Parties harmless from any loss suffered by the Hunt Indemnified Parties with respect to its investment in the Company and arising out of any uninsured loss suffered by the Company which would have been insured against by one or more of the policies of insurance described on Exhibit D hereto but which lapsed or which were not in force at the time of such loss because the Managing Member did not obtain or keep said policy or policies in force.

(h) The Managing Member has made (if applicable) and shall make such elections, or refrain from making such elections, with respect to the Housing Tax Credits as are necessary to achieve and maintain the maximum allowable Housing Tax Credits to the Investor Member, unless otherwise directed by the Investor Member. Any such elections (including elections made at the direction or with the Consent of the Investor Member) shall not reduce the obligations of the Managing Member pursuant to this Agreement. Notwithstanding the foregoing, the Investor Member must Consent, before any election is made to defer commencement of the Credit Period pursuant to Code Section 42(f)(1). In the event Building One is Placed in Service in 2019, but the Company is unable to deliver all or a portion of the Projected Housing Tax Credits for 2019, the Managing Member may defer the commencement of the Credit Period to 2020 without the Consent of the Investor Member.

(i) The Managing Member shall (i) not store or dispose of (except in compliance with all laws, including all Environmental Laws, ordinances, and regulations pertaining thereto) any Hazardous Material at the Apartment Complex; (ii) neither directly nor indirectly transport or arrange for the transport of any Hazardous Material (except in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) to or from the Apartment Complex; (iii) provide the Investor Member with Notice (A) upon any Managing Member’s obtaining knowledge of any potential or known release, or threat of release, of any Hazardous Material at or from the Apartment Complex; (B) upon any Managing Member’s receipt of any Notice to such effect from any federal, state, or other governmental authority by any other Person; and (C) upon any Managing Member’s obtaining knowledge of any incurrence of any expense or loss by any such governmental authority or third party in connection with the assessment, containment, or removal of any Hazardous Material at or from the Apartment Complex or any claim for loss or damage associated with Hazardous Materials at or from the Apartment Complex for which expense or loss the Managing Member may be liable or for which expense or loss a lien may be imposed on the Apartment Complex.
(j) The Managing Member shall use all reasonable efforts to maintain the Apartment Complex and the Land upon which it is located so that there is no discharge, release, spillage, uncontrolled loss or seepage of any oil, petroleum or chemical liquids or solids, liquid or gaseous products or Hazardous Material. The Managing Member shall use all best efforts to maintain the Apartment Complex and the Land so as not to violate any Environmental Laws. If any Hunt Indemnified Party becomes liable with respect to the Apartment Complex under any Environmental Law, the Managing Member shall indemnify and hold harmless such Hunt Indemnified Party (except to the extent attributable solely to direct actions of such Hunt Indemnified Party) for any and all costs, expenses (including reasonable attorneys’ fees necessarily incurred), damages or liabilities to the extent that such Hunt Indemnified Party is required to discharge such costs, expenses, damages, or liabilities in whole or in part. If any claim or loss described in the immediately preceding sentence is brought against any Hunt Indemnified Party, and such Hunt Indemnified Party notifies the Managing Member of the commencement thereof, as soon as practicable but in any event no later than 45 days after receipt of notice by the Investor Member, the Managing Member will be entitled to participate in, and, to the extent that it chooses to do so, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, or (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received notice in writing as hereinabove required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment. The foregoing indemnification shall be a recourse obligation of the Managing Member, and shall survive the Withdrawal of the Managing Member. The Managing Member shall not be liable for any claims that arise from actions of others after its withdrawal or removal as a Managing Member under this Agreement, and no settlement of a claim of loss shall occur without the prior written Consent of the Managing Member.
(k) The Managing Member shall promptly request in writing of each Lender that such Lender provide the Investor Member copies of all notices delivered to the Managing Member or the Company under its Loan, and grant an opportunity for the Investor Member to cure any default under such Loan.

(l) The Managing Member shall cause the Company to maintain tenant deposits in separate accounts, which must be used solely to hold tenant deposits as security for the tenant rents and as security for damages. No funds may be used from such account for any other purpose, including payment of Operating Deficits of the Company.

(m) The Managing Member will execute on behalf of the Company all documents necessary to elect, pursuant to Sections 732, 734, 743, and 754 of the Code, to adjust the basis of the Company’s property upon the request of the Investor Member. The Managing Member shall cause the Company’s property to be depreciated in accordance with Sections 5.2(nn) and 18.4. The Managing Member will execute on behalf of the Company all documents necessary to elect, pursuant to Sections 732, 734, 743, and 754 of the Code, to adjust the basis of the Company’s property upon the request of the Investor Member. The Managing Member shall cause the Company to depreciate all of its applicable property in accordance with Section 5.2(oo), 6.1(hhh), and 18.4(a).

(n) The Managing Member shall provide to the Investor Member for its approval a draft of the Cost Certification to be used by the Company in applying to the Agency for issuance of Form 8609 with respect to each building in the Apartment Complex at least five (5) Business Days prior to the date the Cost Certification is to be provided to the Agency. The Managing Member shall provide the initial Forms 8609 to the Investor Member within ten (10) days of receipt thereof by the Managing Member. Subject to the Agency providing the same, the Managing Member shall cause the Extended Use Agreement to be recorded in the appropriate real estate records no later than the last day of the year in which the Apartment Complex is Placed in Service.

(o) The Managing Member shall furnish to the Investor Member within three (3) Business Days of receipt thereof, a copy of any notice of default under a Loan or any of the Project Documents given to the Company or to the Managing Member by the Lender, and Notice of any occurrence which has or would, with the giving of notice or the passage of time, or both, become a violation or default under a Loan or any of the Project Documents. The Managing Member shall also furnish to the Investor Member within seven (7) Business Days of execution a copy of all amendments or changes to the articles, bylaws, certificates, partnership agreement, operating agreement or other organizational documents of the Managing Member or any Guarantor. The Managing Member shall promptly respond to all requests or inquiries made in writing by the Investor Member regarding matters affecting the Apartment Complex or the Company.

(p) The Managing Member shall use all reasonable efforts to cause the Apartment Complex to be kept in compliance with all applicable land use laws, regulations and ordinances.
(q) The Managing Member shall provide the Investor Member with Notice (and with copies of appropriate correspondence) within three (3) Business Days if the Company receives any writing from the Service or the Agency that the Apartment Complex or any portion thereof is not in compliance with the requirements of Code Section 42 or is subject to a Housing Tax Credit Disallowance Event or any other event that could result in an adjustment to the Housing Tax Credits, or losses allocable to the Investor Member.

(r) If any of the Housing Tax Credit Units fail at any time during the Compliance Period to constitute low-income units or if the Apartment Complex is not in compliance with the requirements contained in Code Section 42, the Managing Member agrees to Notify the Investor Member within three (3) Business Days of its knowledge of such event or occurrence and the Managing Member shall take all actions reasonably necessary to bring the Units or the Apartment Complex, as the case may be, into compliance with the requirements of Code Section 42, such that the Apartment Complex will qualify and continue to qualify for Housing Tax Credits during the Compliance Period as projected.

(s) The Managing Member is exclusively responsible for negotiating and performing all services incidental to (i) the Company’s acquisition of the Land, (ii) arranging of appropriate zoning, (iii) arranging of equity and permanent financing with respect to the Apartment Complex (including reviewing the State’s qualified allocation plan, applying for Housing Tax Credits and obtaining such marketing and feasibility studies and appraisals as it deems reasonably necessary), (iv) contacting local government officials concerning access to utilities, public transportation and local ordinances, (v) performing environmental tests on the Land, (vi) negotiating the purchase of the Land and its related financing, (vii) arranging the permanent financing for the Company, and (viii) the organization and formation of the Company.

(t) The Apartment Complex will be operated in accordance with the Fair Housing Act, 42 U.S.C. § 3601 et seq., as amended, and in this regard, all employees and agents of the Managing Member will be appropriately trained and all required notices to tenants specified by the Fair Housing Act will occur in a timely manner. The Managing Member shall promptly provide to the Investor Member a copy of (i) the annual certification required to be submitted by the Company to the Agency pursuant to Regulation Section 1.42-5, including a copy of all required reports with respect to building code violations and the certification with respect to compliance with the Fair Housing Act and (ii) all communications received by the Managing Member or the Company with respect to compliance with, non-compliance with, or other matters relating to the Fair Housing Act.

(u) The Managing Member shall ensure that the Apartment Complex shall at all times comply with the applicable requirements of Section 504 of the Uniform Federal Accessibility Standards, where applicable and as amended, the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, as now existing or hereafter amended or adopted, the Fair Housing Act Design Manual implemented in connection the Fair Housing Act, 42 U.S.C. § 3601 et seq., as amended as now existing or hereafter amended or adopted, any other federal and state and local laws and ordinances related to disabled access, and all statutes, rules, regulations, and orders of governmental bodies and regulatory agencies or orders or decrees of any court adopted or
enacted with respect thereto including (collectively, the “Access Laws”). The Investor Member may also require from the Company an Access Laws Certification. Notwithstanding any provisions set forth herein or in any other document, the Managing Member shall not alter or permit any tenant or other person to alter the Apartment Complex in any manner which would increase the Managing Member’s responsibilities for compliance with the Access Laws without the prior written approval of the Investor Member. In connection with any such approval, the Investor Member may require from the Company an Access Laws Certification. Following Substantial Completion, the Apartment Complex will be operated in a manner that fully complies with applicable accessibility and barrier-free regulations such that if an enforcement action is brought against the Company, the Managing Member will use any and all of its own resources to promptly correct recorded deficiencies and shall immediately Notify the Investor Member of any such claims.

(v) The Managing Member shall give Notice to the Investor Member within three (3) Business Days of any violation or event of default, or any occurrence which would, with the giving of notice or the passage of time, or both, become a violation or event of default under any document executed by the Agency and relating to the Company. Neither the Company nor any Managing Member shall consent to any amendment or modification to any document executed by the Agency and relating to the Company without the prior Consent of the Investor Member.

(w) Without limitation, the Company, the Managing Member, and their Affiliates (i) are in compliance with Anti-Corruption Laws, and (ii) shall remain in compliance with Anti-Corruption Laws.

(x) The Managing Member shall from time to time take all actions as are necessary and appropriate to: (i) effectuate and permit the continuation of the Company as a limited liability company under the laws of the State, (ii) enable the Company to do business in the State, and (iii) protect the limited liability of the Investor Member under the laws and regulations of the State, including the preparation and filing of any certificate, document or instrument of the Company as may be required under the laws and regulations of the State.

(y) The Managing Member shall maintain books, files and records including tenant leasing files in compliance with the Code and the Regulations and which will adequately document the timing, amount and availability of the Housing Tax Credits. The Managing Member shall cause construction related files and files which document the initial qualification of the apartment units for Housing Tax Credits to be copied and stored off-site until the later of sixth (6th) year after the last day of the Compliance Period or for the time period required by Section 42 of the Code at the Managing Member’s principal place of business (which shall not be at the Apartment Complex) or at another off-site location over which the Managing Member has control. The Managing Member shall allow any Investor Member and its agents access to all such files during ordinary business hours; provided, however, that files stored off-site shall be provided within three (3) Business Days’ Notice from the Investor Member. All such files are property of the Company and not of the Managing Member.

(z) Except as otherwise required or permitted by this Agreement, the Managing Member shall not, without the Consent of the Investor Member, assign, pledge or
otherwise encumber, for security or otherwise, any fees, payments or distributions to which the Managing Member is entitled from the Company or any Person pursuant to this Agreement or any Project Document, or any portion thereof or any right of the Managing Member thereto.

(aa) Each Managing Member shall not engage in any other business or activity other than that of being a Managing Member of the Company. Each Managing Member was formed exclusively for the purpose of acting as Managing Member of the Company and has never engaged in any other activity, business or endeavor. As of the date of this Agreement, neither Managing Member has liabilities nor indebtedness other than its liability for the debts of the Company, and neither Managing Member shall incur any indebtedness other than its liability for the debts of the Company. If either Managing Member determines it needs additional funds for any purpose, it shall obtain such funds solely from capital contributions from its members. Each Managing Member has observed and shall continue to observe all necessary or appropriate entity formalities in the conduct of its business. Each Managing Member shall keep its books and records and the Company’s books and records separate and distinct from those of its members and Affiliates. Each Managing Member shall clearly identify itself as a legal entity separate and distinct from its members and its Affiliates in all dealings with other Persons.

(bb) The construction and development of the Apartment Complex shall be undertaken and shall be completed in a timely and workmanlike manner in accordance with (i) all applicable requirements of the Project Documents, (ii) all applicable requirements of all appropriate governmental entities, the violation of which would have, or would be likely to have, an adverse effect on the Apartment Complex or the Company, and (iii) the Plans and Specifications of the Apartment Complex as shown on Exhibit P that have been or shall be hereafter approved by the Investor Member and, to the extent required, the Lenders, and any applicable governmental entities, as such Plans and Specifications may be changed from time to time with the approval of the Investor Member and, to the extent required, the Lenders, and any applicable governmental entities. The Managing Member shall provide copies of all change orders to the Investor Member for its written approval promptly after the preparation and prior to the execution thereof.

(cc) The Managing Member shall cause the Company to keep all sources of funding “in balance,” as required by the Lenders and the Investor Member, and ensure that the Company has adequate sources of funds to timely achieve Conversion and satisfaction of other obligations of the Company in accordance with this Agreement.

(dd) Reserved.

(ee) The Managing Member shall prevent a default from occurring under the Project Documents resulting from a breach by the Managing Member, the Guarantors or their Affiliates of any term, condition or restriction applicable to such parties under the Project Documents, including, without limitation, a breach of a restriction on the ownership of the Managing Member or the financial condition of the Managing Member, the Guarantors or their Affiliates.

(ff) Neither the Managing Member nor its Affiliates will receive, directly or indirectly, from the Company or from any other Person, any fee, commission, compensation or
other consideration in connection with (i) this Agreement, (ii) the acquisition of the Land and/or (iii) the construction or operation of the Apartment Complex, except for the payment of fees and distributions to the Managing Member under this Agreement and to the Developer under the Development Agreement.

(gg) The Company received points under the Agency’s Low-Income Housing Tax Credit ranking system pursuant to the Application. The Managing Member shall cause the Company to develop the Apartment Complex and manage the Company in a manner which is consistent with the award of the number of points assigned to the Application by the Agency, unless otherwise consented to by the Agency in writing and Consented to by the Investor Member.

(hh) The Managing Member shall cause the Accountants to certify the Eligible Basis of the Apartment Complex in conjunction with the Company’s application to the Agency for Forms 8609 and in conjunction with the audited cost certification of Eligible Basis.

(ii) The Managing Member shall provide to the Accountants and the Investor Member, promptly upon their request, such written documentation as is reasonably requested by the Accountants and the Investor Member in order to verify the determination of Eligible Basis, including documentation supporting the allocation of any costs incurred by the Company into the determination of Eligible Basis.

(jj) The Company will include in Eligible Basis only the Development Fee which is earned on or prior to the date the Apartment Complex is Placed in Service.

(kk) The Apartment Complex and all of (i) the fixtures, maintenance supplies, tools, equipment and the like now and to be owned by the Company or to be appurtenant to, or to be used in the operation of, the Apartment Complex, as well as (ii) the rents, revenues and profits earned from the operation of, the Apartment Complex, will be free and clear of all security interests and encumbrances except for any mortgages or security agreements (including financing statements) executed in connection with the Loans.

(ll) To the extent required by the Investor Member, one hundred percent (100%) payment and performance bonds issued by a financially viable, nationally recognized bonding company, or a letter of credit, in forms acceptable to the Investor Member naming the Investor Member as a dual obligee or payee, and in amounts satisfactory to the Investor Member, will be obtained by the Contractor at or before Construction Loan Closing and shall remain in full force and effect under terms and conditions as shall be acceptable to the Investor Member. The Managing Member shall promptly notify the Investor Member of any claims made under the bonds.

(mm) In connection with the requirements of the Carryover Allocation, the Managing Member shall take all actions necessary and prepare all documents required in connection with the Company’s satisfaction of the Ten Percent Test and submit to the Agency the supporting documents therefor, including, without limitation, the Carryover Certification, by the date required by the Agency. The Managing Member shall deliver to the Investor Member all documents in support thereof, including, without limitation, the Carryover Certification, prior
to submitting the Ten Percent Test documents to the Agency. Upon the Investor Member’s Consent, the Managing Member shall submit the Ten Percent Test documentation and the supporting documents therefor, including, without limitation, the Carryover Certification, to the Agency.

   (nn) If a material defect is discovered in the construction of the Apartment Complex and such defect was known to the Managing Member or an Affiliate of the Managing Member and was not disclosed to the Investor Member in writing or was intentionally concealed by the Managing Member or such Affiliate, then the Managing Member shall promptly take such action as may be necessary, at the Managing Member’s sole expense, to correct such defective work to the satisfaction of the Investor Member.

   (oo) The Managing Member shall cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code. The Managing Member shall seek the direction and/or Consent of the Investor Member prior to filing of the Company’s 2019 tax returns or such earlier time as such election is to be made. Once made, the election will be irrevocable.

5.3 Restrictions on Authority.

   (a) Notwithstanding any other provision of this Agreement, the Managing Member shall have no authority to (1) knowingly perform any act in violation of applicable law, Agency or other government regulations, requirements of the Lenders or the Project Documents or (2) even unknowingly, perform any act in violation of applicable law, Agency or other government regulations, requirements of the Lenders or the Project Documents if such act would or could materially adversely affect the Apartment Complex, the Company, any Investor Member or the Housing Tax Credits. In the event of any conflict between the terms of this Agreement and any applicable Agency or other government regulations or requirements of the Lender, the terms of such regulations or requirements shall govern. The Managing Member shall not have any authority to do any of the following acts without the Consent of the Investor Member:

   (i) To have borrowings in excess of $10,000 in the aggregate at any one time outstanding on the general credit of the Company, except for the Loans, Operating Deficit Loans and IM Loans;

   (ii) To borrow from the Company or commingle Company funds with funds of any other Person;

   (iii) Following the Completion Date, to construct any new or replacement capital improvements on the Apartment Complex except as contemplated in the applicable Annual Budget, unless under emergency conditions;

   (iv) To acquire any real property in addition to the Apartment Complex (including easements or similar rights necessary or convenient for the operation of the Apartment Complex);
(v) To finance or enter into any mortgage loan or other indebtedness, or to increase, decrease, amend or modify the terms of or refinance or repay (other than in accordance with its scheduled term or amortization) any Loan;

(vi) To acquire any personal property (tangible or intangible) at a cost in excess of $10,000 in any year except to the extent approved in the applicable Annual Budget, or use any Company property other than for a purpose of the Company as set forth in this Agreement;

(vii) To rent apartments in the Apartment Complex such that the Apartment Complex would not meet the requirements of the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test and/or the Rent Restriction Test;

(viii) To sell, exchange, pledge or otherwise convey or transfer any portion of the Apartment Complex (including any land owned by the Company) or, all or any significant portion of the assets of the Company or any Member’s Interest in the Company, which Consent shall not be unreasonably withheld, conditioned or delayed after year fifteen (15) of the Credit Period;

(ix) To terminate or modify any agreement with any Agency;

(x) To cause the Company to commence a proceeding seeking any decree, relief, order or appointment in respect to the Company under the federal bankruptcy laws, as now or hereafter constituted, or under any other federal or state bankruptcy, insolvency or similar law, or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) for the Company or for any substantial part of the Company’s business or property, or to cause the Company to consent to any such decree, relief, order or appointment instituted by any Person other than the Company;

(xi) To pledge or assign any of the Capital Contribution of the Investor Member or any proceeds thereof;

(xii) To amend the Architect’s Contract or the Construction Contract, including, without limitation, any change orders in excess of $25,000.00 per single change order and $125,000 in the aggregate; provided, however, that all deductive change orders, no matter how small and all change order that materially alter the scope of work, shall be subject to the Consent of the Investor Member;

(xiii) To cause the Company to amend the Development Agreement or any other agreement between the Company and any Managing Member or an Affiliate thereof;

(xiv) To do any act required to be approved or ratified by the Investor Member under the Uniform Act;

(xv) To admit an additional Investor Member;

(xvi) To substantially change the nature of the Company’s business;
(xvii) To permit the Company to engage in any activity inconsistent with the Company’s Purposes;

(xviii) To enter into any Project Document not executed prior to the date hereof, and/or to amend any Project Document;

(xix) To amend the § 811 Subsidy Contract or enter into any contract requiring the Company to accept additional Eligible Tenants;

(xx) To adopt any Annual Budget or make any modification to an approved Annual Budget, which Consent shall not be unreasonably withheld, conditioned or delayed;

(xxi) To modify the Development Budget;

(xxii) To increase the Company’s total initial cost basis allocable to a class of property other than residential rental property by more than 25% of the amount set forth in the LIHTC Certificate attached hereto as Exhibit S;

(xxiii) To change the Accountant or the Management Agent;

(xxiv) To sell, transfer, assign, pledge or otherwise convey the Interest of the Managing Member in the Company, or sell, transfer, assign, pledge or otherwise convey any interest in the Managing Member, except in connection with estate planning purposes (but only if (A) the Interest of the Managing Member is conveyed to a trust for the benefit of the spouse or children of Lisa M. Stephens and/or Megan D. Lasch, as the case may be, and (B) Lisa M. Stephens or Megan D. Lasch continues to control the Co-Managing Member and Megan D. Lasch or Lisa M. Stephens continues to control the Administrative Member), or in any member, partner or shareholder of the Managing Member, as the case may be, or any other party in the line of ownership of such member, partner or shareholder, or permit the Developer to sell, transfer, assign, pledge or otherwise convey the interest of the Developer in the Development Agreement, or sell, transfer, assign, pledge or otherwise convey any interest in the Developer, or in any controlling member, partner or shareholder of the Developer, as the case may be, or any other party in the line of ownership of such member, partner or shareholder of the Developer, or voluntarily retire, withdraw or resign as the Managing Member of the Company; or

(xxv) To make, amend or revoke any tax election required of or permitted to be made by the Company under the Code or the Regulations, including, without limitation, any election under Section 42 or Section 754 of the Code or make an election to defer the first year of Housing Tax Credits. In this regard, the Managing Member shall make any elections required or permitted under Section 42 of the Code requested in writing by the Investor Member;

(xxvi) To accept any grants on behalf of the Company.

5.4 Personal Services. The Managing Member or any Affiliates thereof shall have the right to contract or otherwise deal with the Company for the sale of goods or services to the Company in addition to those set forth herein, if (a) compensation paid or promised for such
goods or services is reasonable (i.e., at fair market value) and is paid only for goods or services actually furnished to the Company, (b) the goods or services to be furnished shall be reasonable for and necessary to the Company, (c) the fees, terms and conditions of such transaction are at least as favorable to the Company as would be obtainable in an arm’s-length transaction, and (d) the Investor Member has given its Consent to the particular contract or other dealings between the Company and the Managing Member or its Affiliates. Any contract covering such transactions shall be in writing and shall be terminable without penalty on sixty (60) days’ Notice. Any payment made to the Managing Member or any Affiliate for such goods or services shall be fully disclosed to the Investor Member in writing in the reports required under Section 18.7. Neither the Managing Member nor any Affiliate shall, by the making of lump sum payments to any other Person for disbursement by such other Person, circumvent the provisions of this Section 5.4.

5.5 Continued Compliance Sale. Notwithstanding the foregoing, subject to the Purchase Option Agreement commitments in the Application, at any time after the Compliance Period, the Investor Member may request that the Company sell the Apartment Complex subject to the Extended Use Agreement (a “Continued Compliance Sale”)

(a) After receipt of a request for a Continued Compliance Sale, the Managing Member shall use its best efforts to find a third party purchaser for the Apartment Complex and to cause the Company to consummate a sale of the Apartment Complex subject to the Extended Use Agreement and on terms Consented to by the Investor Member. If such efforts are not successful on terms reasonably satisfactory to the Investor Member within six (6) months of the date of the Investor Member’s request, the Investor Member shall have the right thereafter to locate a purchaser for the Apartment Complex. If the Investor Member locates such a purchaser, then the Managing Member shall be obligated to either (i) consent to the sale to such purchaser and execute all documents in connection with such sale or (ii) purchase the Investor Member’s Interest for an amount equal to what the Investor Member would have received for a sale of the Apartment Complex.

(b) At all times after the end of the Compliance Period, the Investor Member shall have the right, exercisable in its sole and absolute discretion, to put its entire Interest to the Managing Member (or its designee) for a price equal to $100.

5.6 Other Activities. Any Investor Member may engage independently or with others in other business ventures of every nature and description including the ownership, operation, management, syndication and development of competing real estate; neither the Company nor any other Member shall have any rights in and to such independent ventures or the income or profits derived therefrom.

5.7 Indemnification of the Managing Member.

(a) No Managing Member nor any Affiliate thereof shall have liability to the Company or to any Investor Member for any loss suffered by the Company which arises out of any action or inaction of such Managing Member or Affiliate thereof if such Managing Member or Affiliate thereof in good faith determined that such course of conduct was in the best interest of the Company and such course of conduct did not constitute gross negligence, misconduct,
fraud or any breach of fiduciary duty of such Managing Member or Affiliate thereof or a breach of this Agreement by such Managing Member or Affiliate thereof.

(b) A Managing Member or any Affiliate thereof shall be indemnified by the Company against losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained in connection with the Company, provided that all of the following conditions are met: (i) such Managing Member has determined, in good faith, that the course of conduct which caused the loss, judgment, liability, expense or amount paid in settlement was in the best interests of the Company; and (ii) such loss, judgment, liability, expense or amount paid in settlement was not the result of gross negligence, misconduct, fraud, breach of fiduciary duty on the part of such Managing Member or Affiliate thereof or breach of this Agreement; and (iii) such indemnification or agreement to hold harmless is recoverable only out of the assets of the Company, and not from the Investor Member.

(c) Subject to the provisions of Section 5.7(b), no Managing Member or any Affiliate thereof performing services for the Company shall be indemnified for any losses, liabilities or expenses arising from or out of an alleged violation of federal or state securities laws unless (i) there has been a successful adjudication on the merits of each count involving securities laws violations as to the particular indemnitee and the court approves the indemnification of such litigation costs, (ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee and the court approves the indemnification of such litigation costs or (iii) a court of competent jurisdiction approves a settlement of the claims against a particular indemnitee and the court finds that indemnification of the settlement and related costs should be made. In any claim for indemnification for federal or state securities law violations, the party seeking indemnification shall, prior to seeking court approval for such indemnification, place before the court the positions of the Securities and Exchange Commission and any applicable state securities administrator with respect to the issue of indemnification for securities law violations.

(d) The Company shall not incur the cost of the portion of any insurance, other than public liability insurance, which insures any party against any liability as to which such party is herein prohibited from being indemnified.

5.8 Indemnification of the Company and the Hunt Indemnified Parties.

(a) The Managing Member shall indemnify, defend and hold harmless the Company and the Hunt Indemnified Parties, and the Company shall indemnify, defend, and hold harmless the Hunt Indemnified Parties, from and against any and all loss, damage and liability, cost or expense (including reasonable attorneys’ fees) which the Company or any Hunt Indemnified Party may incur by reason of the past, present or future actions or omissions of the Managing Member or any of their Affiliates constituting gross negligence, misconduct, fraud, breach of fiduciary duty or a breach or an Event of Default with respect to or under this Agreement; provided, however, that the foregoing indemnification shall not constitute a guaranty of the Loans.
(b) Notwithstanding the foregoing, no Managing Member shall be liable to a Hunt Indemnified Party or the Company for any act or omission for which the Company is required to indemnify such Managing Member under Section 5.7.

(c) The Managing Member shall indemnify, defend, and hold the Company and the Hunt Indemnified Parties harmless from and against any claims, suits, actions, debts, damages, costs, charges, losses, obligations, judgments and expenses of any nature whatsoever (other than actions caused by a third party on property outside of the Apartment Complex over which the Managing Member has no control and about which the Managing Member had no prior knowledge and no ability to prevent or mitigate the impact of those actions on the Apartment Complex) suffered or incurred by the Hunt Indemnified Parties and arising directly or indirectly out of the presence on, under or about the Apartment Complex of any Hazardous Substance, the use, generation, manufacture, storage or disposal of any Hazardous Substance on, under or about the Apartment Complex, or the violation of any Environmental Laws by the Managing Member or its representatives. The Managing Member shall further indemnify and hold harmless the Company and the Hunt Indemnified Parties and their respective Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, reasonable 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 contained in this Agreement. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, or (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense thereof, or (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received notice in writing as hereinabove required, the Managing Member agrees to indemnify
and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment. In addition to the foregoing indemnification, the Hunt Indemnified Parties may pursue any other available legal or equitable remedy against the Managing Member with respect to the Managing Member’s breach of any of the representations, warranties or covenants contained herein, including, without limitation, the Investor Member’s deferral of the payment of its Capital Contribution pursuant to Section 4.2.

(d) The indemnification rights contained in this Section 5.8 shall be recourse obligations of the Managing Member and shall survive dissolution of the Company and Withdrawal or Involuntary Withdrawal of the Managing Member (except that the Managing Member shall not be liable for claims arising solely from the actions of others after its Withdrawal or Involuntary Withdrawal) and shall be cumulative of, and in addition to, any and all rights, remedies and recourse to which the Hunt Indemnified Parties shall be entitled, whether pursuant to the provisions of this Agreement, at law or in equity.

(e) The Managing Member, on behalf of itself and the Company, hereby waives any and all claims it may now or in the future have against any Lender and the Investor Member relating to the BBVA Loan based in any way upon Lender’s status as an investor in the Investor Member.

5.9 Certain Payments to the Managing Member and Affiliates.

(a) Development Fee. The Company shall pay the Developer the Development Fee on the terms, at the times and in the manner set forth in the Development Agreement. The Development Agreement provides for a Development Fee equal to $1,040,056. No Development Fee shall be paid by the Company upon the occurrence of an Event of Default or the occurrence of an event, which with the giving of notice or the passage of time or both would result in an Event of Default.

(b) MM Incentive Management Fee. The Company shall pay the Managing Member an annual non-cumulative fee payable in arrears (the “MM Incentive Management Fee”), for services commencing at Rental Achievement in connection with the administration of the day-to-day business of the Company in an annual amount not to exceed the lesser of: $40,000 or 7% of Gross Operating Revenue. The MM Incentive Management Fee for each fiscal year of the Company shall be payable from Cash Flow in the manner and priority set forth in Section 14.1(a) and shall be prorated for a partial fiscal year.

(c) Payment of Development Fee and MM Incentive Management Fee. In the event of the occurrence of an Event of Default by the Managing Member under this Agreement, no Development Fee or MM Incentive Management Fee shall be paid, and there shall be no payments on any Operating Deficit Loans, MM Loans, and Excess MM Loans.

5.10 Reserve Accounts.

(a) The Managing Member shall establish and maintain the Replacement Reserve (the “Replacement Reserve”) to provide for working capital needs, improvements, replacements and any other contingencies of the Company as required by the Lenders and/or any Agency. Commencing on the date on which the first building in the Apartment Complex
receives a certificate of occupancy or other license or permit allowing for the occupancy of such first building, the Managing Member shall cause the Company to deposit into Replacement Reserve from its Cash Receipts, the amount of $14,500 annually (the annual amount of contributions to the Replacement Reserve shall be funded in twelve (12) equal monthly payments), which amount shall be adjusted upward each year, commencing on the one year anniversary of the due date for the initial deposit to the Replacement Reserve, by three percent (3%). Following the 10th year of the Compliance Period, and every five (5) years thereafter, the Investor Member shall have the right to require a physical needs assessment for the Apartment Complex at the Company’s expense, which may result in adjustments to the Replacement Reserve. Withdrawals and expenditures from the Replacement Reserve shall be made only with the Consent of the Investor Member and are subject to any written approval which may be required by any Lender or Agency. If the terms of any loan impose more strict requirements regarding the funding and/or use of Replacement Reserve, such more strict requirements shall apply. If the BBVA Lender does not require that it shall hold and control the Replacement Reserve, then the Replacement Reserve shall be deposited at an FDIC commercial member bank selected by the Investor Member, in an account requiring the signature of the Investor Member for any withdrawals (including any interest earned on the account).

(b) The Managing Member shall cause to be established and maintained the Operating Reserve to fund Operating Deficits (the “Operating Reserve”). Concurrently with the Fourth Installment, the Managing Member shall cause the Company to deposit into the Operating Reserve the greater of $236,000 or an amount equal to six months of Operating Expenses and Debt Service Expense, as determined at the time of Rental Achievement and any contributions to the Operating Reserve required by the Agency or any Lender (the “Initial Operating Reserve Amount”). The Operating Reserve shall be deposited at an FDIC commercial member bank selected by the Investor Member, in an account requiring the signature of the Investor Member for any withdrawals (including any interest earned on the account). Withdrawals and expenditures from the Operating Reserve shall be made only with the Consent of the Investor Member, which Consent shall not be unreasonably withheld, conditioned or delayed, and are not subject to any approval by any Lender or Agency. The Investor Member shall facilitate withdrawals without condition or delay, to such extent that the Managing Member requests to use any funds in the Operating Reserve in excess of $118,000 to pay Operating Deficits prior to funding under its Operating Deficit Guaranty; provided, however, that such funds shall not be applied against the Operating Deficit Loan Cap and shall not be available to pay fees to the Management Agent if it is an Affiliate of the Managing Member, the Developer, or Guarantors. Notwithstanding anything to the contrary, the Managing Member shall cause the Company to increase the Operating Reserve from time to time to the extent necessary to cause the Company to comply with all Operating Reserve (or comparable reserve) requirements imposed, from time to time, by any Lender or the Agency. The Operating Reserve shall be maintained from Cash Flow throughout the Compliance Period at an amount equal to or exceeding the Initial Operating Reserve Amount, and shall not be subject to release prior to the end of the Compliance Period. Upon expiration of the Compliance Period, funds in the Operating Reserve shall be distributed pursuant to Section 14.1(a), except to the extent otherwise required by Section 17.2 of this Agreement, provided, however, that no distribution shall be made to the Managing Member pursuant to such sections if an Event of Default has occurred and is continuing under this Agreement. The release of the Operating Reserve shall not require the consent of the BBVA Lender.
(c) [Reserved]

(d) The Managing Member shall establish and maintain the rental achievement reserve (the “Rental Achievement Reserve”) in the amount of the Permanent Loan Shortfall to pay Debt Service Expense on the BBVA Loan in the event the terms of the BBVA Loan and the BBVA Lender do not permit the application of the Permanent Loan Shortfall to the redemption of the BBVA Loan as set forth in Section 8.4. The Rental Achievement Reserve shall be deposited at an FDIC member bank selected by the Investor Member, in an account requiring the signature of the Investor Member for any withdrawals (including any interest earned on the account). The Investor Member shall facilitate withdrawals without condition or delay, to such extent that the Managing Member requests to use any funds in the Rental Achievement Reserve to pay Debt Service Expense on the BBVA Loan to the extent Cash Receipts are not sufficient to pay all Cash Expenditures. Commencing not sooner than the first anniversary of Rental Achievement, the Investor Member shall facilitate annual disbursements from the Rental Achievement Reserve (as Cash Flow in accordance with Section 14.1(a) hereof), with each annual disbursement in an amount up to 1/15th of the original balance of the Rental Achievement Reserve, provided that such annual disbursements shall only be made if each of the following is true: (i) there are no uncured events of default under the Project Documents, and (ii) the annual audited financial statements of the Company for the immediately preceding year demonstrate a Debt Service Coverage Ratio of not less than 1.15 to 1.00 and no accrued trade payable liabilities aged more than thirty (30) days. The Rental Achievement Reserve shall be held through the Compliance Period and shall be released as Cash Flow pursuant to Section 14.1(a) hereof at the end of the Compliance Period, and any remaining balance in the Rental Achievement Reserve upon sale of the Project shall be disbursed as provided in accordance with Section 14.1(b).

5.11 Pledged Payments. To secure the payment and performance by the Managing Member and the Developer to Investor Member of the Managing Member’s obligations under this Agreement and the Developer’s obligations under the Development Agreement, the Managing Member, in accordance with the Managing Member Pledge, hereby collaterally assigns, pledges and grants a security interest to the Investor Member in all right, title and interest the Managing Member has in the right to receive any distributions and payments under this Agreement, payments with respect to Operating Deficit Loans and MM Loans and distributions of Cash Flow and Cash From Capital Transaction, and the Developer, in accordance with the Developer Pledge, hereby collaterally assigns, pledges and grants a security interest to the Investor Member in all right, title and interest the Developer has in the Development Agreement, including, without limitation, any payments of the Development Fee (collectively, the “Pledged Payments”). The Managing Member and the Developer, in accordance with the terms of the Managing Member Pledge and Developer Pledge, respectively, irrevocably direct the Company to pay to the Investor Member any Pledged Payments at any time that there is an unsatisfied obligation secured by the Pledged Payments. The Company and the Members shall treat any Pledged Payments made by the Company to the Investor Member as a payment by the Company to the Managing Member or the Developer, as applicable, of the particular Pledged Payment and a payment by the Managing Member or Developer, to the Investor Member, of the particular obligation which it secures. If there is more than one type of outstanding obligation secured at the time a Pledged Payment is made to the Investor Member, the Investor Member, in its sole discretion shall decide to which secured obligation the Pledged Payments shall be
applied. This Section 5.11 shall constitute a security agreement under the laws of the State. In addition, the Managing Member and the Developer each grant the Investor Member a right of offset against Pledged Payments with respect to all amounts due to the Managing Member under this Agreement and the Developer under the Development Agreement.

5.12 Assignment to Company. The Managing Member hereby transfers and assigns to the Company all of its right, title and interest in and to the Apartment Complex and in and to all of the Project Documents, including, without limitation, the following: (i) all contracts with architects, supervising architects, engineers and contractors with respect to the development of the Apartment Complex; (ii) all plans, specifications and working drawings heretofore prepared or obtained in connection with the Apartment Complex; (iii) all governmental commitments and approvals obtained, and applications therefor, including those relating to planning, zoning, building permits, Housing Tax Credits; (iv) any and all commitments with respect to the Loans; (v) any and all contracts or rights with respect to any agreements with the Lenders and any Agency; and (vi) any other work product related to the Apartment Complex and/or the Company, all of which, with respect to the Managing Member, shall have an agreed to value of $1.00.

5.13 Meetings. Any Member may call meetings of the Company for any matters for which the Investor Member may vote as set forth in this Agreement. Within seven (7) days after receipt of Notice requesting a meeting, which Notice shall state the purpose of a meeting, the Managing Member shall provide the Investor Member with Notice (either in person or by certified mail) of a meeting and the purpose of such meeting to be held on a date not less than ten (10) nor more than twenty (20) days after receipt of said request, at a time convenient to the Investor Member, except in the case of an emergency such meeting to be held within two (2) days after receipt of a request. All meetings shall be held at the principal office of the Company.

5.14 Purchase Option. The Co-Managing Member shall have the right to purchase with respect to the Apartment Complex in accordance with the terms set forth in the Purchase Option Agreement.

ARTICLE 6
MANAGING MEMBER REPRESENTATIONS AND WARRANTIES

6.1 Representations, Warranties and Covenants. The Managing Member represents, warrants and covenants to the Company and the Investor Member, and their counsel for purposes of providing certain tax and other opinions, that the following are presently true and accurate:

(a) The Company is a duly organized limited liability company validly existing and in good standing under the laws of the State and has complied with all filing requirements necessary for the protection of the Investor Member, and it has no assets other than those relating to the Apartment Complex and has never engaged in any business or incurred any liabilities other than in respect of the Apartment Complex. The Company has taken all requisite action in order to conduct lawfully its business in the State and is not qualified to do business in and is not required to so qualify in any jurisdiction other than the State.
(b) The Land is and will be zoned for the operation of the Apartment Complex as a permitted use. There is no violation by the Company or the Managing Member of any zoning or similar regulation applicable to the Apartment Complex which could have a material adverse effect thereon, or, to the best of the knowledge of the Managing Member after due inquiry, of any environmental or similar regulation applicable to the Apartment Complex which could have a material adverse effect thereon, and the Company has complied with all applicable municipal and other laws, ordinances and regulations relating to such construction and use of the Apartment Complex.

(c) All appropriate public utilities, including water, electricity and gas (if called for in the Plans and Specifications), are or will be available and operating properly for each apartment unit in the Apartment Complex on the Occupancy Commencement Date.

(d) No event or proceeding (including, without limitation, legal actions or proceedings before any court, commission, administrative body or other governmental authority having jurisdiction over the zoning applicable to the Apartment Complex, labor disputes and acts of any governmental authority) has occurred or is pending or threatened to the best of the Managing Member’s knowledge after due inquiry, which may (i) materially adversely affect the Company, the Apartment Complex or related to the business or assets of the Company or of the Apartment Complex, or (ii) materially adversely affect the ability of the Managing Member or any of its Affiliates to perform their respective obligations hereunder or under any other agreement with respect to the Apartment Complex, other than legal proceedings which have been bonded against in such manner as to stay the effect of the proceedings or otherwise have been adequately provided for.

(e) No default (or event which, with the giving of notice or the passage of time or both, would constitute a default) has occurred and is continuing under this Agreement or under any material provision of the Project Documents, and the same are in full force and effect.

(f) There has been no violation by the Company, the Managing Member, the Guarantors or any Affiliate of the Managing Member or the Guarantors of Anti-Corruption Laws in connection with the execution of this Agreement, the Project Documents and all other instruments, documents and agreements pertaining to the Company or the Apartment Complex.

(g) After Conversion, no Member or Related Person will bear the Economic Risk of Loss with respect to the Loans. No Managing Member has, either on its own behalf or on behalf of the Company, incurred any financial responsibility with respect to the Company prior to the Closing Date, other than as disclosed in writing to the Investor Member or which will be satisfied at or prior to the execution of this Agreement.

(h) Reserved.

(i) Reserved.

(j) The Company owns a fee simple interest in the Apartment Complex, subject to no material liens, charges or encumbrances other than those which (i) are permitted by the Project Documents and are noted or excepted in the Title Commitment, or, after the issuance thereof, the Title Policy, and (ii) do not materially interfere with use of the Apartment Complex
(or any part thereof) for its intended purpose or have a material adverse effect on the value of the Apartment Complex. The Managing Member has not made any misrepresentations or failed to make any disclosure that will or could result in the Company lacking title insurance coverage based on imputation of knowledge of the Managing Member to the Company.

(k) Reserved.

(l) Reserved.

(m) The execution and delivery of all instruments and the performance of all acts heretofore or hereafter made or taken pertaining to the Company or the Apartment Complex by each Affiliate of the Managing Member which is a corporation or limited liability company have been or will be duly authorized by all necessary organizational action, and the consummation of any such transactions with or on behalf of the Company will not constitute a breach or violation of, or a default under, the charter, bylaws, operating agreement or other organizational documents of such Affiliate or any agreement by which such Affiliate or any of its properties is bound, nor constitute a violation of any law, administrative regulation or court decree.

(n) Any Managing Member which is a corporation or limited liability company has been duly organized, is validly existing and in good standing under the laws of its state of organization and has all requisite power to be a Managing Member and to perform its duties and obligations as contemplated by this Agreement and the Project Documents. Neither the execution and delivery by such Managing Member of this Agreement nor the performance of any of the actions of such Managing Member contemplated hereby has constituted or will constitute a violation of (i) the articles of organization, by-laws, operating agreements or other organizational documents of such Managing Member, (ii) any agreement by which such Managing Member is bound or to which any of its property or assets is subject, or (iii) any law, administrative regulation or court decree.

(o) [Reserved].

(p) The only tenant eligibility requirements or rent restrictions with which the Apartment Complex and the Company must comply, including restrictions necessary to receive the full amount of the Projected Housing Tax Credits, are the following:

(i) 50 apartment units are subject to the rent restrictions and occupancy limitations that apply to residential units that satisfy the Application, Minimum Set-Aside Test and comply with the term of the Extended Use Agreement and are leased to Qualified Tenants (the “Housing Tax Credit Units”);

(ii) Unless the Investor Member gives its Consent, eight (8) of the apartment units shall at all times be rented or available for rent as “free market” (the “Market Rate Units”) units without regard to any rent restrictions and occupancy limitations imposed under the Code, the Agency, the Extended Use Agreement or from any other source;

(iii) 10 apartment units are subject to the restrictions of the Section 811 Subsidy Contract; and
(iv) [6] apartment units are subject to the restrictions of the HOME Loan.

(q) The Managing Member acknowledges that the HOME Loan has been funded with the proceeds of HOME Program funds pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1990, which is implemented by the HOME Investment Partnerships Program, 24 CFR Part 92, as amended (collectively, the “HOME Act”). The Managing Member shall cause the Company to comply in full with the HOME Act, if applicable, including, without limitation, rental restrictions and tenant income limitations, Davis-Bacon Act compliance requirements, and all requirements set forth in any regulatory agreement executed by the Company in connection with the HOME Loan.

(r) The term of the Extended Use Agreement will not exceed thirty-five (35) years and under the Extended Use Agreement.

(s) Saigebrook Development, LLC owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of the Co-Managing Member and Lisa M. Stephens owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of Saigebrook Development, LLC (subject to any estate planning transfers; provided that (A) any direct or indirect interest of Lisa M. Stephens in the Co-Managing Member is conveyed to a trust for the benefit of the spouse or children of Lisa M. Stephens, and (B) Lisa M. Stephens or Megan D. Lasch continues to control the Co-Managing Member). O-SDA Industries, LLC owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of the Administrative Member and Megan D. Lasch owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of O-SDA Industries, LLC (subject to any estate planning transfers; provided that (A) any direct or indirect interest of Megan D. Lasch in the Administrative Member is conveyed to a trust for the benefit of the spouse or children of Megan D. Lasch, and (B) Megan D. Lasch or Lisa M. Stephens continues to control the Administrative Member).

(t) Single Purpose Requirements.

(i) The Managing Member shall not engage, has not engaged and does not engage, in any business other than the business of making housing available to persons of low and moderate income other than with respect to the Market Rate Units and promoting social welfare and combating community deterioration, through acquisition, investment, funding, construction, rehabilitation, or any other means consistent with its charitable purposes.

(ii) The Managing Member shall not enter into and has not entered into any contract or agreement with any Affiliate of the Managing Member, any constituent party of the Managing Member, or any Affiliate of any constituent party, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm’s length basis with third parties other than any such party.
(iii) The Managing Member has and shall continue to pay its debts and liabilities from its own assets as the same shall become due. No Affiliate has paid any debts or liabilities on behalf of the Managing Member.

(iv) The Managing Member has and shall continue to maintain books, financial records and bank accounts that are separate and distinct from the books, financial records and bank accounts of any other Person including any Affiliate.

(v) The Managing Member has and shall continue to maintain separate annual financial statements prepared in accordance with generally accepted accounting principles, consistently applied, showing its assets and liabilities separate and distinct from those of any other entity; in the event the financial statements of the Managing Member are consolidated with the financial statements of any other entity, the Managing Member has and shall continue to cause to be included in such consolidated financial statements: (i) a narrative description of the separate assets, liabilities, business functions, operations and existence of the Managing Member to ensure that such separate assets, liabilities, business functions, operations and existence are readily distinguishable by any entity receiving or relying upon a copy of such consolidated financial statements; and (ii) a statement that the Managing Member’s assets and credit are not available to satisfy the debts of such other entity or any other person.

(vi) The Managing Member or its members has and shall continue to file its own tax returns and pay its own taxes required to be paid under applicable law.

(vii) The Managing Member has and shall continue to (i) hold itself out as an entity separate and distinct from any other Person; (ii) not identify itself or any of its affiliates as a division or part of the other; (iii) correct any known misunderstanding regarding its separate status; and (iv) use separate stationery, invoices, checks, and the like bearing its own name.

(viii) The Managing Member has and shall continue to conduct its business in its own name so as to avoid or correct any misunderstanding on the part of any creditor concerning the fact that any invoices and other statements of account from creditors of the Managing Member are to be addressed and mailed directly to the Managing Member, though this provision shall not prohibit such mail to be delivered to the Managing Member c/o any other entity.

(ix) The Managing Member has and intends to 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.

(x) The Managing Member has not and shall not commingle any of its assets, funds or liabilities with the assets, funds or liabilities of any other Person or Affiliate.

(xi) The Managing Member has and shall continue to maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any party.
(xii) Except as provided for in this Agreement or under the Loan documents, the Managing Member has not and shall not, (i) assume or guaranty the debts of any other Person in a manner that includes a pledge, encumbrance, transfer or hypothecation (whether by operation of law or otherwise) of any assets or interests of the Company or, (ii) hold itself out to be responsible for the debts of another Person in a manner that includes the pledge, encumbrance, transfer or hypothecation of any assets or interests of the Company (whether by operation of law or otherwise), or (iii) otherwise pledge, encumber, transfer or hypothecate the assets of the Company for the benefit of another Person or permit the same to occur, or (iv) hold the Company’s credit as being available to satisfy the obligations of any other Person.

(xiii) All transactions carried out by the Managing Member have been and will be, in all instances, made in good faith and without intent to hinder, delay or defraud creditors of the Managing Member.

(u) On each date of funding by the Investor Member of a Capital Contribution, the Company shall have good and marketable title to the Apartment Complex, subject only to the permitted exceptions set forth in Section 6.1(f). All real estate taxes, assessments, water and sewer charges and other municipal charges, to the extent due and owing, have been paid in full on the Apartment Complex.

(v) No representation, warranty or statement of the Managing Member in this Agreement or in any document, certificate or schedule furnished or to be furnished to any Investor Member pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

(w) The Apartment Complex is not a scattered site project within the meaning of Code Section 42(g)(7).

(x) The Agency has designated the Apartment Complex as requiring an increase in Housing Tax Credits for financial feasibility under Section 42(d)(5)(B)(v) of the Code so that the Apartment Complex is treated as located in a “difficult development area” under Section 42(d)(5)(B) of the Code. Consequently, the Company will be entitled to increase the Eligible Basis of the buildings comprising the Apartment Complex to one hundred thirty percent (130%) of what it would otherwise be.

(y) The Managing Member represents, warrants and covenants that:

(i) By the Fourth Installment, the Accountants have certified that all amounts included in the determination of Eligible Basis as set forth in the Development Budget and in the Application are properly includable pursuant to the Code and Service rulings.

(ii) The Company’s total initial cost basis allocable to a class of property other than residential rental property shall not be increased by more than 25% of the amount set forth in the LIHTC Certificate attached hereto as Exhibit S.

(iii) No portion of the Apartment Complex’s Eligible Basis, including the portion of the Development Fee included in Eligible Basis, is allocable, under the Code and
rulings issued by the Service, to land costs, organizational or syndication costs. Land preparation costs included in Eligible Basis are inextricably associated with depreciable assets of the Company.

(iv) Any portion of the Development Fee that is included in Eligible Basis, including any portion the payment of which is deferred, is properly includable in Eligible Basis under the Code and Service rulings.

(z) No Event of Bankruptcy has occurred with respect to the Managing Member, any Guarantor or any Affiliate of the Managing Member or any Guarantor.

(aa) Neither the Company nor any Managing Member has liabilities, contingent or otherwise, or pending or threatened litigation or any unasserted claim against any of them which would have a material adverse effect on the Managing Member, the Apartment Complex or the Company that have not been disclosed in writing to the Investor Member.

(bb) There is no litigation, demand, suit, action, inquiry, proceeding, investigation or claim pending or, to the best of the Managing Member’s knowledge, threatened, relating to any Anti-Corruption Laws with respect to the Company, the Managing Member, the Guarantor(s) or any Affiliate with respect to the Managing Member or the Guarantor(s).

(cc) All accounts of the Company required to be maintained under the terms of the Project Documents, including the Replacement Reserve, are currently funded to the levels required by the Lenders and/or any Agency, to the extent required by each such Lender and Agency.

(dd) Prior to Completion, the Guarantors will maintain collectively at least $1,000,000 in Liquid Assets. From the date of Completion through and including the Rental Achievement, the Guarantors will maintain collectively at least $500,000 in Liquid Assets. The Managing Member shall Notify the Investor Member whenever the requirements of this Section 6.1(dd) are not satisfied. [Any Development Fee paid at Closing will count towards the Guarantor’s Liquid Asset requirement on the date of Closing].

(ee) All payments and expenses required to be made or incurred in order to achieve Completion of the Apartment Complex in conformity with the Project Documents, to satisfy all requirements under the Project Documents and/or which form the basis for determining the principal sum of the Loans and to pay the Development Fee (other than the Deferred Development Fee) have been or will be paid or provided for utilizing only the Permitted Sources.

(ff) The amount of Housing Tax Credits which are expected to be allocated by the Company to the Investor Member is as set forth in the definition of Projected Housing Tax Credits.

(gg) The Apartment Complex is being developed in a manner which satisfies, and shall continue to satisfy, all restrictions, including tenant income and rent restrictions, applicable to projects generating Housing Tax Credits.
None of the costs to develop and construct the Apartment Complex has been paid for, directly or indirectly, from the proceeds of bonds the interest on which is exempt from tax under Section 103 of the Code, and the Eligible Basis of the Apartment Complex shall not include any costs financed with the proceeds of a federally funded grant pursuant to Section 42(d)(5)(A) of the Code.

(ii) (A) The Managing Member has provided to the Investor Member a complete copy of the Environmental Documents. To the best of the knowledge of the Managing Member after due inquiry, except as disclosed in the Environmental Documents, no Managing Member, Affiliate of any Managing Member or Person for whose conduct any Managing Member is or was responsible has ever: (i) owned, occupied, or operated a Facility or Vessel on the Apartment Complex on which any Hazardous Material was or is stored, transported or disposed of (except if such storage, transport or disposal was and is at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto); (ii) directly or indirectly transported, or arranged for transport, of any Hazardous Material (except if such transport was and is at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) to or from the Apartment Complex; (iii) caused or was legally responsible for any release or threat of release of any Hazardous Material to or from the Apartment Complex or the property adjacent thereto; (iv) received notification from any federal, state or other governmental authority or by any other Person of (x) any potential, known, or threat of release of any Hazardous Material at or from the Apartment Complex; or (y) the incurrence of any expense or loss by any such governmental authority or by any other Person in connection with the assessment, containment, or removal of any release or threat of release of any Hazardous Material from the Apartment Complex.

(B) In connection with the acquisition of the Apartment Complex, the Company obtained a “Phase I” environmental site assessment of the Apartment Complex which establishes an innocent landowner defense pursuant to Section 9601(35) of CERCLA. The Managing Member has reviewed the “Phase I” environmental site assessment (and any subsequent studies recommended therein) and believes the same to be true, correct and complete in all respects. To the best knowledge of the Managing Member, after due inquiry, there is no fact, circumstance, event or condition, previously or subsequently occurring, which would or does make any statement in such survey untrue, false or misleading. None of the Company, the Managing Member nor any of its Affiliates has given any waiver or release of liability pursuant to any Environmental Law to any Person in the chain of title of the Land or the Apartment Complex.

(jj) To the best of the Managing Member’s knowledge, after due inquiry, except as disclosed by the Managing Member to the Investor Member in writing, neither the Company nor the Apartment Complex is in violation of any Environmental Law. Neither the Managing Member nor the Company has received any notice from any governmental agency or by any other Person that the Company, Apartment Complex or Land upon which it is located is in violation of any Environmental Law.

(kk) To the best of the Managing Member’s knowledge, after due inquiry, except as disclosed by the Managing Member to the Investor Member in writing or in the Environmental Documents, no Hazardous Material was ever or is now stored, transported or
disposed of (except to the extent any such storage, transport or disposal was at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) on the Land.

(II) Except as contemplated in the Purchase Option Agreement, no Person or Entity other than the Company and those Persons holding indirect interests through the Company holds any equity interest in the Apartment Complex.

(mm) The Company has the sole responsibility to pay all maintenance and operating costs, including all taxes levied upon, and all insurance costs attributable to the Apartment Complex.

(nn) The Company, except to the extent that it is protected by insurance and excluding any risk borne by any Lender, bears the sole risk of loss if the Apartment Complex is destroyed or condemned, or if there is a diminution in value of the Apartment Complex.

(oo) No Person except the Company has the right to any proceeds after payment of all indebtedness, from the sale, refinancing or leasing of the Apartment Complex.

(pp) The fair market value of the Apartment Complex exceeds or, once constructed, is expected to exceed the total amount of indebtedness, including accrued interest thereon, encumbering the Apartment Complex and is expected to do so throughout the term of such indebtedness.

(qq) The Managing Member represents and warrants that (i) neither the Managing Member nor the Company has entered into any other enforceable agreement or commitment with any other Person to acquire the Housing Tax Credits, or, in the alternative, (ii) the Managing Member and/or the Company has obtained legally enforceable releases or termination agreements from other Persons with whom the Managing Member and/or the Company has previously entered into an agreement whereby said Persons may acquire the Housing Tax Credits. The Managing Member further warrants that it shall at all times indemnify and hold harmless the Hunt Indemnified Parties against and from any and all claims, suits, actions, damages, costs, judgments and expenses, of any nature whatsoever, suffered or incurred by the Hunt Indemnified Parties as a result of the Managing Member and/or the Company’s prior dealings, negotiations, agreements, and/or commitments with Persons.

(rr) The Managing Member has prepared its own financial analysis of the Apartment Complex and is not relying on any financial analysis, projection or forecast prepared by the Investor Member or any Affiliate thereof of the construction costs associated with the Apartment Complex or the Apartment Complex’s operations. There are sufficient sources of funds to complete the Apartment Complex in accordance with the Development Budget.

(ss) The Apartment Complex has been and will be constructed and operated in conformance with the Application submitted to the Agency.

(tt) No restrictions on the sale or refinancing of the Apartment Complex exist, other than restrictions under Code Section 42, the documents evidencing and securing the HOME Loan and the Extended Use Agreement, and no other such restrictions shall be placed
upon the sale or refinancing of the Apartment Complex at any time while the Investor Member is an Investor Member without the Consent of the Investor Member.

(uu) The Company has not made, and will not make, an election to be taxable as a corporation.

(vv) Other than as specifically provided in this Agreement, a creditor who makes a loan to the Company shall not have or acquire at any time as a result of making the loan, any interest in the profits, capital or property of the Company other than as a secured creditor.

(ww) The Managing Member has disclosed in writing to the Investor Member all material actions with respect to the Company taken by the Managing Member prior to the date hereof.

(xx) All material documents relating to the Company and the Apartment Complex have been made available to the Investor Member.

(yy) The Managing Member acknowledges that no Lender is or will be acting on behalf of or as agent for the Investor Member in connection with Loans.

(zz) The Managing Member, on behalf of itself and the Company, shall not bring any claim against any Lender or the Investor Member relating to the Loans based in any way upon Lender’s status as an investor in the Investor Member.

(aaa) Neither the Managing Member nor the Company (a) is in violation of the USA Patriot Act; (b) is a Person or entity described by section 1 of Executive Order 13224 of September 24, 2001, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, 66 Fed. Reg. 49,079 (2001), or (c) to the best knowledge and belief of the Managing Member, neither the Managing Member or the Company engages in any dealings or transactions, or is otherwise associated, with any such Persons or entities.

bbb) The Managing Member acknowledges that the fees to be paid by the Company and described in this Agreement and all exhibits thereto, including the Development Agreement, the Management Agreement and the Project Documents, are reasonable compensation for the services for which they will be paid.

(ccc) The Apartment Complex does not contain any commercial spaces.

(ddd) The Managing Member has performed suitable and adequate due diligence as is customary in the industry and, in connection therewith, and the Managing Member has discovered no condition (other than those previously disclosed to the Investor Member in writing) adverse to the development and operation of the Project or any of the assumptions, projections or proformas delivered to the Investor Member.

(eee) The Managing Member shall Notify the Investor Member of any groundbreaking, grand opening, ribbon-cutting or other public relations ceremony relating to the Apartment Complex (collectively, “Groundbreaking Activities”). In addition, the Managing
Member shall invite (in writing) a representative of the Investor Member to attend and actively participate in such Groundbreaking Activities, such written invitation shall be made no less than thirty (30) calendar days prior to the scheduled event. The Managing Member shall cause the Company to display a sign at the Apartment Complex during construction which clearly states the name of Hunt Capital Partners, LLC as the arranger of equity funds for the Project and at Hunt’s option, the name of the Investor Member or any member/partner of the Investor Member. The sign shall be erected, at the cost of the Company, in a prominent place on the site within fifteen (15) Business Days of receipt by the Managing Member of the Hunt Capital Partners, LLC image and directions. The Managing Member agrees to immediately remove such sign or reference to Hunt Capital Partners, LLC, its investors, and/or any member/partner of the Investor Member if requested by the Investor Member. The Managing Member hereby gives permission to the Investor Member, and any Affiliate thereof, to issue press releases and advertising relating to the equity commitment and the Investor Member’s participation in the transaction. Such media and marketing materials may include, among other things, photos, information about the location of the Apartment Complex, the number of units, the amenities associated with the Apartment Complex and the terms of the equity commitment. The Managing Member shall reference Hunt Capital Partners, LLC as the arranger of equity funds for the Project and at Hunt’s option, the name of the Investor Member or any member/partner of the Investor Member, in any press releases related to the Apartment Complex and shall provide the Investor Member with at least five (5) Business Days to review such items.

(fff) Reserved.

(ggg) to the Managing Member’s knowledge, it has complied in all material respects with, and has caused the Company to comply in all material respects with, all applicable local, state and federal laws, statutes, regulations, rules and ordinances (including, without limitation, (i) all applicable filing and disclosure requirements related thereto, (ii) the USA Patriot Act and (iii) the Currency and Foreign Transactions Reporting Act of 1970 and neither it nor the Company has entered into any transaction with any entity or country that, to its knowledge, is (A) sanctioned under Section 311 of the USA Patriot Act or (B) a Foreign Shell Bank; it has established anti-money laundering policies and procedures as may be required by the Bank Secrecy Act, as amended by USA Patriot Act, which policies and procedures shall also apply, as applicable, to the Company, and is in full compliance with the Financial Crimes Enforcement Network of the U.S. Department of Treasury ("FinCen") regulations.

(hhh) At the written direction of the Investor Member, the Managing Members shall cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code. The Managing Member shall not otherwise make the foregoing election without the written direction of, or with the Consent of, the Investor Member. The Managing Member shall seek the direction and/or Consent of the Investor Member prior to filing of the Company’s 2019 tax returns or such earlier time as such election is to be made. Once made, the election will be irrevocable.

(iii) All of the representations, warranties and covenants contained herein shall survive the date of Conversion and the funding date of each Installment made by the Investor Member. The Managing Member shall indemnify and hold harmless the Hunt Indemnified Parties 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. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, or (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received Notice in writing as hereinabove required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment.

6.2 Environmental Representations, Warranties and Covenants. The Managing Member will establish operating and maintenance programs (an “O&M”) to instruct site staff and vendors on how to proceed when (i) maintaining the components of the electrical system that facilitate safe mixing of aluminum and copper components, and (ii) dealing with Hazardous Materials at the Apartment Complex, each as and if applicable. A copy of each such O&M report shall be furnished to the Investor Member and the Management Agent, and the Management Agreement shall obligate the Management Agent to act in accordance with the recommendations in any such O&M.

ARTICLE 7
EVENTS OF DEFAULT AND REMEDIES

7.1 Events of Default. Any one or more of the following events, whether described in Section 7.1(a) or Section 7.1(b) is an Event of Default under this Agreement, and the term “Event of Default,” wherever used herein, means any one of the following events, whatever the reason for such default and whether it shall be voluntary or involuntary or be effected by
operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body. The Events of Default described in Section 7.1(a) may also give rise to the Investor Member’s repurchase right as described in Section 7.2(b)(iv), however, after the Company’s receipt of Forms 8609 and the funding of the Fifth Installment, the Investor Member’s repurchase right shall terminate.

(a) **Events of Default That Are Repurchase Triggers.**

(i) acts or omissions of the Managing Member that either (A) constitute fraud, bad faith, gross negligence, misconduct, or breach of fiduciary duty with respect to any material matter in the discharge of its duties as the Managing Member or (B) results in or is likely to result in a material detriment to or an impairment of the Apartment Complex, the Company, the Housing Tax Credits or any assets of the Company;

(ii) a Loan shall have been declared in default by Lender, which gives the Lender the right to foreclose on the Apartment Complex;

(iii) any interest rate lock-in has expired and is not replaced with a rate lock of equivalent terms, or the Apartment Complex only qualifies for a permanent loan that is insufficient to balance the sources and uses of funds;

(iv) [Reserved];

(v) other than due to a Tax Law Change, the amount of Actual Housing Tax Credits for any year are (with the exception of year 2020, so long as all adjuster payments due hereunder are funded in a timely manner), or are projected by the Accountants after the issuance of Forms 8609 to be less than eighty percent (80%) of Projected Housing Tax Credits;

(vi) For any reason whatsoever, the Apartment Complex does not generate any Actual Housing Tax Credits during 2021;

(vii) Placement in Service does not occur on or before the earlier to occur of (a) December 31, 2020, or (b) the date required by the Code and the Agency to preserve the Housing Tax Credits;

(viii) reserved;

(ix) reserved;

(x) IRS Forms 8609 are not issued for all buildings in the Apartment Complex on or before the date required under the Code or by the Agency to claim the Housing Tax Credits for the Apartment Complex in the year available (subject, in either case, to delays in issuance thereof solely due to inaction of the Agency);

(xi) The satisfaction of all First Installment Funding Conditions does not occur by June 30, 2019;
(xii) Rental Achievement does not occur on or before October 1, 2021;

(xiii) a casualty shall have occurred with respect to the Apartment Complex and insurance proceeds are insufficient to fully restore the Apartment Complex to its condition immediately prior to such casualty, or the Apartment Complex is not fully restored to its condition immediately prior to such casualty within twenty-four (24) months of such casualty or such earlier date as may be required by the Code or the Agency to preserve the Housing Tax Credits;

(xiv) reserved;

(xv) the Ten Percent Test is not met within earlier of the time specified by Section 42(h)(1)(E) of the Code or the date required by the Agency;

(xvi) reserved;

(xvii) the Managing Member and/or the Company fail to comply with any requirement of the Agency which may have a material adverse effect on the Carryover Allocation, including, without limitation, a reduction in the Projected Housing Tax Credits;

(xviii) at any time prior to Completion, an action is commenced to abandon or permanently enjoin the construction of the Apartment Complex;

(xix) non-achievement of the Minimum Set-Aside Test and/or the Rent Restriction Test by the end of the first year of the Credit Period;

(xx) the Company fails to execute and record an Extended Use Agreement by the close of the first year of the Credit Period;

(xxi) the Company fails to achieve Initial 100% Occupancy on or before October 31, 2021;

(xxii) at any time prior to Rental Achievement, the Managing Member and/or the Developer fail to provide or cause to be provided any funds required to be provided by the Managing Member hereunder or by the Developer under the Development Agreement;

(xxiii) reserved;

(xxiv) the occurrence of an Event of Bankruptcy prior to Rental Achievement, with respect to the Managing Member, the Company, the Guarantor or the Developer, or a Person with a Controlling Interest in any of them;

(xxv) the Managing Member shall have conducted its own affairs or the affairs of the Company in such a manner as would (1) cause the termination of the Company for federal income tax purposes or (2) cause the Company to be treated for federal income tax purposes as an association taxable as a corporation; (3) cause the Company to fail to qualify as a limited liability company under the Uniform Act; or (4) cause the Investor Member to be liable for Company obligations in excess of its Capital Contribution; or (5) otherwise substantially
reduce tax benefits or substantially increase tax liabilities of the Investor Member for which the Investor Member is not compensated under this Agreement; or

(xxvi) any change of control of the Managing Member without the Consent of the Investor Member.

(b) Events of Default That are Not Repurchase Triggers.

(i) the Company fails to pay on a timely basis any of its real estate or personal property tax obligations (including any payments-in-lieu-of-taxes) to any county, city, town or other local government;

(ii) the occurrence of an Event of Bankruptcy after Rental Achievement with respect to the Managing Member, the Company, a Guarantor, the Developer, or a Person with a Controlling Interest in any of them;

(iii) any commission of, indictment or conviction for, or pleading of, nolo contendere with respect to a felony by the Managing Member or a Controlling Person of the Managing Member, or an Affiliate of the Managing Member, or there be a complaint filed against the Managing Member or a Controlling Person of the Managing Member, or an Affiliate of the Managing Member, alleging violation of any anti-fraud, registration or reporting provision of state or federal securities law or a judgment rendered against the Managing Member, a Controlling Person of the Managing Member, or an Affiliate of the Managing Member as a defendant (or admit to liability) in any action based upon civil fraud or misrepresentation, or a debarment or otherwise declaration of ineligibility to participate in any federal program or the Managing Member, a Controlling Person of the Managing Member or an Affiliate of the Managing Member is indicted by a grand jury. In the event a Controlling Person of the Co-Managing Member or an Affiliate of the Co-Managing Member is under investigation by a grand jury, voting rights and control belonging to the Co-Managing Member’s Interest shall vest to the Administrative Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable. In the event a Controlling Person of the Administrative Member or an Affiliate of the Administrative Member is under investigation by a grand jury, voting rights and control belonging to the Administrative Member’s Interest shall vest to the Co-Managing Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable. In the event a Controlling Person of both the Co-Managing Member and the Administrative Member or an Affiliate of the Co-Managing Member and an Affiliate of the Administrative Member is under investigation by a grand jury, voting rights and control belonging to the Interests of Co-Managing Member and the Administrative Member shall vest to the Investor Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable;

(iv) a default by a Guarantor under the Guaranty;
(v) any representation or warranty made by the Managing Member herein, or in any document or certificate furnished to the Investor Member in connection herewith or pursuant hereto shall prove at any time to be false, incorrect or misleading as of the date made and which has an adverse impact upon the Company or the Investor Member;

(vi) the failure of the Managing Member to make any Capital Contributions or payments to the Investor Member required pursuant to Section 4.2(d);

(vii) the Managing Member shall fail in any respect to observe and perform or shall breach in any respect any covenant, condition, duty, obligation or agreement set forth in Articles 5, 6 and 8, which are not otherwise set forth in this Section and which has an adverse impact upon the Company or the Investor Member;

(viii) any act by the Managing Member outside the scope of its duties or obligations under this Agreement that has a material adverse effect on the Company, the Apartment Complex or the Investor Member;

(ix) the material breach by the Managing Member of any provision of this Agreement or a breach or default by the Company of any Project Document;

(x) the Apartment Complex or the Company is substantially mismanaged in any material respect;

(xi) the Managing Member fails to fund any Operating Deficits (regardless of whether the Operating Deficit Guaranty Period has expired or whether the Operating Deficit Cap has been reached);

(xii) the Managing Member withdraws, attempts to withdraw, or for any reason is deemed to have withdrawn from the Company;

(xiii) the Managing Member fails to provide or maintain any insurance required by this Agreement;

(xiv) the Managing Member shall have conducted its own affairs or the affairs of the Company in such a manner as would qualify as an event of removal or withdrawal with respect to a Managing Member under the Uniform Act; or

(xv) a Loan shall have been declared in default by Lender.

7.2 Notice and Remedies.

(a) Notice. Prior to or concurrently with the enforcement of any remedy in Section 7.2(b), the Investor Member shall give Notice of an Event of Default (“Notice of Default”) to the Managing Member and, with respect to certain Events of Default set forth in Section 7.2(c) only, the Managing Member shall have the right to cure such Event of Default.

(b) Remedies.
(i) Upon the occurrence of an Event of Default (and if the Event of Default is subject to cure under Section 7.2(c), upon a failure to cure such Event of Default by the expiration of the applicable cure period), the Investor Member may elect that, such Managing Member (a) shall immediately cease to be a Managing Member, (b) shall no longer have any Interest, (c) shall not be entitled to receive any fees, including but not limited to the MM Incentive Management Fees, which have not been fully paid prior to the date of the occurrence of the Event of Default or payment with respect to any Operating Deficit Loans or MM Loans (such removal of the Managing Member shall be an “Involuntary Withdrawal”). Notwithstanding the foregoing, upon the occurrence of the Event of Default described in Section 7.1(b)(ii) hereof, the Involuntary Withdrawal of the Managing Member shall occur immediately upon the occurrence of the Event of Default, without any election by the Investor Member.

(ii) Upon an Event of Default (and if the Event of Default is subject to cure under Section 7.2(c), upon a failure to cure such Event of Default by the expiration of the applicable cure period), the Investor Member’s designee, which may be a Hunt Entity or a qualified non-profit organization if required by the Application, shall be admitted as a replacement Managing Member (the “Replacement Managing Member”) on the terms set forth herein without any further action by any other Member. Upon any such admission of the Replacement Managing Member, the former Managing Member’s interest in all items of profits, losses, credits, distributions and Percentage Interest shall be transferred to the Replacement Managing Member and the Replacement Managing Member shall be paid all fees and loans, including but not limited to MM Incentive Management Fees, Operating Deficit Loans and MM Loans, which would have been payable to the removed Managing Member had an Event of Default not occurred. In addition, the obligation to pay any Development Fee, or portion thereof, that is not paid with the Managing Member’s Special Capital Contribution in accordance with Section 4.1(c), shall be automatically assigned to the Replacement Managing Member. The Replacement Managing Member shall be automatically admitted and become the managing member of the Company without the need for any approval from any Member, Agency or any Lender, unless otherwise required by the Agency or by any Lender, and shall be irrevocably delegated all of the power and authority of the Managing Member pursuant to Section 5.1. Each Member hereby grants to the Investor Member a special power of attorney, irrevocable to the extent permitted by law and coupled with an interest, to amend the Certificate and this Agreement and to do anything else which, in the view of the Investor Member, may be necessary or appropriate to accomplish the purposes of this Section 7.2(b)(ii) or to enable the Replacement Managing Member admitted pursuant to this Section 7.2(b)(ii) to manage the business of the Company. The admission of the Replacement Managing Member shall not relieve the former Managing Member of any of its obligations hereunder incurred as a Managing Member, and the former Managing Member shall fully indemnify and hold harmless the Replacement Managing Member from and against any and all losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained in connection with its capacity as a Managing Member. For the avoidance of doubt, the Managing Member shall not be responsible for obligations incurred or arising from the actions or inactions of the Replacement Managing Member on or after the Replacement Managing Member is admitted to the Company or for claims arising after its removal and not attributable to the former Managing Member’s actions or inactions.

(iii) The Investor Member hereby is granted an irrevocable power of attorney, coupled with an interest, to execute any and all documents on behalf of the Members
and the Company as shall be legally necessary and sufficient to effect all of the foregoing provisions of this Section 7.2, including, without limitation, any amendment to the Certificate and this Agreement.

(iv) Upon the occurrence of an Event of Default by the Managing Member described in Section 7.1(a), the Investor Member may, at its option, at any time, require the Managing Member to, and the Managing Member shall, purchase the Investor Member’s Interest in the Company for an amount equal to the Capital Contribution paid by the Investor Member (together with interest thereon at an annual interest rate of ten percent (10%) compounded annually from the date on which each installment of the Investor Member’s Capital Contribution was actually advanced to the Company) plus all expenses (including, without limitation, reasonable costs of in house and outside legal counsel and accountants) incurred by the Investor Member in connection with its participation in the Company and enforcing their rights hereunder, plus the repayment in full of all outstanding IM Loans plus any federal income tax liability incurred by the Investor Member as a result of the payment of any amounts pursuant to this Section 7.2(b)(iv) less Housing Tax Credits allocated to the Investor Member that have not been or will not be recaptured. Upon receipt of such amount, the Investor Member’s interest as an Investor Member in the Company shall terminate, the Investor Member shall transfer its interest in the Company to the Managing Member or its designees, and the Managing Member shall indemnify and hold harmless the Hunt Indemnified Parties from and against any losses, damages, liabilities, costs or expenses (including reasonable attorneys’ fees) to which the Hunt Indemnified Parties (as a result of its participation hereunder) may be subject. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after Notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, or (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there
is a final judgment for the plaintiff in any such action as to which the Managing Member has received Notice as hereinabove required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment.

(v) The Managing Member, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agrees that if the Managing Member becomes the subject of Bankruptcy proceedings pursuant to the United States Bankruptcy Code, as it may be amended (the “Bankruptcy Code”), then (i) any other Member shall thereupon be entitled to immediate relief from any automatic stay imposed by Section 362 of the Bankruptcy Code or otherwise, on or against the exercise of the rights and remedies available to such Member pursuant to this Agreement or otherwise, and (ii) any Member may apply or move the bankruptcy court in which the Bankruptcy proceedings are pending for a change of venue to the bankruptcy court where the Company has its principal place of business and the Managing Member agrees not to oppose or object to such application or motion in any way. The foregoing shall in no way preclude, restrict or prevent the Managing Member from filing for protection under the Bankruptcy Code.

(vi) This is an agreement under which applicable law excuses the Investor Member from accepting performance from any Managing Member which is a debtor in a case under the Bankruptcy Code, 11 U.S.C. § 101 et seq., from a trustee of any such debtor and from the assignee of any such debtor or trustee. The Managing Member acknowledges that the Investor Member has entered into this Agreement with the Managing Member in consideration of and in reliance upon its unique knowledge, experience and expertise, and that of its principals in the planning and implementation of the development of the Apartment Complex and in the area of affordable housing and development in general. The foregoing restriction on transfer is based in part on the above factors. The Managing Member expressly agrees that the Investor Member shall not be required to accept performance under this Agreement from any person other than the Managing Member, including, without limitation, any trustee of the Managing Member appointed under the Bankruptcy Code, 11 U.S.C. § 101 et seq., and any assignee of any such trustee or any receiver or examiner appointed under federal or state law.

(vii) Upon the occurrence of an Event of Default, the Company shall withhold payment of any installment of fees payable pursuant to Section 5.9 and the Managing Member shall be liable for the Company’s payment of any and all installments of the Development Fee payable pursuant to the Development Agreement. All amounts so withheld by the Company under this Section 7.2(b)(vii) shall be promptly released to the payees thereof only after the Managing Member has cured the default justifying the withholding, as demonstrated by evidence acceptable to the Investor Member.

(viii) In addition to the foregoing remedies, the Investor Member can take suits, actions or proceedings in equity or at law, either for the specific performance of any covenant or contract contained herein or in aid or execution of any right herein granted, or for any legal or equitable remedy as the Investor Member shall deem most effectual to protect and enforce this Agreement, the Guaranty and the Project Documents.
(c) **Cure.** After Notice from the Investor Member pursuant to Section 7.2(a), the Managing Member shall have the following opportunity to cure only the following Events of Default:

(i) There shall be no cure period with respect to Events of Default described in Section 7.1(a). There shall be no cure period with respect to Events of Default described in any of Sections 7.1(b)(ii) and (iii) (the “No Cure Sections”).

(ii) The Managing Member shall have ten (10) Business Days from the date of the Notice of Default to cure a monetary Event of Default described in Sections 7.1(b)(i), (iv), (vi), (xi), (xvi) and (xvii) in a manner acceptable to the Investor Member in its sole discretion.

(iii) In the case of an Event of Default in Section 7.1(b) that is susceptible of cure, the Managing Member shall have thirty (30) days from the date of the Notice of Default to cure such Event of Default in a manner acceptable to the Investor Member in its sole discretion or, if the Managing Member commences such cure within thirty (30) days from the date of the Notice of Default and proceeds diligently and in good faith to cure such Event of Default, ninety (90) days from the date of the Notice of Default; but only if the failure to cure such Event of Default within such ninety (90) day period does not have, or in the sole judgment of the Investor Member, will not have, a material adverse effect on the Company, the Apartment Complex or the Investor Member.

(iv) With respect to any Event of Default attributable solely to the Co-Managing Member and for which such Event of Default has been cured by the Administrative Member, the Administrative Member shall have the right to replace the Co-Managing Member with another entity Consented to by the Investor Member. With respect to any Event of Default attributable solely to the Administrative Member and for which such Event of Default has been cured by the Co-Managing Member, the Co-Managing Member shall have the right to replace the Administrative Member with another entity Consented to by the Investor Member.

(v) Any cure of an Event of Default by the Investor Member or an Affiliate of the Investor Member shall not constitute a cure by the Managing Member.

7.3 **Nonexclusive Remedies.** No remedy herein conferred upon or reserved to the Investor Member is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Investor Member to exercise any remedy reserved to it in this Article, it shall not be necessary to give any Notice other than such Notice as may be herein expressly required or as may be required by law.

7.4 **Attorney’s Fees and Expenses.** If an Event of Default shall exist under this Agreement and the Investor Member employs attorneys or incurs other expenses for the
collection of any amounts due hereunder, or for the enforcement of performance of any obligation or agreement on the part of the Managing Member, Developer or Guarantor, the Managing Member shall upon demand pay to the Investor Member the reasonable fees of such attorneys and such other expenses so incurred.

7.5 **Effect of Waiver.** In the event any Event of Default is waived by the Investor Member, such waiver shall be limited to the particular Event of Default so waived and shall not be deemed to waive any other Event of Default hereunder. Any such waiver shall only be effective if signed in writing by the Investor Member.

**ARTICLE 8**

**MANAGING MEMBER GUARANTEES**

8.1 **Construction Completion Guaranty.**

(a) The Managing Member shall:

(i) Cause all of the dwelling units in the Apartment Complex to be Placed in Service on or before the Placed in Service Date;

(ii) Achieve Completion on or before the date that is ninety (90) days following the date set forth in Section 8.1(a)(i);

(iii) Cause the full funding of the HOME Loan by Conversion; and

(iv) Fulfill all actions required of the Company to assure that the Apartment Complex satisfies the Minimum Set-Aside Test and the Rent Restriction Test on or before by the end of the first year of the Credit Period.

(b) The Managing Member hereby is obligated to pay all Development Deficits when and as incurred. The Company shall have no obligation to pay any Development Deficits. Any amounts funded by the Managing Member pursuant to this clause (b) shall not be treated as a Capital Contribution or a Member Loan and shall not be repaid by the Company. Such Development Deficits may, at the Managing Member’s election together with the prior Consent of the Investor Member, be paid by the Managing Member, through the deferral of additional Development Fee as set forth in Section 3(b) of the Development Agreement, causing a portion of the unpaid Development Fee then due (not to exceed the lesser of the amount such Development Deficits or the unpaid cash portion of the Development Fee then due to the Developer) to be changed to a Deferred Development Fee in the manner provided in Section 3(b) of the Development Agreement (a “DDF Election”), provided, the Investor Member shall Consent to such deferral only if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after Rental Achievement, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to generate Projected Housing Tax Credits and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period.
The Managing Member shall pay any Development Deficits pursuant to Section 8.1 by the earlier of (i) the date required to avoid a default or penalties under Company obligations, including, without limitation, the Loans, (ii) the date required to keep all sources of funding for the Apartment Complex “in balance,” (iii) the date required to keep all expenses without a specific maturity date paid on a sixty (60) day current basis or (iv) such earlier date as may be set forth in this Agreement.

If, as the result of any failure by the Sub-Contractor to fulfill its obligations under that certain agreement between Sub-Contractor and General Contractor with respect to the Apartment Complex, a Development Deficit exists and the Guarantor makes a payment of such Development Deficit under the Guaranty, any liquidated damages payment received by the Partnership under the Construction Contract shall be paid to the Guarantor to the extent the Guarantor makes such a payment.

8.2 Operating Deficit Guaranty. Subject to the Managing Member’s right under Section 5.10(b) to use funds in the Operating Deficit Reserve to pay Operating Deficits, if at any time during the Operating Deficit Guaranty Period, an Operating Deficit shall exist, the Managing Member shall make an Operating Deficit Loan to the Company as shall be necessary to pay such Operating Deficits; provided, however, that the Managing Member shall not be obligated to make an Operating Deficit Loan if and to the extent such loan would cause the aggregate amount of all Operating Deficit Loans then outstanding to exceed six (6) months of Operating Expenses and Debt Service Expense as reasonably determined by the Investor Member upon the achievement of Rental Achievement (the “Operating Deficit Loan Cap”). Any Operating Deficit Loan shall be on the following terms: (a) it shall be unsecured; (b) it shall not bear interest; (c) it shall be repayable solely from Cash Flow and proceeds of a Capital Transaction at the time and in the amounts set forth in Sections 14.1(a), 14.1(b) and 17.2(b) of this Agreement; and (d) it shall be fully subordinated to payment of the Loans, IM Loans, MM Loans and indebtedness of the Company to all Persons other than Members. The Managing Member shall be required to fund Operating Deficits pursuant to this Section 8.2 by the earlier of (A) the date required to avoid a default or penalties under Company obligations, including, without limitation, the Loans, and (B) the date required to keep all expenses without a specific maturity date paid on a sixty (60) day current basis. Proceeds of an Operating Deficit Loan may not be used to pay fees to the Management Agent if it is an Affiliate of the Managing Member, the Developer, or the Guarantors.

8.3 Housing Tax Credit Compliance Guaranty.

If, at any time after the earlier to occur of (i) the date that the Investor Member’s Capital Contribution obligation has been reduced to zero or (ii) the occurrence of an Event of Default, there is a Housing Tax Credit Shortfall other than as a result of a Housing Tax Credit Disallowance Event, the Managing Member shall promptly, but in any event within five (5) calendar days after demand, pay the Investor Member an amount equal to (1) the amount of the Housing Tax Credit Shortfall for the fiscal year immediately preceding the Payment Date, (2) all penalties and interest imposed by the Code and assessed against the Investor Member, by the Service with respect to any Housing Tax Credit Shortfall, and (3) an amount sufficient to pay any tax liability owed by the Investor Member resulting from the receipt from the Managing Member of the amounts specified in the foregoing clauses (1), (2) and this clause (3) (such
calculation to be made assuming the Investor Member is subject to the highest federal and Texas state rate imposed on corporate taxpayers under the Code and applicable state law for the taxable year of the Investor Member in which such payment is taken into income by the Investor Member) together with interest on such amounts at the AFR accruing from such Payment Date if such payments in (i), (ii) and (iii) are not made on the Payment Date. There shall be no duplication between amounts paid under this Section 8.3(a) and amounts reflected as reductions in Capital Contributions (and/or payments by the Managing Member, if applicable) under Section 4.2(d).

(b) If at any time after the earlier to occur of (i) payment of the Investor Member’s Capital Contribution or (ii) the occurrence of an Event of Default, there is a Housing Tax Credit Disallowance Event, the Managing Member shall promptly, but in any event within five (5) days after demand, pay to the Investor Member the sum of the following amounts: (i) the amount of Housing Tax Credits previously allocated to the Investor Member, and subsequently disallowed because of such Housing Tax Credit Disallowance Event; (ii) the “credit recapture amount” (as defined in Code Section 42(j)(2)) allocated to the Investor Member because of such Housing Tax Credit Disallowance Event; (iii) all penalties and interest imposed by the Code and assessed against the Investor Member by the Service with respect to such Housing Tax Credit Disallowance Event; (iv) an amount sufficient to pay any tax liability owed by the Investor Member resulting from the receipt from the Managing Member of the amounts specified in the foregoing clauses (i), (ii), (iii), and this clause (iv) (such calculation to be made assuming the Investor Member is subject to the highest federal and Texas state rate imposed on corporate taxpayers under the Code and applicable state law for the taxable year of the Investor Member in which such payment is taken into income by the Investor Member) together with interest on such amounts at the AFR accruing from such Payment Date if such payments in (i), (ii) and (iii) are not made on the Payment Date. There shall be no duplication between amounts paid under this Section 8.3(b) and amounts reflected as reductions in Capital Contributions (and/or payments by the Managing Member, if applicable) under Section 4.2(d).

(c) If the Investor Member receives a payment under the Housing Tax Credit Compliance Guaranty and the Company has appealed the issue giving rise to such payment (but has not caused a stay of enforcement with respect to such issue), and if the Company prevails on such appeal based on a final ruling by a federal court of competent jurisdiction, then the Investor Member shall refund the excess payment under the Housing Tax Credit Compliance Guaranty which it had received.

(d) If there is a Tax Law Change, the Managing Member shall use its good faith, reasonable efforts to comply with such Tax Law Change and to avoid a Housing Tax Credit Shortfall or Housing Tax Credit Disallowance Event, based on such Tax Law Change. If despite the Managing Member’s good faith, reasonable efforts to comply with the Tax Law Change, such Tax Law Change results in a claim under Section 8.3 (a “Limited Recourse Liability”), then the sole recourse of the Investor Member with respect to the Limited Recourse Liability shall be limited to the amount set forth in such claim.
Liability shall be to the Pledged Payments (excluding only payments of the Development Fee) and the Managing Member shall have no personal liability for the payment of such Limited Recourse Liability (unless and to the extent it wrongfully received Pledged Payments or otherwise breached this Agreement) that should have been made to the Investor Member in satisfaction of the Limited Recourse Liability.

8.4 Permanent Loan Funding Guaranty.

(a) The Managing Member irrevocably and unconditionally guarantees and covenants that in no event shall the principal amount of the BBVA Loan shall result in a Debt Service Coverage Ratio being less than one hundred fifteen percent (115%), as determined by the Investor Member in its reasonable discretion. The principal balance of the permanent phase of the BBVA Loan shall not exceed $2,000,000 and the interest rate shall be fixed at [6.51]% over its eighteen (18) year term (thirty-five (35) year amortization schedule). Upon Conversion, all Loans shall be nonrecourse, except for customary carve-outs.

(b) A “Permanent Loan Shortfall” shall be the amount by which $[2,000,000] exceeds the actual principal amount of the BBVA Loan after Conversion, not to exceed the amount which would result in an aggregate Debt Service Coverage Ratio equal to one hundred fifteen percent (115%), as determined by the Investor Member in its sole discretion. The Managing Member shall provide such funds to the Company or, with the Consent of the Investor Member, defer the Managing Member’s portion of the Development Fee to be paid as a Deferred Development Fee, as may be necessary to pay for any Permanent Loan Shortfall before Conversion; provided, the Investor Member shall Consent to such deferral only if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after the Placed in Service Date, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to allocate Projected Housing Tax Credits to the Investor Member and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Any amounts funded by the Managing Member pursuant to this clause (b) shall not be treated as a Capital Contribution or a Member Loan and shall not be repaid by the Company. The Permanent Loan Shortfall shall be used by the Company to reduce the principal amount of the BBVA Loan to result in an aggregate Debt Service Coverage Ratio of not less than 1.15 to 1.00.

8.5 Security Documents. As security for the foregoing guarantees and the other obligations of the Managing Member under this Agreement and the Developer under the Development Agreement and concurrently with the execution of this Agreement, the Managing Member shall cause to be delivered to the Investor Member the following documents: (a) Managing Member Pledge; (b) Developer Pledge; and (c) Guaranty.
ARTICLE 9
WITHDRAWAL OF THE MANAGING MEMBER; ADMISSION OF NEW MANAGING MEMBER; REMOVAL OF A MANAGING MEMBER

9.1 Withdrawal.

(a) Except for an Involuntary Withdrawal, the Managing Member may not withdraw from the Company or sell, transfer assign or encumber its Interest without the Consent of the Investor Member.

(b) In the case of a Managing Member who is an individual, upon the death or adjudication of incompetence of such Managing Member, such Managing Member shall cease to be a Managing Member and shall have no Interest in the Company.

9.2 Admission of Additional Managing Member(s) under Certain Circumstances.

(a) Except as otherwise provided in Article 7, a Person shall be admitted as a Managing Member (the “Additional Managing Member”) of the Company only if the following terms and conditions are satisfied, or waived by the Investor Member:

(i) except as otherwise provided in Article 7 or in the event of the Withdrawal of the Managing Member, the admission of such Person has been consented to by the Managing Member or its successor;

(ii) the admission of such Person has been Consented to by the Investor Member and, if required, by the Agency and the Lenders;

(iii) the successor or additional Person has accepted and agreed in writing to be bound by (i) all the terms and provisions of this Agreement, and (ii) all the terms and provisions of the documents executed in connection with each of the Loans and the Extended Use Agreement, by executing counterparts thereof, if required by the Lenders and/or the Agency, as applicable, and (iii) all the terms and provisions of such other documents or instruments as may be required or appropriate in order to admit such Person as a Managing Member, and (iv) if required under the Uniform Act as a condition precedent to the admission of a Managing Member, an amendment to the Certificate has been filed;

(iv) such Person has provided the Company with evidence satisfactory to Counsel for the Company of its authority to become a Managing Member, to do business in the State and to be bound by the terms and provisions of this Agreement; and

(v) Counsel for the Company has rendered an opinion that the admission of the successor or additional Person is in conformity with the Uniform Act and that none of the actions taken in connection with the admission of the successor Person will cause the termination or dissolution of the Company or will cause it to be classified other than as a limited liability company for federal income tax purposes.

9.3 Effect of Voluntary Withdrawal of Managing Member.
(a) In the event of the Voluntary Withdrawal of the Managing Member, the business of the Company shall be continued by the other Managing Member(s); provided, however, that if the withdrawn Managing Member is then the sole Managing Member, or if such Managing Member withdraws from the Company in contravention of the provisions of Section 9.1 of this Agreement, then the Company shall be terminated, unless within ninety (90) days after receiving Notice of such withdrawal, a majority-in-interest of the other Members elect to designate a successor Managing Member and continue the Company upon the admission of such successor Managing Member to the Company.

(b) If, at the time of the Voluntary Withdrawal of a Managing Member, the withdrawing Managing Member was not the sole Managing Member of the Company, the remaining Managing Member or Managing Members shall immediately (i) give Notice to the Investor Member of such Withdrawal, and (ii) make such amendments to this Agreement and execute and file such amendments or documents or other instruments as are necessary to reflect the disposition of the Interest of the withdrawing Managing Member pursuant to this Section 9.3. The remaining Managing Member or Managing Members are hereby granted an irrevocable power of attorney, coupled with an interest, to execute any or all documents on behalf of the Members and the Company and to file such documents as may be required to effectuate the provisions of this Section 9.3.

(c) Upon a Voluntary Withdrawal, (i) the Managing Member shall cease to have any Interest in the Company, (ii) the Managing Member shall not be entitled to any distributions or allocations from the Company, (iii) the Managing Member shall not be entitled to any repayment of Operating Deficit Loans and (iv) the Managing Member shall not be entitled to any payments of the MM Incentive Management Fee relating to the period of time after the date of its withdrawal. The Managing Member shall be entitled, however, to receive any fees expressly provided for under this Agreement which have been fully earned and accrued prior to the date of Withdrawal, which fee shall be paid when and as specified in this Agreement and shall be entitled to the payment of any MM Loans in the time and manner specified in this Agreement.

(d) If the Managing Member Withdraws from the Company, including, without limitation, an Involuntary Withdrawal, then the Managing Member shall be and shall remain liable for all damages to the Investor Member resulting from the Withdrawal of the Managing Member in breach of this Agreement and for all its obligations and liabilities under this Agreement, including, without limitation, all its liabilities and obligations under Article 5 (including, without limitation, its obligation to make a Managing Member’s Special Capital Contribution in an amount sufficient to pay the Deferred Development Fee on or before the date of such Deferred Development Fee as required to be paid under this Agreement); provided, however, that the Managing Member shall have no liability with respect to any actions or failure to act on the part of any Replacement Managing Member or for claims arising after its removal and not attributable to the former Managing Member’s actions or inactions.

(e) Upon a Voluntary Withdrawal, the Investor Member, or its designee shall, at the sole option of the Investor Member, be admitted as a Replacement Managing Member on the terms set forth in Section 7.2(b)(ii).

ARTICLE 10
RIGHTS OF THE INVESTOR MEMBER

10.1 Management of the Company. No Investor Member shall have the right to take part in the management or control of the business of the Company or to transact any business in the name of the Company. No provision of this Agreement which makes the Consent of any Investor Member a condition for the effectiveness of an action taken by the Managing Member is intended and no such provision shall be construed to give any Investor Member any participation in the control of the Company business.

10.2 Limitation on Liability of the Investor Member. The liability of each Investor Member shall be limited to its Capital Contribution as and when payable under the provisions of this Agreement, and as provided under the Uniform Act. No Investor Member shall have any other liability to contribute money to, or in respect of the liabilities or obligations of, the Company, nor shall any Investor Member be personally liable for any obligations of the Company, except as and to the extent provided in the Uniform Act. No Investor Member shall be obligated to make loans to the Company.

10.3 Other Activities. Any Investor Member may engage in or possess interests in other business ventures of every kind and description for its own account, including, without limitation, serving as managing or investor member of other companies which own, either directly or through interests in other partnerships, government-assisted housing projects similar to the Apartment Complex. Neither the Company nor any of the Members shall have any right by virtue of this Agreement in or to such other business ventures to the income or profits derived therefrom.

10.4 Full Disclosure of and Right to Revise Information. The Investor Member shall have the right to review information pertaining to the Company which is possessed by the Managing Member, and the right to receive on a regular basis timely and accurate reports, schedules and accountings to the Company’s financial performance, in each case as may be required pursuant to this Agreement or as requested by the Investor Member.

10.5 Fees to Hunt and its Affiliates. Commencing on the date first Unit in the Apartment Complex is Placed in Service, Hunt, its successor or an Affiliate thereof, shall earn an annual fee (pro rata for first year) for its services in connection with the Company’s accounting matters relating to the Investor Member, and assisting with the preparation of tax returns and the reports required by Section 18.7 in the original amount of $6,000 and then adjusted annually to reflect a 3% annual increase (the “Asset Management Fee”). The Asset Management Fee shall be payable from Cash Flow and proceeds of a Capital Transaction, in the manner and priority set forth in Article 14 on April 1 of each year. If, however, Cash Flow in any fiscal year is insufficient to pay the full amount of Asset Management Fee, the Asset Management Fee shall accrue without interest and be payable to Hunt until such time there is sufficient Cash Flow in the manner and priority set forth in Article 14. Any Asset Management Fee earned prior to
Rental Achievement shall accrue without interest until Rental Achievement at which time interest shall start to accrue on any unpaid portion.

10.6 Control Over Investor Member Decisions. Unless otherwise expressly provided, any decision required to be made by the Investor Member under this Agreement shall be made by the Investor Members. Any decision required to be made by the majority in interest of the Investor Members shall be made by the Investor Members of any class whose Percentage Interest in the Company exceeds fifty percent (50%) of the Percentage Interests of all Investor Members. The decision of the majority in interest of the Investor Members shall be effective after five (5) days’ Notice has been given to each Investor Member and the occurrence of any of the following: (i) a written document signed by the Investor Members; or (ii) a written document signed by the Investor Members who own more than fifty percent (50%) of the Percentage Interests of the Investor Members.

ARTICLE 11
TRANSFERABILITY OF INVESTOR MEMBER INTERESTS

11.1 Assignment or Pledge of Investor Member Interests.

(a) The Investor Member shall have the right at any time to make an Assignment of its Interests as follows:

(i) Prior to payment of all of its Capital Contributions:

(A) to any Person without the Consent or approval of the Managing Member or any other Member, provided that an Affiliate of the Investor Member will serve as the manager or general partner of such Person; and

(B) to a non-Affiliate with the approval of the Managing Member which approval shall not be unreasonably withheld or delayed.

(ii) After payment of its Capital Contributions:

(A) to any Person without any restriction.

In connection with the Investor Member’s admission into the Company and acquisition of their respective Interests, the Managing Member acknowledges that the Investor Member intends to assign its Interest subsequent to the Closing Date and may pledge its Interests to the Equity Lender. The Investor Member shall Notify the Managing Member as to any Assignment.

(b) The Investor Member whose interest is being transferred shall pay such reasonable expenses as may be incurred by the Company in connection with such transfer.

(c) The Managing Member shall cooperate with the Investor in facilitating such Assignment by promptly furnishing complete and accurate financial and other relevant data regarding the Company, the Apartment Complex, the Managing Member and Affiliates of the Managing Member and any other matters reasonably necessary in the judgment of the Investor
Member to facilitate such Assignment, including any amendments to this Agreement or the Project Documents so long as such amendments do not materially adversely affect the Managing Member.

(d) Within five (5) days of receipt of notification, the Managing Member shall execute the form of Assignment and shall cause Counsel for the Company, at the Managing Member’s expense, to deliver to the Investor Member an opinion as to the enforceability of such Assignment, if not already provided (the form of such Assignment is attached hereto as Exhibit M).

11.2 Admission of Substitute Investor Member.

(a) Subject to the other provisions of this Article 11, an assignee of the Interest of an Investor Member (which shall be understood to include any purchaser, transferee, donee, or other recipient of any disposition of such Interest) shall be deemed admitted as a Substitute Investor Member of the Company only upon the satisfactory completion of the following:

(i) Consent of the Managing Member (which may not be unreasonably withheld), and the consent of the BBVA Lender, if required, has been given; such Consent of the Managing Member may be evidenced by the execution by the Managing Member of an amended Agreement and/or Certificate evidencing the admission of such Person as an Investor Member pursuant to the requirements of the Uniform Act; provided, however, the Investor Member may transfer its Interest to an Affiliate and to any tax credit syndication fund of which the Investor Member or an Affiliate thereof is the general partner or managing member, pursuant to the Assignment, in the form attached hereto as Exhibit M, without obtaining the consent of Managing Member or any Lender;

(ii) the assignee has accepted and agreed to be bound by the terms and provisions of this Agreement by executing a counterpart thereof or an appropriate amendment hereto, and such other documents or instruments as the Managing Member may reasonably require in order to effect the admission of such Person as an Investor Member; and

(iii) if required by the Act, an amended Agreement and/or Certificate evidencing the admission of such Person as an Investor Member shall be filed.

(b) For the purpose of allocation of profits, losses and credits, and for the purpose of distributing cash of the Company, a Substitute Investor Member shall be treated as having become, and as appearing in, the records of the Company as a Member upon its signing of an amendment to this Agreement agreeing to be bound hereby.

(c) The Managing Member shall cooperate with the Person seeking to become a Substitute Investor Member by preparing the documentation required by this Section and making all official filings and publications. The Company shall take all such action, including the filing, if required, of any amended Agreement and/or Certificate, if obtainable, evidencing the admission of any Person as an Investor Member, bringing forward the effective date of the Title Policy and issuing any new or modified endorsements to the Title Policy that the Substitute Investor Member may require, and the making of any other official filings and publications, as
promptly as practicable after the satisfaction by the assignee of the Interest of an Investor Member of the conditions contained in this Article 11 to the admission of such Person as an Investor Member of the Company. Any cost or expense incurred in connection with such admission (including any transfer taxes) shall be borne by the Substitute Investor Member.

11.3 Rights of Assignee of Limited Liability Company Interest.

(a) Except as provided in this Article 11 and as required by operation of law, the Company shall not be obligated for any purpose whatsoever to recognize the assignment by any Investor Member of its Interest until the Company has received actual Notice thereof.

(b) Any Person who is the assignee of all or any portion of an Investor Member’s Interest, but does not become a Substitute Investor Member, and who desires to make a further assignment of such Interest, shall be subject to all the provisions of this Article 11 to the same extent and in the same manner as any Investor Member desiring to make an assignment of its Interest.

11.4 Equity Lender. The Members acknowledge that the Equity Lender may advance funds to the Investor Member prior to the admission of investors into the funds sponsored by the Investor Member and, to the extent that the Investor Member has loans outstanding from the Equity Lender in order to finance their Capital Contributions, all Members hereby Consent to the admission of the Equity Lender as a Substitute Investor Member if the Equity Lender finds itself in the position of enforcing certain remedies in connection with its loan to the Investor Member. Each Member hereby agrees to cooperate with the Equity Lender, as the Investor Member may from time to time reasonably request, by delivering to the Equity Lender information concerning the Company and documents executed by such Member.

11.5 Funds Sponsored by Investor Member(s). All Members hereby agree to cooperate with the Investor Member, as may be reasonably requested by the Investor Member, in connection with the admission of investors into the funds sponsored by the Investor Member. In addition to such Opinion of Counsel (which Opinion of Counsel shall be at the expense of the Company), if the Investor Member request then the Managing Member shall cause, from time to time, one or more updates to the Opinion of Counsel to be delivered to the Investor Member, which updates shall be at the expense of the Company.

ARTICLE 12
BORROWINGS

12.1 Borrowings. The Company is authorized to receive Operating Deficit Loans, IM Loans and MM Loans on the terms set forth in this Agreement. In addition, if (a) additional funds are required by the Company for any purpose relating to the business of the Company or for any of its obligations, expenses, costs or expenditures, and (b) the Company has not received an Operating Deficit Loan, IM Loan or MM Loan to pay such amounts, then the Company may borrow such funds as are needed from a Person or organization other than a Member in accordance with the terms of this Section 12.1, for such period of time and on such terms as the Managing Member and the Investor Members may agree; provided, however, that no such additional loans shall be secured by any mortgage or other encumbrance on the property of the
Company without the prior approval of the Investor Member and, to the extent required, the Consent of the Agency and/or the Lenders. Nothing in this Section 12.1 shall modify or affect the obligation of the Managing Member to make Operating Deficit Loans and to perform its obligations when and as required by this Agreement.

ARTICLE 13
ALLOCATIONS

13.1 Allocation of Profits, Losses and Housing Tax Credits from Operations. After giving effect to the special allocations set forth in Section 13.4, all profits, losses and Housing Tax Credits incurred or accrued by the Company, other than those arising from a Capital Transaction, shall be allocated to the Members in accordance with the Members’ Percentage Interests.

13.2 Allocation of Profits and Losses From Capital Transactions. After giving effect to the special allocations set forth in Section 13.4, all profits and losses recognized by the Company from a Capital Transaction in any fiscal year shall be allocated in the following manner:

(a) Profits. (i) First, profits shall be allocated to the Members with negative Adjusted Capital Account balances, that portion of profits (including any treated as ordinary income for federal income tax purposes) which is equal in amount to, and in proportion to, such Members’ respective negative Adjusted Capital Accounts in the Company; provided that no profit shall be allocated under this Section 13.2(a) to a Member once such Member’s Adjusted Capital Account balance is brought to zero and (ii) second, profits in excess of the amount allocated under (i) shall be allocated to the Members in the amounts and to the extent necessary to increase the Members’ respective positive Capital Accounts so that the proceeds distributed in accordance with the Members’ respective positive Capital Account balances under Section 17.2(b)(iv) below will equal the amounts that would have been received if the proceeds were instead distributed under Section 14.1(b)(viii) below.

(b) Losses. (i) First, losses shall be allocated to the Members in the amount and to the extent necessary so that the proceeds distributed in accordance with the Members’ respective positive Capital Account balances under Section 17.2(b)(iv) below will equal the amounts that would have been received if the proceeds were instead distributed under Section 14.1(b)(viii) below, and (ii) second, any remaining losses shall be allocated to the Members in accordance with the manner in which they bear the economic risk of loss associated with such losses or, if none, to the Members in accordance with their Percentage Interests.

13.3 Determination of Profits and Losses. The terms “profits” and “losses” used in this Agreement shall mean income and losses, and each item of income, gain, loss, deduction or credit entering in to the computation thereof determined in accordance with the method of accounting followed by the Company and computed in accordance with Code Sections 703(a) and 704(b), and Regulation Section 1.704-1(b)(2)(iv). Every item of income, gain, loss, deduction, credit or tax preference entering into the computation of such profits or losses, or applicable to the period during which such profits and losses are allocated to such partner, shall
be considered allocated to each Member in the same proportion as profits and losses are allocated to such Member.

13.4 **Special Allocations.** Notwithstanding the foregoing provisions of this Article 13:

(a) **Recourse Obligations.**

(i) If the Company incurs losses from extraordinary events that are not recovered from insurance or otherwise, including casualty losses, losses resulting from liability to third parties for tortious injury, losses resulting from a breach of legal duty by the Company or by the Managing Member, and losses resulting from other liabilities which are not incurred in the ordinary course of business ("Recourse Obligations"), such losses shall be allocated to the Managing Member. Nothing in this Section 13.4(a)(i) shall prevent the Company from recovering an extraordinary loss from a Managing Member who is liable therefor by law or under this Agreement.

(ii) If the Company incurs Recourse Obligations secured by Company property with respect to which the Managing Member or a related person of the Managing Member bears the risk of loss, then except to the extent otherwise required by the Regulations, deductions attributable to the Recourse Obligations shall be allocated to the Members in accordance with their Percentage Interests provided, however, that any such deductions which, if allocated to the Investor Members, would cause or increase a negative balance in their Capital Accounts shall be allocated to the Managing Member. Upon the disposition of such property, any income or gain shall be allocated first to the Managing Member to the extent of any deductions specially allocated to the Managing Member under this Section 13.4(a)(ii) and then to the Members in accordance with their Percentage Interests.

(b) **Recapture Allocation.** If any profit arises from the sale or other disposition of any Company asset which shall be treated as ordinary income under the depreciation recapture provisions of the Code including, but not limited to, Sections 1245 and 1250, then the full amount of such ordinary income shall be allocated among the Members in the proportions that the Company deductions from the depreciation giving rise to such recapture were actually allocated. If subsequently-enacted provisions of the Code result in other recapture income, no allocation of such recapture income shall be made to any Member who has not received the benefit of those items giving rise to such other recapture income.

(c) **Tax Allocations, Section 704(c).** Income, gain, loss and deduction with respect to any asset which has a variation between its basis computed in accordance with Regulation Section 1.704-1(b) and its basis computed for federal income tax purposes shall be shared among the Members so as to take account of such variation in a manner consistent with the principles of Section 704(c) of the Code and Regulation Section 1.704-1(b)(2)(iv)(g).

(d) **Minimum Gain Chargeback.** If there is a net decrease in Company Minimum Gain during a Company taxable year, each Member will be allocated (without duplication of items allocated in 13.4(a) and 13.4(b)) items of income and gain for such year (and, if necessary, subsequent years) in proportion to, and to the extent of, an amount equal to such Member’s share of the net decrease in Company Minimum Gain during the year, before any
other allocation of Company items for such taxable year. A Member shall not be subject to this mandatory allocation of income or gain to the extent that any of the exceptions provided in Regulation Section 1.704-2(f)(2)-(5) apply. All allocations pursuant to this Section 13.4(d) shall be in accordance with Regulation Section 1.704-2(f). This provision is a “minimum gain chargeback” within the meaning of Regulation 1.704-2(f) and shall be construed as such.

(e) Member Nonrecourse Debt Minimum Gain. If the Company incurs Member Nonrecourse Liability in which a Member or a related person to the Member bears the risk of loss, then partner nonrecourse deductions (within the meaning of Regulations Section 1.704-2(i)(2)) shall be allocated to such Member. If there is a net decrease in Member Nonrecourse Debt Minimum Gain during a Company taxable year, then each Member with a share of the minimum gain attributable to such debt at the beginning of such year will be allocated items of income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member’s share of the net decrease in Member Nonrecourse Debt Minimum Gain during the year. A Member is not subject to this Member Nonrecourse Debt Minimum Gain chargeback to the extent that any of the exceptions provided in Regulation Section 1.704-2(i)(4) apply. Such allocations shall be made in a manner consistent with the requirements of Regulation Section 1.704-2(i)(4) under Section 704 of the Code.

(f) Qualified Income Offset. If an Investor Member unexpectedly receives (i) an allocation of loss or deduction or expenditures described in Section 705(a)(2)(B) of the Code made (A) pursuant to Section 704(e)(2) of the Code to a donee of an Interest, (B) pursuant to Section 706(d) of the Code as the result of a change in any Member’s Interest or (C) pursuant to Regulation Section 1.751-1(b)(2)(ii) as a result of a distribution by the Company of unrealized receivables or inventory items or (ii) a distribution, and such allocation and/or distribution would cause the negative balance in such Member’s Capital Account to exceed (1) such Member’s share of Company Minimum Gain plus (2) the amount of such Member’s obligation (actual or deemed) to restore a negative balance in such Member’s Capital Account plus (3) such Member’s share of Member Nonrecourse Debt Minimum Gain, then such Member shall be allocated items of income and gain in an amount and manner sufficient to eliminate such negative balance as quickly as possible. For purposes of Section 13.6, a Member’s Capital Account shall be treated as reduced by Qualified Income Offset Items. This provision is a “qualified income offset” under the meaning of Regulation Section 1.704-1(b)(2)(ii)(d)(3) and shall be interpreted and applied in a manner consistent with such Regulation.

(g) Nondeductible Items. If any fee payable to any Managing Member or any Affiliate thereof shall instead be determined to be a nondeductible, noncapitalizable distribution from the Company to a Member for federal income tax purposes, then there shall be allocated to such Managing Member in the year(s) of payment an amount of gross income equal to the amount of such distribution in such year(s).

(h) Member Loans. If a Member makes any Member Loans pursuant to Article 4, any deductions or losses of the Company attributable to the use of those funds shall be specially allocated to such Member and if there is a repayment of all or part of such funds in any year, such Member shall be allocated in such year an amount of gross income equal to the amount of such repayment.
(i) **Operating Deficit Loans.** Subject to Section 13.4(a), if the Managing Member funds any Operating Deficit Loans pursuant to Section 8.2, any deductions or losses of the Company attributable to the use of those funds shall be specially allocated to the Managing Member, and if there is a repayment of all or part of such funds in any year, the Managing Member shall be allocated in such year an amount of gross income equal to the amount of such repayment.

(j) **Gross Income Allocation for Unanticipated Gross Income.** Notwithstanding any other provision of this Agreement, before any other allocation of gross income and gain is made under this Agreement, in the event that any unanticipated gross income arises from a subsequent recharacterization of a tax reporting position of the Company, it is the intent of the Members that all such gross income shall be allocated to the Managing Member.

(k) **Gross Income Allocation for Unanticipated Fee Recharacterization.** If any fee payable by the Company to any Member or any Affiliate thereof shall instead be determined to be a nondeductible, noncapitalizable distribution from the Company to a Member for federal income tax purposes, then there shall be allocated to such Member in the year of payment an amount of gross income equal to the amount of distribution in such year(s).

(l) **Construction Period Income.** One hundred percent (100%) of the Company’s net taxable income incurred during the Construction Period shall be specially allocated to the Managing Member.

(m) **Nonrecourse Deductions.** “Nonrecourse deductions” (within the meaning of Regulation Section 1.704-2(b)(1)) shall be allocated to the Members in accordance with their Percentage Interests. “Member nonrecourse deductions” (within the meaning of Regulation section 1.704-2(c)) shall be allocated to the Member who bears the economic risk of loss associated with such deductions, in accordance with Regulation Section 1.704-2(i).

13.5 Authority of the Managing Member to Vary Allocations to Preserve and Protect the Members’ Intent.

(a) It is the intent of the Members that each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and items thereof) shall be determined and allocated in accordance with this Agreement to the fullest extent permitted by Section 704(b) of the Code. In order to preserve and protect the determinations and allocations provided for in this Agreement, subject to the prior written Consent of the Investor Member, the Managing Member is hereby authorized and directed to allocate profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and items thereof) arising in any year differently than otherwise provided for in this Agreement to the extent that allocating profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures or credits (or any item thereof) in the manner provided for herein would cause the determinations and allocations of each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures or credits (or any item thereof) not to be permitted by Section 704(b) of the Code. Any allocation made pursuant to this Section 13.5 shall be deemed to be a complete substitute for any allocation otherwise provided for this purpose.
for in this Agreement, and no amendment of this Agreement or approval of any Member shall be required.

(b) In making any allocation under Section 13.5(a) (a “New Allocation”), the Managing Member is authorized to act only after having been advised in writing by the Accountants or the Investor Member that, under Section 704(b) of the Code, (i) the New Allocation is necessary, and (ii) the New Allocation is the minimum modification of the allocations otherwise provided for in this Agreement necessary in order to assure that, either in the then-current year or in any preceding year, each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (or any item thereof) is determined and allocated in accordance with this Agreement to the fullest extent permitted by Section 704(b) of the Code.

(c) If the Managing Member is required by Section 13.5(a) to make any New Allocation in a manner less favorable to the Investor Member than is otherwise provided for herein, then the Managing Member is authorized and directed, only after having been advised in writing by the Accountants or the Investor Member that such an allocation is permitted by Section 704(b) of the Code, to allocate profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and any item thereof) arising in later years in such manner so as to bring the allocations of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and each item thereof) to the Members as nearly as possible to the allocations thereof otherwise contemplated by this Agreement.

(d) New Allocations made by the Managing Member under Section 13.5(a) and Section 13.5(c) in reliance upon the advice of the Accountants shall be deemed to be made pursuant to the fiduciary obligation of the Managing Member to the Company and the Members, and no such allocation shall give rise to any claim or cause of action by any Member.

13.6 Capital Account.

(a) An individual Capital Account shall be established and maintained on behalf of each Member, including any additional or Substitute Investor Member who shall hereafter receive an interest in the Company. In accordance with Regulation Section 1.704-1(b), the Capital Account of each Member shall consist of (i) the amount of cash such Member has contributed to the Company plus (ii) the fair market value of any property such Member has contributed to the Company net of any liabilities assumed by the Company or to which such property is subject plus (iii) the amount of profits or income (including tax-exempt income) allocated to such Member less (iv) the amount of losses and deductions allocated to such Member less (v) the amount of all cash distributed to such Member less (vi) the fair market value of any property distributed to such Member net of any liabilities assumed by such Member or to which such property is subject less (vii) such Member’s share of any other expenditures which are not deductible by the Company for federal income tax purposes or which are not allowable as additions to the basis of Company property and shall be (viii) subject to such other adjustments as may be required under the Code. Each Member’s Capital Account shall be maintained and adjusted in accordance with the Code and the Regulations. It is the intention of the partners that the Capital Accounts maintained under this Agreement be determined and maintained throughout the full term of this Agreement in accordance with the accounting rules of Regulation Section
(b) If the Company is liquidated within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g) and if the Managing Member’s Capital Account has a deficit balance (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), the Managing Member shall make Capital Contributions in the amount of such deficit in compliance with Regulation Section 1.704-1(b)(2)(ii)(b)(3). Notwithstanding the foregoing, if the Company is liquidated within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g) but no event has occurred under Section 17.1 to dissolve the Company, the Company assets shall not be liquidated, the Company’s liabilities shall not be paid or discharged, and the Company’s affairs shall not be wound up.

(c) The original Capital Account established for any Substitute Investor Member shall be in the same amount as, and shall replace, the Capital Account of the Member which such Substitute Investor Member succeeds, and, for the purposes of this Agreement, such Substitute Investor Member shall be deemed to have made the Capital Contribution, to the extent actually paid in, of the Member which such Substitute Investor Member succeeds. To the extent a Substitute Investor Member receives less than one hundred percent (100%) of the Interest of a Member it succeeds, the original Capital Account of such transferee Substitute Investor Member and his Capital Contribution shall be in proportion to the portion of the transferor Member’s Interest prior to the transfer which the transferee receives, and the Capital Account of the transferor Member who retains a portion of its former Interest and its Capital Contribution shall continue, and not be replaced, in proportion to the portion of the transferor Member’s Interest prior to the transfer which the transferor Member retains. Nothing in this Section 13.6 shall affect the limitations on transferability of Interests set forth in Article 11.

13.7 Excess Nonrecourse Liabilities. The Members agree that, except as otherwise determined by the Investor Member pursuant to this Section, the Members’ interests in the Company profits for such purposes of determining such Members’ interests in Company profits for purposes of such Members’ share of the excess nonrecourse liabilities of the Company under Treasury Regulation Section 1.752-3(a)(3) shall be determined by the Members’ allocable share of profits from Section 13.2(a); provided, however, that the Members agree that, upon giving written notice to the Managing Member, the Investor Member shall have the right at any time to cause the Company to use the alternative method under Treasury Regulation Section 1.752-3(a)(3) if the Investor Member reasonably determines that such alternative method would (or could reasonably be expected to) avoid or mitigate any tax or economic detriment to the Investor Member or its Affiliates (as a result of an actual or pending change in law, change in circumstance or otherwise). Without limiting the foregoing, the Managing Member shall provide written notice to the Investor Member no later than 45 days following the close of any taxable year of the Company in which the Investor Member’s adjusted basis in the Company interest is or is reasonably likely to be zero.
ARTICLE 14
DISTRIBUTIONS AND PAYMENTS

14.1 Distributions and Payments of Cash Flow (Other than Cash From a Capital Transaction and Other Than in Connection with a Liquidation).

(a) Cash Flow. Subject to Agency and Lender approval (if required) and after Rental Achievement, Cash Flow of the Company for each fiscal year or portion thereof shall be applied and distributed on the following Payment Date in the following priority:

(i) to the Housing Tax Credit Shortfall Payment, if required under Section 4.2(d)(iii);

(ii) to the Investor Member or other Hunt Indemnified Parties to the extent of any amounts owing to it by reason of any indemnification or guaranty obligations of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty;

(iii) (A) to the payment of the Excess IM Loan Amount, (B) then to the payment of the Excess MM Loan Amount, and (C) then to the payment of IM Loans and MM Loans, pro rata based on their respective outstanding balances;

(iv) [Reserved];

(v) to the payment of the Asset Management Fee for such year, and any accrued and unpaid Asset Management Fee;

(vi) one hundred percent (100%) of the remaining Cash Flow to the payment of any Deferred Development Fee as described in the Development Agreement;

(vii) to the repayment of any accrued and outstanding interest due under the HOME Loan;

(viii) to replenish any draws from the Operating Reserve;

(ix) to the repayment of any Operating Deficit Loans;

(x) to the payment of any unpaid and accrued Management Agent fees under Section 16.2;

(xi) then:

(A) if the Managing Member’s Capital Account is less than or equal to zero, then until the Managing Member has received payments of the MM Incentive Management Fee under this clause 14.1(a)(xi)(A) equal to the maximum amount for the preceding fiscal year, Cash Flow under this clause 14.1(a)(xi)(A) shall be paid and distributed ninety percent (90%) to the Managing Member as payment of the MM Incentive Management Fee (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the
Administrative Member) up to a maximum of the lesser of (i) $40,000 per annum and (ii) 7% of Gross Revenues, and 10% to the Investor Member as a distribution.;

(B) if the Managing Member’s Capital Account is greater than zero, then until the Managing Member’s Capital Account equals zero, Cash Flow under this clause 14.1(a)(xi)(B) shall be distributed ninety percent (90%) to the Managing Member as a distribution (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member), and ten percent (10%) to the Investor Member as a distribution; and

(xii) the balance thereof, if any, shall be paid and distributed ninety percent (90%) to the Managing Member (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member and ten percent (10%) to the Investor Member as a distribution.

Additionally, notwithstanding the foregoing, during such time as Agency and Lender regulations are applicable to the Apartment Complex, the total amount of Cash Flow which may be so distributed to the Members in respect to any fiscal year shall not exceed such amounts as Agency and Lender regulations permit to be distributed.

(b) Distributions of Cash From Capital Transaction (Other Than in Connection with a Liquidation). Within thirty (30) days of a Capital Transaction, Cash From Capital Transaction (other than a sale or other disposition of the property of the Company in connection with a liquidation and dissolution of the Company which is governed by Article 17 below) or cash proceeds from a refinancing of the Loans, shall be applied or distributed in the following order of priority:

(i) to the Housing Tax Credit Shortfall Payment if required under Section 4.2(d)(iii);

(ii) to the payment of any amounts owing to the Investor Member or other Hunt Indemnified Parties by reason of any unpaid indemnification or guaranty obligation of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty;

(iii) (A) to the payment of the Excess IM Loan Amount, (B) then to the payment of the Excess MM Loan Amount and (C) then to the payment of IM Loans and MM Loans, pro rata based on their respective outstanding balances;

(iv) to the payment of the Asset Management Fee for such year, and any accrued and unpaid Asset Management Fee;

(v) to the payment of any outstanding Deferred Development Fee as described in the Development Agreement until paid;

(vi) to the repayment of any Operating Deficit Loans;

(vii) to the repayment of the HOME Loan; and
(viii) any balance 10% to the Investor Member and 90% to the Managing Member (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member).

14.2 Distribution of Cost Savings. If Cost Savings exist, on the date no earlier than funding of the Fifth Installment, the Company shall use and distribute such savings as follows: (i) first, until the Deferred Development Fee has been paid in full, one hundred percent (100%) to the payment of the Deferred Development Fee; and (ii) then, one hundred percent (100%) as determined by the Investor Member in its sole discretion, either (A) to the repay the BBVA Loan and/or (B) to fund a supplemental operating reserve. The Investor Member shall determine the amount of Cost Savings on or before the date of funding of the Fifth Installment.

ARTICLE 15
PARTNERSHIP AUDIT PROCEDURES

15.1 Defined Terms. For purposes of this Article 15, the following terms shall have the meanings set forth below:

Administrative Adjustment Request means an administrative adjustment request under Code Section 6227.

Affected Member means at any point in time, with respect to any Administrative Adjustment Request or proposed Partnership Adjustment, any person who is a then current Member or a Former Member.

Former Member means any Person who was a Reviewed Year Member but is not a Member in the year of an Administrative Adjustment Request or proposed Partnership Adjustment.

Imputed Underpayment has the meaning set forth in Section 6225 of the Code.

Partnership Adjustment means any adjustment to any item of income, gain, loss, deduction, or credit of the Company, or any Member’s distributive share thereof, in either case as described in any applicable Regulations or other guidance prescribed by the Service.

Reviewed Year means the Company taxable year to which a Partnership Adjustment relates.

Reviewed Year Member means any Person who held an interest in the Company at any time during the Reviewed Year.

Revised Partnership Audit Rules means 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 Treasury Regulations promulgated thereunder, as amended from time to time.

Taxes means any tax, penalties, additions to tax, additional amounts, and interest as described in Section 6226 of the Code.
15.2 Partnership Representative

(a) Appointment and Designation. The Members hereby authorize the Company to appoint the Co-Managing Member as the initial partnership representative of the Company pursuant to Section 6223(a) of the Code (the “Partnership Representative”). The Partnership Representative shall timely designate, with the Consent of the Investor Member, an individual to serve as the sole individual through whom the Partnership Representative will act for purposes of the Revised Partnership Audit Rules (the “Designated Individual”). The Designated Individual must agree in writing to be bound by the same obligations and restrictions imposed on the Partnership Representative under this Article 15 prior to and as condition of such designation.

(b) Resignation; Revocation. The Company shall revoke the designation of the Co-Managing Member as the Partnership Representative for all taxable years during which such designation was in effect by written notice to the Partnership Representative and the Service: (i) upon withdrawal or removal of the Co-Managing Member for any reason, (ii) upon request of the Investor Member at a time when there exists any Event of Default and any notice of Partnership Adjustment has been issued by the Service, or (iii) upon request of the Investor Member in the event of a default by the Partnership Representative or Designated Individual of its/his/her duties and obligations under this Article 15. The designation of the Designated Individual as the Designated Individual shall automatically terminate on the effective date of the resignation or revocation of the applicable entity as Partnership Representative. If a Designated Individual becomes unable to perform the tasks required of a Designated Individual, no longer has the “capacity to act” within the meaning of the Revised Partnership Audit Rules, or the Partnership Representative otherwise determines that such individual should be removed as the Designated Individual, the Partnership Representative shall promptly notify the Investor Member of such determination and take all necessary actions to effectuate the resignation of such individual as Designated Individual for all applicable taxable years. Notice of any revocation of a Partnership Representative or Designated Individual shall be given to the Service in the time and manner prescribed by the Service and shall include the designation of another Person selected by the Investor Member as the successor Partnership Representative and/or the designation of another Person selected by the Partnership Representative (with the Consent of the Investor Member) as the successor Designated Individual. The resigning or removed Partnership Representative and/or Designated Individual shall remain obligated hereunder in such capacity until the replacement is acknowledged by the Service. The Co-Managing Member hereby constitutes and appoints the Investor Member, with full power of substitution, its true and lawful attorney-in-fact in its name, place and stead to carry out fully the provisions of this Section 15.2(b) and take any action which the Investor Member may deem necessary or appropriate in connection herewith. The power of attorney hereby granted shall be deemed to be coupled with an interest, shall be irrevocable and shall survive and shall not be affected by the subsequent incapacity, dissolution, resignation, revocation or other termination of the Co-Managing Member as the Partnership Representative.

(c) Successor Partnership Representative. Any successor Partnership Representative and/or Designated Individual must satisfy all statutory and regulatory requirements imposed by the Revised Partnership Audit Rules and must agree in writing to be bound by the terms of this Article 15.
(d) **Notice of Communications; Cooperation.** The Partnership Representative shall: (i) give all Affected Members prompt notice of any inquiry, notice, or other communication received from the Service or other applicable tax authority regarding the tax treatment of the Company or the Members, (ii) consult with the Affected Members in good faith on the strategy and substance of any tax audit or contest, and (iii) shall, to the extent possible, give the Affected Members prior notice of and a reasonable opportunity to review and comment upon any written communication the Partnership Representative intends to make to any such taxing authority in connection with any examination, audit or other inquiry involving the Company and the nature and content of all actions to be taken and defenses to be raised by the Company in response to any tax audit or contest (including without limitation the decision to institute proceedings, whether administrative or judicial, and whether in response to a previous Service proceeding against the Company or otherwise. Without limiting the generality of the foregoing, the Company immediately shall send to all Affected Members copies of any notice of a proposed or final Partnership Adjustment received by the Company and/or the Partnership Representative from the Service. To the extent requested by the Affected Member and permitted under Treasury Regulations or by the Service or other taxing authority in a particular tax audit or contest, the Partnership Representative shall cooperate in allowing the Affected Member or its representative to participate, at its own expense, in such tax audit or contest.

(e) **Duties and Limitations on Authority.** The Partnership Representative and any Designated Individual shall have all power and authority of a partnership representative and designated individual, respectively, as set forth in Section 6223 of the Code, and shall represent the Company and its Members in all dealings with the Service and state and local taxing authorities. If the Company receives notice of a final Partnership Adjustment from the Service, the Partnership Representative shall so notify the Affected Members, and if requested to do so by the Investor Member, (i) the Partnership Representative shall file a petition for readjustment within the time frame required by Treasury Regulations or Service guidance, and/or (ii) the Partnership Representative shall cause the Company to seek any and all available judicial review of such final Partnership Adjustment as is available under applicable law. Notwithstanding the foregoing, except as specifically provided in Section 15.3 below, the Partnership Representative shall not, without the Consent of the Investor Member (and, in the case of (C), (D) and (F), the Investor Member for the Reviewed Year), have any power or authority to do any or all of the following:

(A) make an election to opt out of the application of the Revised Partnership Audit Rules to the Company;

(B) make a Push-Out Election, or request a modification to an Imputed Underpayment;

(C) file an Administrative Adjustment Request;

(D) select any judicial forum for the litigation of any Company tax dispute;

(E) extend the statute of limitations for the Company; or,
(F) take any other action (or fail to take any action) that would have the effect of finally determining any tax audit or contest.

(f) **Fiduciary Relationship.** The relationship of the Partnership Representative to the Investor Member shall be that of a fiduciary, and the Partnership Representative shall have a fiduciary obligation to perform its duties in such manner as will serve the best interests of the Investor Member.

(g) **Indemnification.** To the extent of available funds, the Company shall indemnify the Partnership Representative against judgments, fines, amounts paid in settlement and expenses (including attorneys’ fees) reasonably incurred by the Partnership Representative in its capacity as the Partnership Representative, and not its capacity as a Member or a Former Member, in connection with any audit or administrative or judicial proceeding in which the Partnership Representative is involved solely by reason of being the Partnership Representative of the Company, provided that the same were not the result of negligence, misconduct, fraud, breach of fiduciary duty or breach of this Agreement on the part of the Partnership Representative and were the result of a course of conduct which the Partnership Representative, in good faith, reasonably believed to be in the best interests of the Investor Member and within the scope of its authority under this Article 15.

15.3 ** Modifications and Company Elections**

(a) **Modifications to Imputed Underpayment.** If requested to do so by the Investor Member, the Managing Member shall request modification of an Imputed Underpayment in accordance with any applicable Treasury Regulations, forms, instructions, and other guidance prescribed by the Service. With any such request, the Investor Member shall describe the modifications or adjustment factors that the Investor Member believes affect the calculation of the Imputed Underpayment in sufficient detail to substantiate the request for modification and timely provide all required supporting documents or information.

(b) **Amended Returns.** If requested to do by the Investor Member, the Partnership Representative shall request a modification of an Imputed Underpayment based on an amended return (or, to the extent permitted by law, any similar statement) filed by a Member (or its owners) that takes account of all of the Partnership Adjustments properly allocable to such Member (or its owners). Any such request shall be accompanied by an affidavit from the requesting Member that each required amended return (or similar statement) has been filed and all Taxes due as a result of taking into account the adjustments in the first affected year and all modification years have been paid, as required by any applicable Regulations, forms, instructions, and other guidance prescribed by the Service.

(c) **Push-Out Election.** If requested to do so by the Investor Member, the Partnership Representative shall timely make and implement an election (a “Push-Out Election”) under Section 6226 of the Code with respect to an Imputed Underpayment. Except as hereinafter provided, if a Push-Out Election is made, each Reviewed Year Member shall take into account its allocable share of the Partnership Adjustments that relate to the specified Imputed Underpayment (as determined with the Consent of the Investor Member for such Reviewed
Year) and shall be liable for any Taxes as described in Section 6226 of the Code and any applicable Treasury Regulations or other guidance prescribed by the Service.

(d) **Reimbursement of Allocable Share of Imputed Underpayment.** If the Company becomes obligated to make an Imputed Underpayment under Code Section 6225, each of the Members (including any Former Member) to whom such liability relates (as determined with the Consent of the Investor Member) shall be obligated, within thirty (30) days after written notice from the Managing Member, to pay an amount that, on an After-Tax Basis if such payment is treated as a taxable payment to the Company, is equal to its allocable share of such amount to the Company; **provided, however,** that if and to the extent that the Company’s liability results from a loss, disallowance or recapture of Housing Tax Credits for which a Housing Tax Credit Shortfall Payment is due to such Person and has not been paid, the amount otherwise payable by such Person to the Company under this Section 15.3(d) shall be reduced by the amount of any unpaid Housing Tax Credit Shortfall Payment payable to such Person so that the Company will bear the portion of the Imputed Underpayment equal to such reduction, and such Housing Tax Credit Shortfall Payment shall be paid to the Company and applied to the Imputed Underpayment. Any amount not paid by a Member (or Former Member) within such 30-day period shall accrue interest at Prime Rate plus 2% until paid. Any such payment made by any Member shall be treated as a Capital Contribution and, if and to the extent permitted by the Code and Regulations, any Capital Account reduction attributable to the Imputed Underpayment shall be allocated to the Members in proportion to such Capital Contributions.

(e) **Withholding.** Notwithstanding anything to the contrary contained herein, the Managing Member shall cause the Company to withhold from any distribution or payment due to any Member (or Former Member) under this Agreement any amount due to the Company from such Member (or Former Member) under clause (d) above. Any amount(s) so withheld shall be applied by the Company to discharge the obligation in respect of which such amount was withheld. All amounts withheld pursuant to the provisions of this Section 15.3(e) with respect to a Member (or Former Member) shall be treated as if such amounts were distributed or paid, as applicable, to such Member (or Former Member).

(f) **Indemnity.** To the extent that a portion of the Taxes imposed under Code Section 6225 relates to a Former Member, the Managing Member shall require such Former Member to indemnify the Company for its allocable portion of such tax (including any penalties, additions to tax, additional amounts, and interest) to the extent such amounts have not been withheld pursuant to the provisions of Section 15.3(e). Each Member acknowledges that, notwithstanding the transfer or liquidation of all or any portion of its Interest in the Company, it shall remain liable for Taxes with respect to its allocable share of income and gain of the Company for the Company’s taxable years (or portions thereof) prior to such transfer or liquidation and entitled to the Consent rights provided to it in this Article 15 with respect to such taxable years unless otherwise agreed to in writing by the Members during the taxable year(s) (or portion thereof) to which the Taxes relate and all Former Members during the Company’s taxable year(s) (or portion(s) thereof) to which the Taxes relate.

(g) **Continuing Obligations.** Whether the liability is assessed to the Company or the Members (or Former Members), the parties hereto acknowledge and agree that nothing in this Article 15 is intended, nor shall it be construed, to modify or waive any obligations of the
Managing Member under this Agreement including, without limitation, the obligation to make a payment pursuant to the provisions of Section 4.2(d).

15.4 Related Tax Items

(a) Tax Counsel or Accountants. The Partnership Representative, with the reasonable Consent of the Investor Member, shall employ experienced tax counsel and/or accountants to represent the Company in connection with any audit or investigation of the Company by the Service or any other taxing authority and in connection with all subsequent administrative and judicial proceedings arising out of such audit. Such counsel and/or accountants shall be responsible for representing the Company; it shall be the responsibility of the Members, at their expense, to employ tax counsel or accountants to represent their respective separate interests.

(b) Survival. The rights and obligations of each Member or Former Member under this Section shall survive the transfer, redemption or liquidation by such Member of its Company Interest and the termination of this Agreement or the dissolution of the Company.

(c) Amendments. Upon the promulgation of revised Treasury Regulations implementing the Revised Partnership Audit Rules or upon further amendment of the Revised Partnership Audit Rules, the Members will evaluate and consider options available with respect to preserving the allocation of responsibility and authority described in this Article 15, while conforming with the applicable provisions of the Revised Partnership Audit Rules. The Members agree to work together in good faith to make elections and amend this Agreement (if any party determines that an amendment is required) to maintain the intent of the parties with respect to the obligations and limitations of the Partnership Representative.

(d) State and Local Income Tax Matters. The provisions of this Article 15 shall also apply to state and local income tax matters affecting the Company to the extent the terms and conditions hereof have any application to audit procedures at the state and local level.

ARTICLE 16
MANAGEMENT AGENT

16.1 Appointment of Management Agent. The Managing Member shall cause the Company at all times during which the Company owns the Apartment Complex to engage a Management Agent subject to the approval of the Investor Member in its sole discretion (which may be a Managing Member or an Affiliate thereof if approved by the Investor Member in its sole discretion, and if approved by the Lenders and by the Agency, to the extent such approval by a Lender and/or the Agency is required) to provide management services for the Company with respect to the Apartment Complex pursuant to a Management Agreement meeting the requirements of this Agreement. Accolade Property Management, Inc. is approved as the initial Management Agent. Such engagement shall occur no later than the date on which the first certificate of occupancy for any unit in the Apartment Complex is issued and shall continue thereafter for so long as the Company owns the Apartment Complex. Concurrently with execution of the Management Agreement, the Management Agent shall execute and deliver to
the Company and the Investor Member consent in the form attached hereto after the signature pages of the Members.

16.2 Management Agreement. The Management Agreement shall be subject to the Consent of the Investor Member in its sole discretion and, unless the Investor Member otherwise Consents, must satisfy the following terms and conditions: (a) the Company shall pay the Management Agent a monthly Management Fee not to exceed the greater of (a) five percent (5%) of the Gross Operating Revenues (as defined in the Management Agreement) of the Apartment Complex for the month preceding payment and (b) $2,000 per month; and (b) the Management Agreement must have a term which does not exceed one (1) year and provide that it is terminable by the Company on thirty (30) days’ Notice by the Company without cause. Notwithstanding the foregoing, if at any time the Management Agent is an Affiliate of any Managing Member, Guarantor or Developer, payment of the Management Fee shall be subordinated to payment of Operating Expenses, Debt Service Expenses and funding of any reserve required under this Agreement, and any portion of the Management Fee which is not paid shall accrue without interest and be paid from available Cash Flow in accordance with Section 14.1(a) hereof. If the Management Agent is an Affiliate of the Managing Member, the Developer or the Guarantors, then the Management Fee shall not be paid from either the Operating Reserve or an Operating Deficit Loan.

16.3 Removal of Management Agent. If (a) the Apartment Complex shall be subject to a building code violation the Investor Member shall deem material and which shall not have been timely cured after notice from the applicable agency or department; (b) an Event of Bankruptcy shall occur with respect to the Management Agent; (c) the Management Agent shall commit misconduct or negligence in the performance of its duties and obligations under the Management Agreement, or fails to promptly and competently perform (after any applicable notice and cure period) all duties of the Management Agent under the Management Agreement or materially mismanage the Apartment Complex; (d) the Managing Member Withdraws; (e) there is change in ownership of the Managing Member without the Consent of the Investor Member; (f) the Management Agent is cited by any Agency for a violation or alleged violation of any applicable rules, regulations or requirements, including noncompliance with the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test or any other Lender or Set-Aside Test, the Rent Restriction Test or any other Housing Tax Credit-related provision; (g) from or after Rental Achievement, the Company experiences Operating Deficits (prior to the effect of subordinating payment of the Management Fee, if applicable) for six (6) consecutive months; (h) the Company’s actual Housing Tax Credits are less than 95% of the Projected Housing Tax Credits or the Revised Projected Housing Tax Credits, as applicable, (i) the Management Agent fails to comply with any applicable compliance rule, recordkeeping and/or reporting requirement under Section 42 of the Code and the Regulations, rulings and policies related thereto (which is not timely cured); or (j) the Investor Member funds Default IM Loans or Excess IM Loans, then, upon Notice from the Investor Member and subject to any Lender or Agency approval, if required, the Managing Member must cause the Company to promptly terminate the Management Agreement with the Management Agent.

16.4 Replacement of Management Agent. Upon termination of the Management Agreement with the Management Agent, the Managing Member shall appoint a new Management Agent which is not an Affiliate of the Managing Member, Developer or Guarantor,
subject to the Consent of the Investor Member, to the extent required, the Lenders, and on the terms set forth in Section 16.2.

ARTICLE 17
SALE, DISSOLUTION AND LIQUIDATION

17.1 Dissolution of the Company. The Company shall be dissolved upon the earlier of the expiration of the term of the Company, or upon:

(a) the Withdrawal of the Managing Member who is at that time the sole Managing Member, subject to the provisions of Section 7.2(b)(ii), unless a majority in Interest of the other Members, within ninety (90) days after receiving Notice of such withdrawal, Bankruptcy, death, dissolution or adjudication of incompetence, elects to designate a successor Managing Member(s) and continue the Company upon the admission of such successor Managing Member(s) to the Company;

(b) the sale or other disposition of all or substantially all of the assets of the Company or liquidation as defined in Treasury Regulation Section 1.704-1(b)(2)(ii)(g);

(c) the election by the Managing Member, with the Consent of a majority in interest of the other Members; or

(d) any other event causing the dissolution of the Company under the laws of the State.

17.2 Winding Up and Liquidation.

(a) Upon the dissolution of the Company pursuant to Section 17.1, (i) a Certificate of Cancellation shall be filed in such offices within the State as may be required or appropriate, and (ii) the Company business shall be wound up and its assets liquidated as provided in this Section 17.2.

(b) The net proceeds resulting from the dissolution and liquidation of the Company shall be distributed and applied in the following order of priority:

(i) to the payment of all debts and liabilities of the Company (including amounts due pursuant to all Loans and all expenses of the Company incident to any such dissolution and liquidation), other than its Members and Affiliates;

(ii) to the payment of debts and liabilities (including unpaid fees) owed to the Members or their Affiliates by the Company for Company obligations (limited to those debts that have been Consented to by the Investor Member as provided in this Agreement); provided, however, that the foregoing debts and liabilities owed to the Members and their Affiliates shall be paid or repaid, as applicable, in the following order of priority, if and to the extent applicable: (A) to the payment of any amounts owing to the Investor Member or other Hunt Indemnified Parties by reason of any unpaid indemnification or guaranty obligation of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty; (B) to the payment of any outstanding Excess IM Loan Amount until paid in full, then to the
payment of the Excess MM Loan Amount and then to the payment of any remaining IM Loans and MM Loans pro rata based on their respective outstanding balances until paid in full; (C) to the payment of any accrued and unpaid Asset Management Fee; (D) to the payment of amounts due under the Development Agreement (including any Deferred Development Fee); (E) to the payment of amounts due with respect to Operating Deficit Loans; and (F) to the payment of any other such debts and liabilities;

(iii) to the setting up of any reserves which the Liquidator deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Company; and

(iv) thereafter, to the Members in accordance with the Members’ respective positive Capital Account balances as determined by taking into account all Capital Account adjustments required by Section 13.2 and otherwise required by this Agreement.

17.3 Rights and Obligations of Investor Member upon Dissolution. Except as otherwise expressly provided in this Agreement, the Investor shall look solely to the assets of the Company for the return of its Capital Account balance. Notwithstanding the provisions of Section 17.2 or any other provision of this Agreement, except as otherwise elected by the Investor Member pursuant to Section 4.2(c)(ii) or this Section 17.3, the Investor shall not have any obligation to restore any deficit in its Capital Account upon the liquidation of the Company. Notwithstanding the foregoing, or anything to the contrary contained in this Agreement, the Investor Member 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 Investor Member’s delivery of a Notice of election to the Managing Member no later than April 15 following 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 Investor Member agrees to restore. Such election shall be irrevocable and shall be binding on subsequent transferees of the Investor Member’s Company Interest.

17.4 Filing of Certificate of Dissolution. The Liquidator shall file all certificates and notices of the dissolution of the Company required by law. The Liquidator shall proceed without any unnecessary delay to sell and otherwise liquidate the Company’s property and assets; provided, however, that if the Liquidator shall determine that an immediate sale of part or all of the Company property would cause undue loss to the Members, then in order to avoid such loss, the Liquidator may, except to the extent provided by the Uniform Act, defer the liquidation as may be necessary to satisfy the debts and liabilities of the Company to Persons other than the Members. Upon the complete liquidation and distribution of the Company assets, the Members shall cease to be Members of the Company, and the Liquidator shall execute, acknowledge and cause to be filed all certificates and notices required by the law to terminate the Company. Upon the dissolution of the Company pursuant to Section 17.1, the Accountants shall promptly prepare, and the Liquidator shall furnish to each Member, a statement setting forth the assets and liabilities of the Company upon its dissolution. Promptly following the complete liquidation and distribution of the Company property and assets, the Accountants shall prepare, and the Liquidator shall furnish to each Member, a statement showing the manner in which the Company assets were liquidated and distributed.
ARTICLE 18
BOOKS AND RECORDS, ACCOUNTING,
TAX ELECTIONS, ETC.

18.1 Books and Records. Every Member, or its duly authorized representatives, shall at all times have access to the records of the Company at the principal office of the Company at any and all reasonable times, and may inspect and copy any of such records. A list of the names and addresses of all of the Members shall be maintained as part of the books and records of the Company and shall be mailed to any Member upon request. The Company may charge reasonable costs for duplication and mailing.

18.2 Bank Accounts. Except as provided in Section 5.10 with respect to the Operating Reserve, the bank accounts of the Company shall be maintained in the Company’s name with one commercial bank as the Managing Member shall determine with the reasonable Consent of the Investor Member; provided, however, that no such account may be held in a bank which is an Affiliate of the Managing Member unless the Consent of the Investor Member shall have been received with respect thereto. Withdrawals shall be made only in the regular course of Company business on such signature or signatures as the Managing Member may determine. All deposits (including security deposits and other funds required to be escrowed by any Lender or Agency) and other funds not needed in the operation of the business shall be deposited, in the following: (a) cash deposits (including certificates of deposits) at commercial banks; (b) obligations of the United States or any State or Municipality, thereof, that have an initial or remaining term of 60 days or greater; or (c) money market mutual funds that are registered investment companies under the Investment Company Act of 1940. To the extent the Managing Member seeks to invest in either (b) or (c), it agrees that it will hold such instrument for at least 60 days following such purchase prior to sale. The Managing Member agrees that it will monitor any investments to ensure that they comply with the aforesaid requirements and will promptly notify the Investor Member in the case of any instances of non-compliance have been detected. The Managing Member shall not be obligated to maximize the interest rates received on Company funds. Tenant security deposits shall be maintained in a bank account separate from any other bank accounts. The tenant security deposit account shall be maintained with a balance equal to the corresponding liability, and shall in all other respects comply with applicable laws.

18.3 Accountants.

(a) The Accountants shall prepare, for execution by the Managing Member, all tax returns of the Company. Prior to the filing of the Company tax returns, and in no event later than February 28 of each year, the Accountants shall deliver draft financial statements for the Company and the tax returns for such year to the Investor Member for its review and comment. If a dispute arises between the Accountants and the Investor Member over the proper preparation of the financial statements and the tax returns and such dispute cannot be resolved by the Accountants and the Investor Member by March 1 of such year, then the Investor Member shall make the final decision on whether any changes are necessary and must have a rationale for such decision. The Company shall reimburse the Investor Member or its Affiliates for all costs and expenses related to the aforementioned review.
(b) The Accountants shall audit and certify all annual financial reports to the Members in accordance with generally accepted auditing standards, and shall deliver a draft of such financial reports not later than February 28 of each year and a final version of such financial reports not later than March 31.

(c) If the Company fails to fulfill any of its obligations under Sections 18.3(a), 18.3(b) or 18.7 (a) within the time periods set forth therein, at any time thereafter upon Notice from the Investor Member that a change in the identity of the Accountants is desired and the foregoing failure is due to the Accountants second or more violation which caused such failure, the Managing Member, on behalf of the Company, shall promptly terminate the Company’s engagement of the Accountants, and the Consent of the Investor Member must be received to the appointment of replacement Accountants. If the Managing Member has not designated replacement Accountants within ten (10) days of the Notice from the Investor Member to replace the Accountants, then the Investor Member shall appoint replacement Accountants of its own choosing, the cost of which shall be borne by the Company as a Company expense. All Members hereby grant to the Investor Member a special power of attorney, irrevocable to the extent permitted by law, coupled with an interest, to so appoint replacement Accountants and to do anything else which in the view of the Investor Member may be necessary or appropriate to accomplish the purpose of this Section 18.3(c).

18.4 Cost Recovery and Elections.

(a) Except as otherwise required in Section 5.2(oo), the Managing Member shall also cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code and will cause the Company to use the Alternative Depreciation System (ADS) to the extent required by such election. The Managing Member shall also cause the Company to use “bonus” depreciation to the extent not inconsistent with the foregoing.

(b) Subject to the provisions of Section 18.5, all other elections required or permitted to be made by the Company under the Code shall be made by the Managing Member with the Consent of the Investor Member.

18.5 Special Basis Adjustments. In the event of a transfer of all or any part of the Interest of the Investor Member or a transfer of all or any part of an interest of a partner of the Investor Member, the Company shall elect, upon the request of the Investor Member, pursuant to Section 754 of the Code, to adjust the basis of the Company property. Any adjustments made pursuant to said Section 754 shall affect only the successor in interest to the transferring Member or partner thereof. Each Member will furnish the Company all information necessary to give effect to such election.

18.6 Fiscal Year. The fiscal and tax year of the Company shall be the calendar year. The books of the Company shall be kept on an accrual basis.

18.7 Information Reporting to Members.

(a) The Managing Member shall cause to be prepared and distributed to all Persons who were Members at any time during a fiscal year of the Company:
(i) During the construction of the Apartment Complex, within fifteen (15) days after the end of each month, copies of draw requests which may be submitted simultaneously with the draw request provided to the BBVA Lender.

(ii) During the initial lease-up period, and ending on the date on which Initial 100% Occupancy occurs:

(A) a leasing report provided weekly in the form approved by Investor Member;

(B) a vacancy report and rent roll provided monthly in the form approved by the Investor Member;

(C) a low income housing credit monitoring form, an occupancy/rental report in the form approved by the Investor Member, provided monthly in arrears, within seven (7) days of the end of the month being reported;

(D) on the last day of each calendar quarter until Initial 100% Occupancy has been achieved, copies of the complete tenant files for each tenant (including both returning and new tenants) initially occupying a unit during such quarter;

(iii) Within forty-five (45) days after the Occupancy Commencement Date, the Managing Member shall:

(A) cause the Accountants to prepare, and deliver to each Investor Member a Housing Tax Credit eligible basis worksheet for each building in the Apartment Complex, all in a form approved by the Investor Member;

(B) or cause the Management Agent to provide a draft of the Annual Budget.

(iv) The Company shall send to the Investor Member, on or before the tenth (10th) day of each month beginning with initial lease up of the Apartment Complex:

(A) copies of all applicable periodic reports covering the status of project operations from the previous period, as may be required by the Agency; and

(B) copies of all initial tenant leases and associated application information, including third party verification information and copy of the audit, for leases entered into or renewed during the preceding month, and as requested copies of all leases other than initial leases and any related back-up documentation.

(v) Within twenty (20) days after the end of each month, beginning with the month in which the Occupancy Commencement Date occurs, a report, which may be unaudited, that is reasonably satisfactory to the Investor Member, and at minimum contains each of the following:
then ended;

(B) a statement of income and expenses for the month then ended;

(C) a statement of cash flows for the month then ended;

(D) a year-to-date trial balance of all Company accounts, prepared using Microsoft Excel and showing a beginning balance, gross debits, gross credits, and an ending balance for each account;

(E) after Initial 100% Occupancy, rent rolls and occupancy/rental report for each month;

(F) a certification of the Managing Member that the Apartment Complex and its tenants are in compliance with all applicable federal, state and local requirements and regulations; and

(G) at the request of the Investor Member, such other information which would be pertinent to a reasonable investor regarding the Company and its activities during the month covered by the report.

(vi) No later than February 28 of each year, drafts of (A) a balance sheet as of the end of such fiscal year, a statement of income, a statement of partners’ equity, and a statement of cash flows, each for the year then ended, all of which, except the statement of cash flows, shall be prepared in accordance with generally accepted accounting principles and accompanied by a report of the Accountant containing an opinion of the Accountant, and (B) a report of the activities of the Company during the period covered by the report. The report called for shall separately identify distributions from (1) Cash Flow from operations during the period, (2) Cash Flow from operations during a prior period which had been held as reserves, (3) proceeds from disposition of property and investments, (4) lease payments on net leases with builders and sellers, (5) reserves from the gross proceeds of the Capital Contribution of the Investor Member, (6) borrowed monies, and (7) transactions outside of the ordinary course of business with a description thereof.

(A) No later than March 31, but not prior to approval of the Investor Member, a final version of the aforementioned reports will be provided.

(B) No later than February 28, drafts of the Form K-1 and all other information which is necessary, in view of the Accountant, for the preparation of the Investor Member’s federal income tax returns.

(C) The final Form K-1 will be delivered to the Investor Member no later than March 31, but not prior to approval of the Investor Member, for the preceding fiscal year.
(vii) Within the latest of (a) forty-five (45) days after the end of each fiscal year of the Company or (b) two (2) weeks of receipt by the Company from the Agency, a copy of the annual report on Form(s) 8609A to be filed with the United States Treasury concerning the status of the Apartment Complex as low-income housing and, if required, a certificate to the appropriate state agency concerning the same and any reports filed in connection with the compliance monitoring conducted by the Agency on behalf of the State.

(viii) By November 1 of each year, a draft of the Annual Budget for the Company for the next year, which budget shall have been prepared by the Managing Member or the Management Agent and shall be subject to the approval of the Investor Member, with such approval not to be unreasonably withheld.

(b) Upon the written request of the Investor Member for further information with respect to any matter covered in item (a) above, the Managing Member shall furnish such information within thirty (30) days of receipt of such request.

(c) Prior to October 15 of each year, the Company shall send to the Investor Member an estimate of each Investor Member’s share of the Housing Tax Credits, profits and losses of the Company for federal income tax purposes for the current fiscal year. Such estimate shall be prepared by the Managing Member and the Accountants.

(d) Within ninety (90) days after the end of each fiscal year of the Company, the Managing Member shall provide to the Investor Member:

(i) a certification from the Managing Member that (A) all payments payable with respect to all Loans and all taxes and insurance with respect to the Apartment Complex are current as of the date of the year-end report, (B) there is no default under the Project Documents or this Agreement, or if there is any such default, a detailed description thereof, and (C) there is no building, health or fire code violation or similar violation of a governmental law, ordinance or regulation against the Apartment Complex or, if there is any such violation, a detailed description thereof; and

(ii) a descriptive statement of all transactions during the fiscal year between the Company and any Managing Member or any Affiliate thereof, including the nature of the transaction and the payments involved.

(e) The Managing Member shall send the Investor Member a detailed report within five (5) Business Days after the occurrence of any of the following events:

(i) there is a default by the Company under any Project Document or in the payment of any mortgage, taxes, interest or other obligation on secured or unsecured debt;

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

(iii) the Managing Member has received any notice of a fact which may materially affect further distributions or Housing Tax Credit allocations to any Investor Member; or
(iv) any Member has pledged or collateralized its Interest in the Company.

(f) On or before ninety (90) days after the expiration of each fiscal year of the Managing Member or its members, such Managing Member or its members shall send to the Investor Member copies of the balance sheet and income statement of such Managing Member or its members for such fiscal year, which financial statements shall be audited by an independent certified public accountant in the case of a Managing Member or its members which is an Entity.

(g) The Managing Member shall promptly send to the Investor Member a copy of each draw requisition with respect to the Loans and any notification or correspondence from any Lender indicating that any such draw will not be paid as requisitioned.

(h) Promptly upon receipt, the Managing Member shall send to the Investor Member copies of all documents evidencing any Carryover Allocation pursuant to Section Code 42(h) and the Form(s) 8609 evidencing the Housing Tax Credit allocation.

(i) Promptly after Construction Loan Closing, the Managing Member shall send to the Investor Member closing binders containing photocopies of the fully-executed versions of all documents signed in connection with the Loans.

(j) The Managing Member hereby Consents to any Agency providing the Investor Member with copies of all material communications between any such office and the Managing Member and/or the Company, including any notices of default.

(k) The Managing Member shall promptly Notify the Investor Member if it becomes aware of any violation of Anti-Corruption Laws, or circumstances likely to give rise to such a violation by the Company, the Developer, the Managing Member, the Guarantors or any Affiliate of the Managing Member, the Developer or the Guarantors. Upon request by the Investor Member, the Managing Member will provide information verifying compliance with Anti-Corruption Laws by the Company, the Developer, the Managing Member, the Guarantors or any Affiliate of the Managing Member, the Developer or the Guarantors.

(l) If the Managing Member does not cause the Company to fulfill its obligations under this Section 18.7, the Managing Member shall pay as damages the sum of $100.00 per day to the Investor Member until such obligations shall have been fulfilled. Such damages shall be immediately paid by the Managing Member, and failure to so pay shall constitute a material default of the Managing Member hereunder. In addition, if the Managing Member shall so fail to pay, the Managing Member shall cease to be entitled to the MM Incentive Management Fee and to the payment of any Cash Flow or Capital Transaction proceeds to which it may otherwise be entitled hereunder. Such payments of the MM Incentive Management Fee, Cash Flow and Capital Transaction proceeds shall be restored only upon the payment of such damages in full, and any amount of such damages not so paid shall be deducted against payments of the MM Incentive Management Fee, Cash Flow and Capital Transaction proceeds due to the Managing Member. The imposition of this fee does not affect the other
18.8 Expenses of the Company. All expenses of the Company shall be billed directly to and paid by the Company.

18.9 Housing Tax Credit Compliance Records. Except to the extent that another record storage method shall have been Consented to by the Investor Member, the Managing Member shall cause all tenant leases, income certifications and other records required by the Code and the Agency to evidence that all tenants occupying Housing Tax Credit Units are Qualified Tenants to be stored in fireproof file cabinets in a secure location. Without limiting the foregoing, all such records relating to initial occupancy of each Low-Income Apartment Unit by Qualified Tenants and evidencing timely satisfaction of the Minimum Set-Aside Test and the HOME Minimum Set-Aside Test shall be stored for a period of not less than 21 years.

18.10 Compliance Audit. The Investor Member may, at its own expense, conduct or cause to be conducted an audit or review of the Company’s compliance with all regulations and procedures relating to the operation of the Apartment Complex as a qualified Tax Credit project within the meaning of Section 42(h) of the Code. Such audit or review shall be conducted upon not less than thirty (30) or more than ninety (90) days prior Notice. The Managing Member shall cooperate with any such audit by making appropriate personnel of the Managing Member and the Management Agent and all books and records of the Apartment Complex and Company available to the Investor Member or its representatives at the offices of the Company during regular business hours.

18.11 Inspections. The Investor Member, at its sole cost and expense, shall have the right to conduct physical inspections of the Apartment Complex on an annual basis (or more frequently if the Investor Member in its sole discretion determines it necessary or advisable) and the Managing Member shall take all reasonable steps necessary to cooperate therewith.

18.12 Guarantors’ Financial Statements. The Managing Member shall cause to be delivered to the Investor Member financial statements of each of the Guarantors to include a schedule of contingent liabilities, together with bank statements for each Guarantor who is an individual, within ninety (90) days of the end of each fiscal year of such Guarantor, unless waived by the Investor Member in writing.

ARTICLE 19
GENERAL PROVISIONS

19.1 Notices. Any Notice or Notification called for under this Agreement shall be in writing and shall be deemed adequately given if actually delivered or if sent by registered or certified mail, postage prepaid, sent by express courier or electronic mail, to such Member at such Member’s address as specified below on the date of receipt thereof (or the next business day if the date of receipt is not a business day) (or in the case of registered or certified mail the date of registry thereof or the date of the certification receipt, as applicable) being deemed the date of such notice (“Notice”, “Notification” or “Notify”); provided, however that any written
communication containing such information sent to such Member actually received by such Member shall constitute Notice for all purposes of this Agreement.

To the Investor Member:  
HCP-ILP, LLC  
15910 Ventura Boulevard, Suite 1100  
Encino, California 91436  
Attention: Jeffrey N. Weiss  
Email: jeff.weiss@huntcompanies.com

With a copy to:  
Nixon Peabody LLP  
799 9th Street NW, Suite 500  
Washington, DC 20001-5327  
Attention: Matthew W. Mullen  
Email: mmullen@nixonpeabody.com

To the Co-Managing Member:  
Saigebrook Canova, LLC  
220 Adams Drive Ste. 280 #138  
Weatherford, Texas 76086  
Attention: Lisa Stephens  
Email: lisa@saigebrook.com

To the Administrative Member:  
O-SDA Canova, LLC  
5714 Sam Houston Circle  
Austin, Texas 78731  
Attention: Megan D. Lasch  
Email: megan@o-sda.com

With a copy to:  
Shutts & Bowen LLP  
200 South Biscayane Boulevard, Suite 4100  
Miami, Florida 33131  
Attention: Gary J. Cohen  
Email: gcohen@shutts.com

With a copy to:  
Shackelford, Bowen, McKinley & Norton, LLP  
9201 N. Central Expressway, Fourth Floor  
Dallas, Texas 75231  
Attention: John Shackelford  
Email: jshack@shackelfordlaw.net

19.2 Word Meanings. The words such as “herein,” “hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. The words “includes,” “including” and the like shall in each case mean “including without limitation.” References to “Sections” and “Articles” refer to Sections and
Articles of this Agreement, unless otherwise specified. References to any Regulations (permanent or temporary) or Revenue Procedures shall include any successor provisions.

19.3 Binding Effect. The covenants and agreements contained herein shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

19.4 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State.

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

19.6 Entire Agreement. This Agreement sets forth all (and is intended by all parties to be an integration of all) of the representations, promises, agreements and understandings among the parties hereto with respect to the Company, the Company’s business and the property of the Company, and there are no representations, promises, agreements or understandings, oral or written, express or implied, among them other than as set forth or incorporated herein.

19.7 Reserved.

19.8 Separability of Provisions. Each provision of this Agreement shall be considered separable and (a) if for any reason any provision is determined to be invalid, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid, or (b) if for any reason any provision would cause any Investor Member to be bound by the obligations of the Company (other than the rules and regulations of any Agency and the requirements of any Lender), such provision or provisions shall be deemed void and of no effect.

19.9 Paragraph Titles. All article and section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any article or section.

19.10 Project Lender Provisions. Notwithstanding anything to the contrary, all required Lender consents must be obtained for the following actions: (a) permitting the withdrawal of a Managing Member from the Company; (b) admitting a new Managing Member to the Company; (c) substituting a Managing Member; (d) amending this Agreement or the Company’s Certificate of Formation; (e) selling all or substantially all of the Company’s assets; (f) dissolving, liquidating or terminating the Company; or (g) borrowing funds from a Managing Member or any third party.

19.11 No Continuing Waiver. The waiver by any party of any breach of this Agreement or any full or partial condition for performance hereunder shall not operate as or be construed to be a waiver of any subsequent breach or condition.

19.12 Amendment Procedure. This Agreement may be amended by the Managing Member only with the Consent of the Investor Member. To the extent that the Investor Member(s) has or have loans outstanding from the Equity Lender in order to finance their
Capital Contribution(s), no amendment may be made to Article 14 without the Consent of the Equity Lender. The Managing Member agrees to execute amendments proposed by the Investor Member which do not affect the obligations of the Managing Member under this Agreement and (a) increase or impose upon the Investor Member the obligation to restore a deficit balance in its Capital Account, or (b) prospectively decrease the obligation of the Investor Member to restore a deficit balance in its Capital Account in a subsequent fiscal year of the Company. The Managing Member agrees to cooperate and to act promptly with respect to amendments proposed by the Investor Member.

19.13 Waiver of Jury Trial. (A) EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AFTER OPPORTUNITY FOR CONSULTATION WITH INDEPENDENT COUNSEL, WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS OR OBLIGATIONS (I) UNDER THIS AGREEMENT, (II) ARISING FROM THE FINANCIAL RELATIONSHIP BETWEEN THE PARTIES IN CONNECTION WITH THIS AGREEMENT OR (III) ARISING FROM ANY COURSE OF DEALING, COURSE OF CONDUCT, STATEMENT (VERBAL OR WRITTEN) OR ACTION OF THE PARTIES IN CONNECTION WITH SUCH FINANCIAL RELATIONSHIP; (B) NO PARTY HERETO WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED; (C) THE PROVISIONS OF THIS SECTION HAVE BEEN FULLY NEGOTIATED BY THE PARTIES HERETO, AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS; (D) NO PARTY HERETO HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES; AND (E) THIS SECTION IS A MATERIAL INDUCEMENT FOR THE INVESTOR MEMBER TO ENTER INTO THIS AGREEMENT.

19.14 No Third-Party Rights. No creditor or other third party having dealings with the Company shall have the right to enforce the right or obligation of any Member to make Capital Contributions or loans or to pursue any other right or remedy hereunder 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 Members herein set forth to make Capital Contributions or loans to the Company shall be deemed an asset of the Company 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 Company or pledged or encumbered by the Company to secure any debt or other obligation of the Company or of any of the Members. Without limiting the generality of the foregoing, a deficit Capital Account of a Member shall not be deemed to be a liability of such Member nor an asset or property of the Company.

19.15 Forbearance. Any forbearance by the Investor Member in exercising any right or remedy under this 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 Investor Member of any right herein shall not constitute an
election by the Investor Member of remedies so as to preclude the exercise of any other right available to the Investor Member.

19.16 Review with Counsel. THE MEMBERS ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT AND HAVE BEEN ADVISED BY COUNSEL AS NECESSARY OR APPROPRIATE.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

**CO-MANAGING MEMBER:**

**SAIGEBROOK CANOVA, LLC,**
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company

Its: Managing Member

By: ______________________________
Name: Lisa M. Stephens
Title: Manager

**ADMINISTRATIVE MEMBER:**

**O-SDA CANOVA, LLC,**
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company

Its: Sole Member

By: ______________________________
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: ________________________________
Name: Lisa M. Stephens
Title: Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: ________________________________
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

INVESTOR MEMBER:

HCP-ILP, LLC,
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company
Its: Manager

By: ____________________________
Name: Jeffrey N. Weiss
Title: President

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

WITHDRAWING INVESTOR MEMBER:

LISA M. STEPHENS, an individual

[Signature]

4826-0680-0520.Final

Signature Page to
Amended and Restated Operating Agreement
Canova Palms, LLC
DEVELOPER CONSENT AND AGREEMENT

The undersigned, being the Developer for Canova Palms, LLC (the “Company”), hereby consents to the provisions in Sections 4.1(c), 5.9(a), 5.11, 7.2(b)(ii) and 8.5 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Development Agreement to the contrary.

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: ________________
Name: Megan D. Lasch
Title: Managing Member
DEVELOPER CONSENT AND AGREEMENT

The undersigned, being the Developer for Canova Palms, LLC (the “Company”), hereby consents to the provisions in Sections 4.1(c), 5.9(a), 5.11, 7.2(b)(ii) and 8.5 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Development Agreement to the contrary.

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: ____________________________
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: ____________________________
Name: Megan D. Lasch
Title: Managing Member
MANAGEMENT AGENT CONSENT AND AGREEMENT

The undersigned, being the Management Agent for Canova Palms, LLC (the “Company”), hereby consents to the provisions in Article 16 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Management Agreement to the contrary.

MANAGEMENT AGENT:

ACCOLADE PROPERTY MANAGEMENT, INC.,
a Texas corporation

By: __________________________
Name: Stephanie Baker
Title: President

[Signature to be added prior to full funding of the First Installment]
MEMBER INFORMATION SCHEDULE  
TO THE  
FIRST AMENDED AND RESTATED OPERATING AGREEMENT  
CANOVA PALMS, LLC  

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Capital Contribution</th>
<th>Taxpayer Identification No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Co-Managing Member:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saigebrook Canova, LLC</td>
<td>$100.00</td>
<td>45-3062708</td>
</tr>
<tr>
<td>220 Adams Drive Ste. 280 #138</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weatherford, Texas 76086</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative Member:</td>
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<td></td>
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<tr>
<td>O-SDA Canova, LLC</td>
<td>$100.00</td>
<td>80-0641068</td>
</tr>
<tr>
<td>5714 Sam Houston Circle</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Austin, Texas 78731</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investor Member:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HCP-ILP, LLC</td>
<td>$8,373,153</td>
<td>27-4320633</td>
</tr>
<tr>
<td>15910 Ventura Boulevard, Suite 1100</td>
<td>(subject to adjustment as provided in the Agreement)</td>
<td></td>
</tr>
</tbody>
</table>
EXHIBIT A

LEGAL DESCRIPTION OF LAND

Tract 1: (Fee Simple)

Being Lot 1, in Block A, of J D I, LLC, ADDITION, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded under cc# 20080220250, Real Property Records, Dallas County, Texas.

Tract 2: (Easement Estate)

Non-Exclusive Access Easement as shown and created on plat across a portion of Lot 2, Block A, of J D I, LLC, ADDITION, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded under cc# 20080220250, Real Property Records, Dallas County, Texas.
EXHIBIT B

DEVELOPMENT BUDGET,
SOURCES AND USES
and
SUMMARY OF LOANS

[To be attached at the full funding of the First Installment.]
## SUMMARY OF LOANS

<table>
<thead>
<tr>
<th>Lender</th>
<th>Related Party (Yes or No)</th>
<th>Principal Amount</th>
<th>Interest Rate</th>
<th>Hard Debt Payment Terms</th>
<th>Soft Debt Payment Terms</th>
<th>Construction or Permanent or Both</th>
</tr>
</thead>
<tbody>
<tr>
<td>BBVA Compass.</td>
<td>No</td>
<td>Up to $7,563,000; Up to $2,000,000 upon Conversion</td>
<td>6.51% (fixed)</td>
<td>24-month term, interest only payable monthly; 18-year term, amortizing at 35 years upon Conversion</td>
<td>N/A</td>
<td>Both</td>
</tr>
<tr>
<td>City of Irving (HOME Loan)</td>
<td>No</td>
<td>$1,000,000</td>
<td>1%; Fixed</td>
<td>N/A</td>
<td>Payable from Cash Flow -40 year term</td>
<td>Both</td>
</tr>
</tbody>
</table>
EXHIBIT C

FUNDING CONDITIONS

Payment Certificate. The obligation of the Investor Member to pay each Installment (or disbursement of each Installment) is conditioned upon delivery by the Managing Member to the Investor Member of a written certificate (the “Payment Certificate”) in the form attached hereto as Exhibit R. The Payment Certificate for each Installment subsequent to the First Installment shall be dated and delivered not less than fifteen (15) nor more than thirty (30) days prior to the due date for such Installment.

First Installment Funding Conditions ($837,315) The Limited Partner has agreed to fund $1,000 of the First Installment upon its admission to the Partnership, which shall be used to pay for a portion of the expense reimbursement due to an affiliate of the Limited Partner under Article 4.8. The balance of the First Installment, subject to adjustment, shall be funded once the all First Installment Funding Conditions are satisfied.

1. Admission of the Investor Member to the Company.

2. Proof of property and liability insurance in accordance with Exhibit D to the Agreement.

3. No Event of Default of the Managing Member has occurred.

4. Receipt by the Investor Member of an LIHTC Certificate in the form attached hereto as Exhibit S.

5. Receipt by the Company of the Carryover Allocation and satisfaction by the Company of all conditions to the effectiveness of the Carryover Allocation which are to be satisfied prior to Closing imposed by the Code, the Agency or otherwise.

6. Closing and funding of the BBVA Loan on terms approved by the Investor Member, with such funds to be used solely for site acquisition, development and construction costs, including an expense reimbursement of $65,000 to an Affiliate of the Investor Member for its review and approval costs in connection with the Closing.

7. Closing and initial funding of the HOME Loan on terms approved by the Investor Member, with such funds to be used solely for purposes set forth in the HOME Loan documents.

8. The Title Policy meeting the requirements set forth in Exhibit Q.

9. The Predevelopment Loan shall have been paid in full or will be paid in full concurrently with the funding of the First Installment.

10. An Opinion of Counsel of the Managing Member confirming such tax, corporate and partnership matters, and in such form, as the Investor Member or its counsel may reasonably request. Such opinion shall expressly permit reliance thereon by the Investor
Member and counsel engaged by the Investor Member in connection with the admission of the Investor Member to the Company and confirm that, upon an Assignment of the Investor Member’s Interest in the Company pursuant to an Assignment executed substantially in the form attached to the Agreement as Exhibit M, (1) the Assignee of the Investor Member’s Interest will, except for the payment of its Capital Contribution, have no liability with respect to obligations of the Company except as provided under the provisions of the Uniform Act, and (2) the Assignment will not affect the validity of the Guaranty Agreement, the benefits of which will run to the Assignee of the Investor Member’s Interest.

11. The Development Agreement between the Company and the Developer, in the form attached to the Agreement as Exhibit E, pursuant to which the Developer will be paid a Development Fee as described therein.

12. The Guaranty Agreement in the form attached to the Agreement as Exhibit F.

13. The ALTA Survey certified to the Company and the Investor Member and meeting the requirements set forth in Exhibit Q.


15. The Management Agreement between the Company and the Management Agent, in the form attached to the Agreement as Exhibit I.

16. Receipt of the fully executed Section 811 Subsidy Contract, in a form acceptable to the Investor Member.

17. Building permits for the Apartment Complex or will issue letter.

18. Receipt of the fully executed copy of the Assignment and Assumption of Limited Liability Company Interests and Amendment to First Amended and Restated Operating Agreement of Company, in a form reasonably acceptable to the Investor Member.

19. The Due Diligence Documents and any other documents as the Investor Member may require in its sole and absolute discretion.

**Second Installment Funding Conditions ($837,315)**

1. The date determined by the Architect (pursuant to a standard AIA Form G702 and Form G703) and as approved by the Investor Member, that the Apartment Complex is fifty percent (50%) complete.

2. Carryover Certification with paid invoices to confirm satisfaction of the Ten Percent Test.

3. No Event of Default of the Managing Member has occurred.
4. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

5. Receipt of all other reports required to be submitted to date according to Article 18, including but not limited to budgets, tax returns, audits and compliance documentation.

6. Satisfaction of all conditions for the payment of the First Installment.

7. Such additional documentation as the Investor Member may reasonably require.


**Third Installment Funding Conditions ($837,315)**

1. Substantial Completion has occurred.

2. Receipt of Draws and related Draw Documents for Capital Contributions to pay costs of constructing the Apartment Complex, which are approved by the Investor Member pursuant to Section 4.4 of the Agreement.

3. If available, a date down endorsement to the Title Policy dated within thirty (30) days of funding the Third Installment, in form and substance reasonably acceptable to the Investor Member.

4. Unconditional lien waivers for previous Draws and Conditional lien waivers for current Draw.

5. A certification of the Managing Member, in form and substance acceptable to the Investor Member, confirming that any asserted violations of building codes or Environmental Laws that were to be corrected or remediated during Construction of the Apartment Complex have been timely and fully corrected or remediated in strict compliance with applicable law.

6. A report from the Investor Member’s construction consultant that Substantial Completion has been achieved, that completed construction work is good quality and generally in accordance with the Plans and Specifications and the Apartment Complex is completely operable and inhabitable. The Investor Member shall cause its consultant to deliver a copy of its report (or the pertinent portions thereof) promptly to the Managing Member if there are any construction or other development items which the Investor Member claims are unsatisfactory based upon the findings in the report.

7. Engineer’s Report.

8. Receipt of Draws and related Draw Documents for Capital Contributions to pay costs of constructing the Apartment Complex, which are approved by the Investor Member pursuant to Section 4.4 of the Agreement.

9. Updated Sources and Uses of Development Budget.
10. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

11. Receipt of all other reports required to be submitted to date according to Article 18, including but not limited to budgets, tax returns, audits and compliance documentation.

12. Satisfaction of all conditions for the payment of the Second Installment.

13. Such additional documentation as the Investor Member may reasonably require.


**Fourth Installment Funding Conditions ($5,811,208)**

1. Completion has occurred, and all Completion Documentation has been received and approved by the Investor Member.

2. The ALTA As-Built Survey.

3. A final report from the Investor Member’s construction consultant that all design, site, construction and finishing work necessary for the completion of the Apartment Complex and any necessary utilities have been finished in a good and workmanlike manner, free from defects in design and construction and substantially in accordance with the Plans and Specifications, which shall additionally include evidence of the delivery and installation of all necessary and appropriate fixtures, equipment and personal property. The Investor Member shall cause its consultant to deliver a copy of its report (or the pertinent portions thereof) promptly to the Managing Member if there are any construction or other development items which the Investor Member claims are unsatisfactory based upon the findings in the report.

4. Rental Achievement.

5. An unaudited balance sheet of the Company, dated no earlier than thirty (30) days prior to such Installment, certified by the Managing Member as true, complete and correct.

6. An estimate of the likely adjustment to Capital Contributions, if any, that may be due under Section 4.2(d).

7. Evidence that all warranties relating to the Construction have been issued to the Company, including the commencement and termination date and product information.

8. Copies of all maintenance and operating agreements for the Apartment Complex.

9. Executed and recorded Extended Use Agreement; provided however, if a recorded copy is not yet available, evidence of submission of the executed Extended Use Agreement for recording.

10. Evidence that the Operating Reserve and Replacement Reserve have been funded in accordance with the terms of the Agreement.
11. Receipt by the Company of the Cost Certification and such documentation as may be reasonably required by the Investor Member to support the Cost Certification, together with an estimate of the likely adjustment to Capital Contributions, if any, that may be due under Section 4.2(d)(i).

12. Update of each Guarantor’s financial statements to include a schedule of contingent liabilities, together with bank statements for each Guarantor who is an individual, dated no later than ninety (90) days prior to the Fourth Installment Funding.

13. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

14. Date down endorsement, if available, to the Title Policy dated on at the time of Conversion, in form and substance reasonably acceptable to the Investor Member, and issuance of an ALTA zoning 3.1 endorsement, a comprehensive endorsement for improved land, a revised survey endorsement reflecting and referring to the ALTA As-Built Survey, and any other endorsements requested by the Investor Member, all in form reasonably satisfactory to the Investor Member.

15. Satisfaction of all conditions for the payment of the Third Installment.

16. Such additional documentation as the Investor Member may reasonably require.


**Fifth Installment Funding Conditions ($50,000)**

1. Receipt of Internal Revenue Service Forms 8609 for each building in the Apartment Complex.

2. Receipt of all other reports required to be submitted to date according to Article 18, including but not limited to budgets, tax returns, audits and compliance documentation.

3. Copies of all initial tenant files.

4. The completion of Investor Member’s first year Tenant File Audit.

5. Final calculation of the adjustments to Capital Contributions, if any, that may be due under Section 4.2(d)(i) and 4.2(d)(ii).

6. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

7. Satisfaction of all conditions for the payment of the Fourth Installment.

8. Such additional documentation as the Investor Member may reasonably require.

EXHIBIT D

INSURANCE REQUIREMENTS

I. Immediately upon purchase of the land and building(s) upon which new construction will take place and/or building(s) will be rehabilitated, and throughout the term of this Agreement, The Managing Member shall obtain, and maintain in full force and effect, the following policies of insurance for the Company:

A. Commercial General Liability Insurance:
   1. $1,000,000 per occurrence;
   2. $2,000,000 general aggregate;
   3. $2,000,000 product liability/completed operations aggregate;
   4. Personal and Advertising injury: $1,000,000;
   5. The Investor Member and any other party as designated by the Investor Member shall be included as an additional insured using form CG2026 Designated Person or Organization or form CG2027 Co-Owner of Insured Premise or its equivalent. If these or equivalent endorsements are not available it must specifically state on the certificate “Who is an insured includes all members & partners per policy form {state policy form number} attached”. The additional insured form/endorsement or policy form must be attached to the certificate of Insurance.
   6. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.
   7. Deductible/SIR not greater than $10,000; and
   8. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided.

B. Automobile Insurance, only required if the Apartment Complex has employees or owns or uses any autos (must provide written statement stating the Apartment Complex has no employees, owns or uses any autos if proof of coverage is not provided):
   1. Liability with $1,000,000 combined single limit for personal injury and property damage (including all hired and non-owned vehicles).
   2. Physical Damage, including comprehensive and collision, for any owned autos

C. Worker’s Compensation Insurance, only required if the Company has employees (must provide written statement that the Company has no employees if proof of coverage is not provided):
1. State Benefits and Employer’s liability: $1,000,000.

D. Umbrella/Excess Liability Insurance:

1. $5,000,000 per occurrence and aggregate (primary and umbrella/excess liability can be combined to achieve minimum limit of $6,000,000 per occurrence and $7,000,000 Aggregate); Higher limits may be required depending project characteristics, location and size.

2. The Commercial General Liability, Automobile Liability and Employers Liability policies should be scheduled as underlying policies; and

E. All coverages to be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Investor Member and any other party as designated by the Investor Member as Certificate Holder. A separate certificate shall be issued for each requested Certificate Holder.

F. All coverage shall be primary and any insurance carried by the Investor Member or any other partners shall be excess and non-contributory. All insurance companies shall agree to waive their right of subrogation against the Investor Member or any other partners or party as designated by the Investor Member.

G. Other forms or types of insurance which the Investor Member may now or hereafter reasonably require.

II. Prior to the commencement of any construction or rehabilitation of the Apartment Complex, The Managing Member shall obtain (or cause to be obtained by the Contractor/Architect) and keep in force until construction is completed, accepted and initial occupancy of any portion of the Apartment Complex:

A. Builder’s Risk Insurance:

1. “Special Form” Builder’s Risk policy;

2. Replacement Cost;

3. New construction – limit of insurance must be equal to the full value of the completed project;

4. Rehabilitation/Reconstruction limit of insurance must be equal to the value of the building after demolition is completed, plus the full construction/rehab value, including labor;

5. Deductible not greater than $10,000;

6. Completed Value Form; Reporting form policies of any kind will not be acceptable.
7. Earthquake/DIC coverage for all properties located in UBC Seismic Zones 3 & 4; For projects with an approved seismic study indicating a loss prediction of less than 20%, earthquake insurance may be waived; with limits and deductibles that are acceptable to the Investor Member.

8. Flood coverage (for all properties located in FEMA Flood Zones A, V, and D); with limits equal to 50% of the replacement cost of the completed project.

9. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.

10. To be shown on an ACORD 27/28 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to...”, listing the Investor Member or any other party as designated by the Limited Liability Company as Certificate Holder and Loss Payee using form CP1218 or its equivalent with a waiver of subrogation; The loss payee form/endorsement must be attached to the certificate. A separate certificate shall be issued for each Certificate Holder.

11. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided.

12. Soft Cost Endorsement, including increased engineering/architectural fees, interest expense, insurance, real estate taxes, and other miscellaneous expenses associated with project completion delays resulting from a loss.

13. Hail, Named Storms, Windstorm Coverage with deductibles that are acceptable to the Investor Member.

14. Waiver of Coinsurance or Agreed Amount Endorsement.

15. Policy shall contain a Permission to Occupy provision

16. Coverage shall include costs for Debris Removal

B. Evidence of insurance from the Contractor:

1. Worker’s Compensation insurance including state benefits and employers liability of not less than $1,000,000; with a waiver of subrogation in favor of the Company, the Investor Member and any other party as designated by the Investor Member.

2. Commercial Liability insurance coverage of $6,000,000 per occurrence and $7,000,000 aggregate naming the Company, the Investor Member and any other party as designated by the Investor Member as an Additional Insured including Products and Completed Operations for the appropriate statute of limitations.

3. Auto Liability insurance with limits not less than $1,000,000 combined single limit covering all owned, hired & non-owned autos.
4. Contractors Pollution Liability with limits not less than $1,000,000 per occurrence and aggregate if work involves any environmental remediation such as asbestos, lead or other pollutants on structures or the site.

5. All coverage shall be primary and any insurance carried by the Company, Investor Member or Members shall be excess and non-contributory. All insurance companies shall agree to waive their right of subrogation against the Company, the Investor Member or any other party as designated by the Investor Member.

6. To be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Company, the Investor Member and any other party designated by the Investor Member as Certificate Holder. A separate certificate shall be issued for each Certificate Holder.

7. The Managing Member shall make sure the Investor Member and any other party designated by the Investor Member are included in any construction contracts so as to trigger the benefit of any blanket additional insured, primary wording or waiver of subrogation insurance endorsements where written contract is required so that the above requirements are met.

C. Evidence of insurance from the Architect and Engineer:

1. Errors & Omissions insurance coverage of $1,000,000 per occurrence and in the aggregate; and

2. To be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Investor Member and any other party designated by the Investor Member as Certificate Holder.

III. Prior to the Occupancy Commencement Date, the Managing Member shall obtain, and shall maintain in full force and effect throughout the term of this Agreement, the following policies of insurance:

A. Property Insurance:

1. “Special Form” policy at replacement cost excluding land;

2. Loss of Rents: greater than or equal to 12 months’ rental income, maximum deductible 72 hours

3. Building Contents: full replacement cost on “Special Form” basis;

4. Waiver of Co-insurance or agreed amount endorsement;

5. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.
6. Earthquake/DIC coverage (for all properties located in UBC Seismic Zones 3 & 4; Projects with an approved seismic study indicating a loss prediction of less than 20%, earthquake insurance may be waived); with limits and deductibles that are acceptable to the Investor Member.

7. Deductibles not greater than $10,000;

8. Flood coverage (for all properties located in FEMA Flood Zones A, V, and D) with limits not less than 50% of the replacement value of the completed project.

9. Hail, Named Storms, Windstorm Coverage with deductibles that are acceptable to the Investor Member.

10. Building Ordinance or Law A, B & C $500,000 for properties that contain any type of non-conformance under current building, zoning, or land use laws or ordinances.

11. Boiler & Machinery/Equipment Breakdown insurance at 100% replacement cost of building(s) that houses equipment with deductibles same as property insurance for all properties with any centralized HVAC, boiler, water heater or other type of pressure-fired vessel.

12. To be shown on an ACORD Form 27/28 with 30 days’ Notice of Cancellation listing the Investor Member and any other party designated by the Investor Member as Certificate Holder and adding as Loss Payees per form CP 1218 (form/endorsement must be attached to the certificate) with a waiver of subrogation, with the words “endeavor to” and “but failure to” struck from the notice;

13. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided

B. Management Agent Insurance:

1. Worker’s Compensation insurance including state benefits and employers liability of not less than $1,000,000; with a waiver of subrogation in favor of the Company, the Investor Member and any other party as designated by the Investor Member.

2. General Liability insurance coverage of $6,000,000 per occurrence and $7,000,000 aggregate; and

3. Professional Liability Insurance with limits of $1,000,000 per occurrence and aggregate with deductible/SIR not greater than $10,000

4. Auto Liability insurance with limits not less than $1,000,000 combined single limit covering all owned, hired & non-owned autos.

5. Employee Dishonesty Crime Coverage or similar Fidelity Bond coverage in an amount not less than the equivalent of 2 months gross income of the project.
6. To be shown on an ACORD Form 25 with 30 days’ Notice of Cancellation listing the Company, the Investor Member and any other party designated by the Investor Member as certificate holder with the words “endeavor to” and “but failure to” struck from the notice. A separate certificate shall be issued for each Certificate Holder.

IV. All policies of insurance described on this Exhibit D shall be underwritten by companies licensed to write such insurance in the state where the Apartment Complex is located and shall be rated in the A.M. Best’s Insurance Rating Guide with a rating of at least A VII. Notice of any replacement of any policy shall be made at least 10 days prior to such replacement, and shall be in the form of a copy of the replacement policy, or by certificate, as noted above. If any Acord Forms or other evidences of insurance do not contain a notice provision for the benefit of the Certificate Holder it shall be the obligation of the Managing Member to Notify all Certificate Holders of any cancelation, non-renewal or material reduction in coverage of all required insurance.

V. All liability insurance maintained by the Company and General Contractor shall include a provision that is primary and any such insurance maintained by the Investor Member or other party designated by the Investor Member is excess and non-contributory.

VI. All parties and their respective insurers are required and must agree to waive their rights of subrogation against the Investor Member or any other party designated by the Investor Member.

VII. The Managing Member is advised to obtain whatever additional insurance is deemed prudent to adequately protect the Company. These insurance requirements are considered minimum standards.
DEVELOPMENT AGREEMENT

THIS AGREEMENT (this “Agreement”) is made and entered into as of February 1, 2019, between Canova Palms, LLC, a Texas limited liability company (the “Company”), SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook”) and O-SDA INDUSTRIES, LLC, a Texas limited liability company (“O-SDA” and together with Saigebrook, the “Developer”).

A. The Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”) (capitalized terms used herein without definition shall have the definitions given them in the Operating Agreement).

B. The Company has been formed to develop, construct, own, maintain and operate a 110-unit multifamily apartment complex intended for rental to families of low and moderate income and for rental to families at market rates, to be known as Canova Palms, and to be located at 1717 Irving Blvd., Irving, Dallas County, Texas (the “Apartment Complex”).

C. Saigebrook Canova, LLC, a Texas limited liability company, O-SDA Canova, LLC, a Texas limited liability company and HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”) are the sole Members in the Company.

D. The Company desires to appoint the Developer to provide certain services for the Company with respect to overseeing the development of the Apartment Complex until all development work is completed.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Appointment. The Company hereby appoints the Developer to render services for the Company, and confirms and ratifies the appointment of the Developer with respect to services rendered for the Company to date, in supervising and overseeing the development of the Apartment Complex as herein contemplated.

2. Authority. In conformity with the provisions of the Operating Agreement, the Developer shall have, and has had, the authority and the obligation to:

   (a) select the architect (“Architect”), coordinate the preparation of the plans and specifications (the “Plans and Specifications”) and recommend alternative solutions whenever design details affect construction feasibility or schedules;

   (b) insure that the Plans and Specifications are in compliance with all applicable codes, laws, ordinances, rules and regulations;

   (c) cause the General Contractor to negotiate all necessary contracts and subcontracts (other than the Construction Contract) for the construction of the Apartment Complex;
(d) verify the utilization of the products and materials necessary to equip the Apartment Complex in a manner which satisfies all requirements of the BBVA Loan and the Plans and Specifications;

(e) monitor disbursement and payment of amounts owed Architects and the subcontractors;

(f) insure that the Apartment Complex is constructed free and clear of all mechanics’ and materialmen’s liens;

(g) obtain an Architect’s certificate that the work on the Apartment Complex is substantially complete and inspect the Architect’s work;

(h) secure all building code approvals and obtain certificates of occupancy for all of the residential units of the Apartment Complex;

(i) cause the Apartment Complex to be completed in a prompt and expeditious manner, consistent with good workmanship, and in compliance with the following:

   (i) the Plans and Specifications as they may be amended by the agreement of the parties hereto and with the consent of the mortgagee under the BBVA Loan; and

   (ii) any and all zoning regulations, county ordinances, including health, fire and safety regulations, and any other requirements of federal, state and local laws, rules, regulations and ordinances applicable to construction of the Apartment Complex;

(j) cause to be performed in a diligent and efficient manner the following:

   (i) construction of the Apartment Complex pursuant to the Plans and Specifications, including any required off-site work; and

   (ii) general administration and supervision of construction of the Apartment Complex;

(k) cause the General Contractor to administer and supervise activities of subcontractors and their employees and agents, and others employed as to the Apartment Complex in a manner which complies in all respects with the BBVA Loan and the Plans and Specifications;

(l) keep, or cause to be kept, accounts and cost records as to the construction of the Apartment Complex;

(m) maintain, or cause to be maintained, at its expense, all office and accounting facilities and equipment necessary to adequately perform the foregoing functions;

(n) make available to the Company, during normal business hours and upon the Company’s written request, copies of all material contracts and subcontracts;
(o) deliver to the Company the ALTA As-Built Survey and “as-built” drawings of the Apartment Complex construction;

(p) cause the General Contractor to provide and periodically update an Apartment Complex construction time schedule which coordinates and integrates Architect’s services with construction schedules;

(q) cause the General Contractor to investigate and recommend a schedule for purchase by the Company of all materials and equipment requiring long lead time procurement, coordinate the schedule with Architect and expedite and coordinate delivery of such purchases;

(r) cause the General Contractor to prepare pre-qualification criteria for bidders interested in participating in the construction of the Apartment Complex, establish bidding schedules and conduct pre-bid conferences to familiarize bidders with the bidding documents and management techniques with any special systems, materials or methods;

(s) cause the General Contractor to receive bids, prepare bid analyses and make recommendations to the Company for award of contracts or rejection of bids;

(t) coordinate the work of Architect to complete the Apartment Complex in accordance with the objectives as to cost, time and quality, and provide sufficient personnel at the Apartment Complex with authority to achieve such objectives;

(u) cause the General Contractor to provide a detailed schedule of realistic activity sequences and durations, allocation of labor and materials and processing of shop drawings and samples;

(v) provide regular monitoring of the schedule as construction progresses, identify potential variances between scheduled and the probable Substantial Completion Date, review the schedule for work not started or incomplete, recommend to the Partnership Adjustments in the schedule to meet the probable Substantial Completion Date, provide summary reports of such monitoring, and document all changes in the schedule;

(w) recommend courses of action to the Company when requirements of subcontracts are not being fulfilled;

(x) revise and refine the approved estimate of construction cost, incorporate changes as they occur, and develop cash flow reports and forecasts as needed;

(y) provide regular monitoring of the approved estimate of construction cost, show actual costs for activities in process and estimates for uncompleted tasks, identify variances between actual and budgeted or estimated costs and advise the Company whenever projected Costs exceed budgets or estimates;

(z) cause the General Contractor to develop and implement a system for review and processing of change orders as to construction of the Apartment Complex;
(aa) develop and implement a procedure for the review and processing of applications by subcontractors for progress and final payments;

(bb) in collaboration with Architect, establish and implement procedures for expediting the processing and approval of shop drawings and samples; and

(cc) record the progress of the Apartment Complex and submit written progress reports to the Company and Architect, including the percentage of completion and the number and amounts of change orders.

Notwithstanding the foregoing, the Developer shall not provide any services which are the sole responsibility of the Managing Member, including, without limitation, the following: (i) organization of the Company and negotiation of any sale of a Company Interest; (ii) obtaining permanent financing for the Apartment Complex; and (iii) the acquisition and preparation of the Land prior to commencing construction of the Apartment Complex.

3. Development Fee.

(a) For services performed and to be performed under Sections 1 and 2 of this Agreement, the Company shall pay the Developer a Development Fee in the aggregate amount of One Million Forty Thousand Fifth-Six Dollars ($1,040,056) as its sole compensation for the performance of its services under and in connection with this Agreement. Payment of the Development Fee shall be subject to the terms and conditions of the Operating Agreement. Subject to the terms of the Operating Agreement, the Company shall pay the Development Fee as follows: (i) $245,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid solely from the Cash Flow of the Company available pursuant to Section 14.1(a) of the Operating Agreement, from Cost Savings pursuant to Section 14.2, and from proceeds of the dissolution and liquidation of the Company pursuant to Section 17.2(b)(ii)(D) of the Operating Agreement (the “Deferred Development Fee”); (ii) $250,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid at the time the Investor Member makes the First Installment, (iii) $250,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid at the time the Investor Member makes the Third Installment, (iv) $250,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid at the time the Investor Member makes the Fourth Installment, (v) $50,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid at the time the Investor Member makes the Fifth Installment.

(b) Notwithstanding the foregoing, if, at any time prior to the payment of the Development Fee in full, including the Deferred Development Fee, there are Development Deficits required to be paid to Saigebrook and O-SDA by the Managing Member pursuant to Section 8.1(b) of the Operating Agreement, the Developer and the Company agree that the Managing Member shall have the right, with the Consent of the Investor Member, to elect to fund such Development Deficits by causing the Company and the Developer to change some or all of the cash portion of the Development Fee that would otherwise be paid to Saigebrook and
O-SDA in accordance with Sections 3(a)(ii) through (v) above (but in no event to exceed the lesser of $[572,717] or the unpaid cash portion of the Development Fee) into Deferred Development Fee (a “DDF Election”); provided, the Investor Member shall Consent to such deferral if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after the Placed in Service Date, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to generate the Projected Housing Tax Credits and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Any Deferred Development Fee resulting from a DDF Election shall be paid in accordance with Section 3(a)(i) hereof and the payments to Saigebrook, O-SDA shall be adjusted pro rata. In no event shall the total amount of the Development Fee be increased as a result of such DDF Election.

(c) No interest shall accrue on the outstanding Deferred Development Fee (including, without limitation, any Deferred Development Fee resulting from a DDF Election). All payments made to the Deferred Development Fee shall be applied to the outstanding balance of the Deferred Development Fee until the Deferred Development Fee is paid in full. Any outstanding balance shall be payable by the earlier of thirteen (13) years following the Placed in Service Date or the date of liquidation of the Company.

(d) Notwithstanding the timing of the payment of the Capital Contributions of the Investor Member, in any event the Company shall pay the entire earned and accrued amount of the Development Fee (other than the Deferred Development Fee including, without limitation, any Deferred Development Fee resulting from a DDF Election) within three (3) years from the date of this Agreement.

(e) For those services performed on or before the Closing Date, as set forth in Section 2 hereof, twenty percent (20%) of the Development Fee shall be deemed earned as of such date. The balance of the Development Fee shall be earned during construction proportionate to the percentage of completion of construction, with the entire Development Fee earned upon issuance of certificates of occupancy for all buildings in the Apartment Complex.

4. **Developer Guaranty of Costs of Construction.** The Developer warrants that the aggregate costs to the Company for the items includable in Development as identified on the Development Budget shall not exceed the aggregate amounts for such items reflected on the Development Budget (the “Developer Cost Guaranty”). If the aggregate costs to the Company for the items includable in Development Costs exceed the aggregate amount for such items reflected in the Development Budget and such excess costs cannot be funded by Permitted Sources, including DDF Election, the Developer shall pay such excess when and as incurred. Any amounts paid by the Developer pursuant to this Section 4 shall not be repaid by the Company, shall not be credited to the Capital Amount of any Member, or otherwise change the interest of any Person in the Company, but shall be bound by the Developer under the terms of this Agreement.
5. **Withholding of Fee Payments.** If (a) the Developer or the Managing Member, or any successor Managing Member, shall not have substantially complied with any material provisions under this Agreement and the Operating Agreement, (b) an Event of Default has occurred under the Operating Agreement, (c) any financing commitment of any Lender or any agreement entered into by the Company for financing related to the Apartment Complex shall have terminated prior to its respective termination date(s), or (d) foreclosure proceedings have been commenced against the Apartment Complex, or against any apartment complex owned by an Affiliated Entity, then the Developer shall be in default of this Agreement, and the Company shall withhold payment of any installment of the fee payable to the Developer pursuant to Section 3 of this Agreement. All amounts so withheld by the Company under this Section 5 shall be promptly released to the Developer only after the Developer has cured the default justifying the withholding, as demonstrated by evidence reasonably acceptable to the Investor Member. Either Saigebrook or O-SDA shall be entitled to effect such cure on behalf of the Developer.

6. **Assignment of Fees.** The Developer shall not assign, pledge or otherwise encumber, for security or otherwise, the Development Fee set forth above to be made by the Company, or any portion(s) thereof or any right(s) of the Developer thereto, without the Consent of the Investor Member.

7. **Reserved.**

8. **Successors and Assigns.** This Agreement shall be binding on the parties hereto, their heirs, successors and assigns. However, this Agreement may not be assigned by any party hereto without the Consent of the Investor Member, nor may it be terminated without the Consent of the Investor Member.

9. **Termination.** If the Managing Member withdraws from the Company for any reason whatsoever, including the removal of the Managing Member pursuant to Section 7.2 of the Operating Agreement, this Agreement shall terminate effective on the date of such withdrawal (an “Early Termination”) unless the Company and the Investor Member otherwise elect in writing. If an Early Termination occurs, then Developer shall not be entitled to any payments of the Development Fee and the Developer shall forfeit as additional damages any Development Fee which has not been paid as of the date of such Early Termination. If an Early Termination occurs, the Developer shall remain liable for all damages, liabilities and claims ("Claims") arising under or in connection with this Agreement which are based on acts or omissions prior to the date of such termination, including Claims which do not become manifest until after the date of such termination. The Developer shall have no right to terminate this Agreement without the Consent of the Company and the Investor Member, which Consent may be withheld in the sole discretion of any party. The Developer shall have no right to terminate this Agreement without the Consent of the Company and the Investor Member and both Saigebrook and O-SDA, which Consent may be withheld in the sole discretion of any party.

10. **No Lien Filings.** The Developer hereby represents, warrants and covenants that neither it nor its Affiliates shall file a mechanic’s lien, materialmen’s lien or other lien against the Apartment Complex or any other assets of the Company, and hereby waives and releases any right it may have or may hereafter acquire to file such a lien against the Apartment Complex or any other assets of the Company. The Developer shall indemnify and hold harmless the
Company and the Investor Member from any losses, damages, and/or liabilities, to or as a result of a breach of this provision.

11. **Separability of Provisions.** Each provision of this Agreement shall be considered separable and if for any reason any provision which is not essential to the effectuation of the basic purposes of this Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement which are valid.

12. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

13. **Waiver of Jury Trial.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS DEVELOPMENT AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

14. **No Continuing Waiver.** The waiver by any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

15. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of Texas.

16. **Third Party Beneficiary.** The Investor Member is a third party beneficiary of this Agreement, and the Company and the Developer hereby expressly agree that any amendment to this Agreement shall not be effective unless and until same is Consented to by the Investor Member.

*(SIGNATURES APPEAR ON THE FOLLOWING PAGE)*
IN WITNESS WHEREOF, the parties have caused this Development Agreement to be duly executed as of the date first written above.

COMPANY:

CANOVA PALMS, LLC,  
a Texas limited liability company

By:  Saigebrook Canova, LLC,  
a Texas limited liability company

Its:  Managing Member

By:  Saigebrook Development, LLC,  
a Florida limited liability company

Its:  Managing Member

By:  
Name: Lisa M. Stephens  
Title:  Manager

DEVELOPER:

SAIGE BROOK DEVELOPMENT, LLC,  
a Florida limited liability company

By:  
Name: Lisa M. Stephens  
Title:  Manager

O-SDA INDUSTRIES, LLC,  
a Texas limited liability company

By:  
Name: Megan D. Lasch  
Title:  Managing Member
IN WITNESS WHEREOF, the parties have caused this Development Agreement to be duly executed as of the date first written above.

COMPANY:

CANOVA PALMS, LLC,
a Texas limited liability company

By: Saigebrook Canova, LLC,
a Texas limited liability company
Its: Managing Member

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By:
Name: Lisa M. Stephens
Title: Manager

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By:
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: 
Name: Megan D. Lasch
Title: Managing Member
EXHIBIT F

GUARANTY AGREEMENT
GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (this “Guaranty”), made as of February 1, 2019, is by SAIGEBROOK CANOVA, LLC, a Texas limited liability company (“Co-Managing Member”), O-SDA CANOVA, LLC, a Texas limited liability company (“Administrative Member”), SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook Development”), O-SDA INDUSTRIES, LLC, a Texas limited liability company (“O-SDA Developer”), Lisa M. Stephens, individually and Megan D. Lasch, individually, (jointly and severally Co-Managing Member, Administrative Member, Saigebrook Development, O-SDA Developer, Lisa M. Stephens and Megan D. Lasch are individually and collectively referred to herein as the “Guarantors”), each of whose address is set forth below, for the benefit of HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436.

A. Co-Managing Member and Administrative Member are the managing members of Canova Palms, LLC, a Texas limited liability company (the “Company”).

B. The Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”). Capitalized terms used herein and not defined shall have the meanings given them in the Operating Agreement.

C. The Developer and the Company have entered into that certain Development Agreement dated as of the date hereof (the “Development Agreement”).

D. The Investor Member has been requested to enter into the Operating Agreement and the Company with the Managing Member.

E. Each Guarantor is, or is an Affiliate of, the Managing Member and/or the Developer, and believes it shall substantially benefit, directly or indirectly, from the Investor Member entering into the Operating Agreement and the Company with the Managing Member.

F. As a condition to entering into the Operating Agreement and the Company, the Investor Member has required the Guarantors to jointly and severally guarantee to the Investor Member certain of the obligations of the Managing Member under the Operating Agreement, of the Developer under the Development Agreement and certain other items as herein set forth.

NOW, THEREFORE, in order to induce the Investor Member to enter into the Operating Agreement and the Company in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Guarantor, in his, her or its respective individual and/or fiduciary capacity, hereby jointly and severally covenants and agrees as follows:

1. Each Guarantor irrevocably and unconditionally fully guarantees the due, prompt and complete performance of each and every one of the following obligations: (a) the payment and performance by the Managing Member of each and every obligation of the Managing Member due under Sections 4.2(d), 5.2(i), 5.2(j), 5.2(cc), 5.8(a), 5.8(c), 5.10(b), 5.10(d), 7.2(b)(iv), 8.1, 8.2, 8.3, and 8.4 of the Operating Agreement; (b) the payment and performance by the Managing Member of each and every obligation of the Managing Member under the Managing Member
Pledge; and (c) the due, prompt and complete payment of all costs and expenses (including, without limitation, reasonable attorneys’ fees) incurred by the Investor Member in collection of the enforcement of this Guaranty against the Guarantors (the obligations described in this Paragraph 1 are hereinafter collectively referred to as the “Indebtedness”).

2. Each Guarantor hereby grants to the Investor Member, in the sole discretion of the Investor Member, and without notice to any Guarantor, the power and authority to deal in any lawful manner with the Indebtedness and the other obligations guaranteed hereby, and without limiting the generality of the foregoing, further power and authority, from time to time:

   (a) to renew, compromise, extend, accelerate or otherwise change the time or place of payment of or to otherwise change the terms of the Indebtedness;

   (b) to modify or to waive any of the terms of the Operating Agreement, the Development Agreement and/or any other obligations guaranteed hereby;

   (c) to take and hold security for the payment of the Indebtedness and/or performance of the other obligations guaranteed hereby and to impair, exhaust, exchange, enforce, waive or release any such security;

   (d) to direct the order or manner of sale of any such security as the Investor Member, in its sole discretion, may determine;

   (e) to grant any indulgence, forbearance or waiver with respect to the Indebtedness or any of the other obligations guaranteed hereby;

   (f) to release or waive rights against any one or more Guarantors without releasing or waiving any rights against any other Guarantor; and/or

   (g) to agree to any valuation by the Investor Member of any collateral securing payment of any of the Indebtedness in any proceedings under the United States Bankruptcy Code concerning the Investor Member or the Guarantors.

The liability of each Guarantor hereunder shall not be affected, impaired or reduced in any way by any action taken by the Investor Member under the foregoing provisions or any other provision hereof, or by any delay, failure or refusal of the Investor Member to exercise any right or remedy either may have against the Managing Member or any other person, firm or corporation, including other guarantors, if any, liable for all or any part of the Indebtedness or any of the other obligations guaranteed hereby.

3. Prior to Completion, the Guarantors will maintain collectively at least $1,000,000 in Liquid Assets. From the date of Completion through and including the Rental Achievement, the Guarantors will maintain collectively at least $500,000 in Liquid Assets. The Managing Member shall Notify the Investor Member whenever the requirements of this Section 3 are not satisfied.
4. On or before ninety (90) days after the expiration of each fiscal year of each Guarantor, such Guarantor shall send to the Investor Member copies of the balance sheet and income statement of such Guarantor for such fiscal year.

5. The Guarantors agree that if any of the Indebtedness is not fully and timely paid or performed according to the tenor thereof, whether by acceleration or otherwise, the Guarantors shall immediately upon receipt of written demand therefor from the Investor Member pay all of the Indebtedness hereby guaranteed in like manner as if the Indebtedness constituted the direct and primary obligation of the Guarantors. The Guarantors shall not have any right of subrogation as a result of any payment hereunder or any other payment made by the Guarantors or a Guarantor on account of the Indebtedness, and each Guarantor hereby waives, releases and relinquishes any claim based on any right of subrogation, any claim for unjust enrichment or any other theory that would entitle a Guarantor to a claim against the Managing Member based on any payment made hereunder or otherwise on account of the Indebtedness until the Indebtedness is paid in full.

6. This Guaranty and the obligations of the Guarantors hereunder shall be continuing and irrevocable until the Indebtedness has been satisfied in full. Notwithstanding the foregoing or anything else set forth herein, and in addition thereto, if at any time all or any part of any payment received by the Investor Member from a Guarantor under or with respect to this Guaranty is or must be rescinded or returned for any reason whatsoever (including, without limitation, determination that said payment was a voidable preference or fraudulent transfer under insolvency, bankruptcy or reorganization laws), then Guarantors’ obligations hereunder shall, to the extent of the payment rescinded or returned, be deemed to have continued in existence, notwithstanding such previous receipt of payment by the Investor Member, and Guarantors’ obligations hereunder shall continue to be effective or be reinstated as to such payment, all as though such previous payment to the Investor Member had never been made. The provisions of the foregoing sentence shall survive termination of this Guaranty, and shall remain a valid and binding obligation of each Guarantor until satisfied.

7. Each Guarantor hereby waives notice of acceptance of this Guaranty by the Investor Member, and this Guaranty shall immediately be binding upon each Guarantor. Any Guarantor who executes this Agreement shall be fully bound hereby regardless of whether or not any other Guarantor subsequently executes this Guaranty.

8. Each Guarantor hereby waives and agrees not to assert or take advantage of:

(a) any right to require the Managing Member or the Company to proceed against any other person or to proceed against or exhaust any security held by the Managing Member or the Company at any time or to pursue any other remedy in the Managing Member’s or Company’s power before proceeding against any one or more Guarantors hereunder;

(b) any right to require the Investor Member to proceed against the Managing Member or any other person or to proceed against or exhaust any security held by the Investor Member at any time or to pursue any other remedy in the power of the Investor Member before proceeding against any one or more Guarantors hereunder;
(c) the defense of the statute of limitations in any action hereunder or in any action for the collection of the Indebtedness or the performance of any other obligations guaranteed hereby;

(d) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of the Investor Member to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(e) demand, presentment for payment, notice of non-payment, protest, notice of protest and all other notices of any kind, including, without limitation, notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of the Investor Member or any endorser or creditor of either the Investor Member or any Guarantor or on the part of any other person whomsoever under this or any other instrument in connection with any obligation or evidence of indebtedness held by the Investor Member or in connection with the Indebtedness;

(f) any defense based upon an election of remedies by the Investor Member, and until the Indebtedness is paid in full, the right of Guarantors to proceed against the Investor Member for reimbursement, or both, or if contrary to the express agreement of the parties;

(g) any election by the Investor Member to exercise any right or remedy it may have against the Company or any security held by the Investor Member, including, without limitation, the right to foreclose upon any such security by judicial or non-judicial sale, without affecting or impairing in any way the liability of Guarantors hereunder, except to the extent the Indebtedness has been paid, and until the Indebtedness is paid in full, any default arising out of the absence, impairment or loss of any right of reimbursement, contribution or subrogation or any other right or remedy of the Guarantors against the Company or any such security whether resulting from such election by the Investor Member or otherwise. The Guarantors understand that if all or any part of the liability of the Company to the Investor Member for the Indebtedness is secured by real property the Guarantors shall be liable for the full amount of their liability hereunder, notwithstanding foreclosure on such real property by trustee sale or any other reason impairing the Guarantors’ right to proceed against the Company; and

(h) all duty or obligation on the part of the Investor Member to perfect, protect, not impair, retain or enforce any security for the payment of the Indebtedness or performance of any of the other obligations guaranteed hereby.

9. Until the Indebtedness is paid in full, all existing and future indebtedness of the Managing Member to the Guarantors or to any person controlled or owned in whole or in part by any of the Guarantors and, the right of the Guarantors to withdraw or to cause or permit any person controlled or owned in whole or in part by any of the Guarantors to withdraw any capital invested by any Guarantor or such person in the Managing Member, is hereby subordinated to the Indebtedness at any time after a default exists under the Indebtedness. Furthermore, at any time after a default exists under the Indebtedness, without the prior written Consent of the Investor Member, such subordinated indebtedness shall not be paid and such capital shall not be withdrawn in whole or in part nor shall any Guarantor accept or cause or permit any person
controlled or owned in whole or in part by a Guarantor to accept any payment of or on account of any such subordinated indebtedness or as a withdrawal of capital. Any payment received by the Guarantors in violation of this Guaranty shall be received by the person to whom paid in trust for the Investor Member, and Guarantors shall cause the same to be paid to the Investor Member immediately on account of the Indebtedness. No such payment shall reduce or affect in any manner the liability of the Guarantors under this Guaranty.

10. The amount of each Guarantor’s liability and all rights, powers and remedies of the Investor Member hereunder shall be cumulative and not alternative and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to the Investor Member under the Operating Agreement, any document or agreement relating in any way to the terms and provisions thereof or otherwise by law. With respect to each Guarantor, this Guaranty is in addition to and exclusive of the guaranty of any other Guarantor executing this Guaranty or any other person or entity which guarantees the Indebtedness and/or the other obligations guaranteed hereby.

11. The liability of each Guarantor under this Guaranty shall be an absolute, direct, immediate and unconditional guarantee of payment and not of collectability. The obligations of each Guarantor hereunder are independent of the obligations of the Managing Member or any other party which may be initially or otherwise responsible for performance or payment of the obligations hereunder guaranteed and each other Guarantor, and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted against any one or more Guarantors, whether or not the Managing Member is joined therein or a separate action or actions are brought against the Managing Member. The Investor Member may maintain successive actions for other defaults. The Investor Member’s rights hereunder shall not be exhausted by its exercise of any of their rights or remedies or by any such action or by any number of successive actions until and unless the Indebtedness has been paid in full.

12. The Investor Member, in its sole discretion, may at any time enter into agreements with the Managing Member or with any other person to amend, modify or change the Operating Agreement or any document or agreement relating in any way to the terms and provisions thereof, or may at any time waive or release any provision or provisions thereof and, with reference thereto, may make and enter into all such agreements as the Investor Member may deem proper or desirable, without any notice or further assent from any Guarantor and without in any manner impairing or affecting this Guaranty or any of the rights of the Investor Member or each Guarantor’s obligations hereunder.

13. The Guarantors hereby agree to pay to the Investor Member, upon demand, reasonable attorneys’ fees and all costs and other expenses which the Investor Member expends or incurs in collecting or compromising the Indebtedness or in enforcing this Guaranty against each Guarantor whether or not suit is filed, including, without limitation, all costs, attorneys’ fees and expenses incurred by the Investor Member in connection with any insolvency, bankruptcy, reorganization, arrangement or other similar proceedings involving a Guarantor which in any way affect the exercise by the Investor Member of its rights and remedies hereunder. Any and all such costs, attorneys’ fees and expenses not so paid shall bear interest at an annual interest rate equal to the lesser of (i) 18%, or (ii) the highest rate permitted by applicable law, from the date incurred by the Investor Member until paid by the Guarantors.
14. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

15. No provision of this Guaranty or right of the Investor Member hereunder can be waived nor can any Guarantor be released from such Guarantor’s obligations hereunder except by a writing duly executed by the Investor Member. This Guaranty may not be modified, amended, revised, revoked, terminated, changed or varied in any way whatsoever except by the express terms of a writing duly executed by the Investor Member.

16. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The word “person” as used herein shall include any individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever.

17. If any or all of the Indebtedness is assigned by the Investor Member, this Guaranty shall automatically be assigned therewith in whole or in part, as applicable, without the need of any express assignment and when so assigned, each Guarantor shall be bound as set forth herein to the assignee(s) without in any manner affecting such Guarantor’s liability hereunder for any part of the Indebtedness retained by the Investor Member.

18. Each Guarantor is jointly and severally liable with each other Guarantor.

19. Co-Managing Member’s Employer Identification Number is 45-3062708. Administrative Member’s Employer Identification Number is 80-0641068. Saigebrook Development’s Employer Identification Number is 45-3062708. O-SDA Developer’s Employer Identification Number is 80-0641068. Lisa M. Stephens’ and Megan D. Lasch’s Social Security Numbers have been provided to the Investor Member.

20. This Guaranty shall inure to the benefit of and bind the heirs, legal representatives, administrators, executors, successors and assigns of the Investor Member and Guarantors.

21. This Guaranty shall be governed by and construed in accordance with the laws of the State of Texas without regard to principles of conflicts of law, except to the extent that any of such laws may now or hereafter be preempted by Federal law, in which case, such Federal law shall govern and be controlling. In any action brought under or arising out of this Guaranty, each Guarantor hereby consents to the jurisdiction of any competent court within the State of Texas and consents to service of process by any means authorized by the laws of such state. Except as provided in any other written agreement now or at any time hereafter in force between the Investor Member and any Guarantor, this Guaranty shall constitute the entire agreement of Guarantors with the Investor Member with respect to the subject matter hereof, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon the Investor Member or any Guarantor unless expressed herein.

22. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by depositing same
with Federal Express for next business day delivery or by depositing same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

Investor Member:  
HCP-ILP, LLC  
15910 Ventura Boulevard, Suite 1100  
Encino, California 91436  
Attention: Jeffrey N. Weiss

Guarantors:  
Saigebrook Canova, LLC  
220 Adams Drive Ste. 280 #138  
Weatherford, Texas 76086  
Attention: Lisa Stephens

O-SDA Canova, LLC  
5714 Sam Houston Circle  
Austin, Texas 78731  
Attention: Megan D. Lasch

Saigebrook Development, LLC  
220 Adams Drive Ste. 280 #138  
Weatherford, Texas 76086  
Attention: Lisa Stephens

O-SDA Industries, LLC  
5714 Sam Houston Circle  
Austin, Texas 78731  
Attention: Megan D. Lasch

Lisa M. Stephens  
689 FM 3028  
Millsap, Texas 76066

Megan D. Lasch  
5714 Sam Houston Circle  
Austin, Texas 78731

All notices, demands and requests shall be effective upon such personal delivery or upon being deposited with Federal Express or in the United States mail as required above. However, with respect to notices, demands or requests so deposited with Federal Express or in the United States mail, the time period in which a response to any such notice, demand or request must be given shall commence to run from the next business day following any such deposit with Federal Express or, in the case of a deposit in the United States mail as provided above, the date on the return receipt of the notice, demand or request reflecting the date of delivery or rejection of the same by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto at least 30 days’ written
notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

23. Each Guarantor hereby agrees that this Guaranty, the Indebtedness and all other obligations guaranteed hereby shall remain in full force and effect at all times hereinafter until paid and/or performed in full notwithstanding any action or undertakings by, or against, the Investor Member, any Guarantor, and/or any partner and/or member in the Investor Member in any proceeding in the United States Bankruptcy Court, including, without limitation, any proceeding relating to valuation of collateral, election or imposition of secured or unsecured claim status upon claims by the Investor Member pursuant to any Chapter of the Bankruptcy Code or the Rules of Bankruptcy Procedure as same may be applicable from time to time.

24. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS GUARANTY, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS GUARANTY OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

25. Any married person who signs this Guaranty hereby agrees that recourse may be had against his or her separate property for all of his or her obligations.

26. This Guaranty may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, with the same effect as if all parties hereto had signed the same signature page. Any signature page of this Guaranty may be detached from any counterpart of this Guaranty without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Guaranty identical in form hereto but having attached to it one or more additional signature pages. Execution by any Guarantor shall bind such Guarantor regardless of whether any one or more other Guarantors execute this Guaranty.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

GUARANTORS:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By:    Saigebrook Development, LLC,
a Florida limited liability company
Its:    Managing Member

By:  
Name: Lisa M. Stephens
Title: Manager

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF ____________  ) ss.

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Lisa M. Stephens, as Manager of Saigebrook Development, LLC, managing member of Saigebrook Canova, LLC.

WITNESS my hand and official seal.

My commission expires: 03-25-21

JEFF PACKARD
Notary Public
Notary ID #12281069
My Commission Expires
March 25, 2021
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By:  
Name: Lisa M. Stephens  
Title: Manager

ACKNOWLEDGMENT

STATE OF TEXAS  )
COUNTY OF Bexar   ) ss.

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Lisa M. Stephens, as Manager of Saigebrook Development, LLC.

Witness my hand and notarial seal.

My commission expires: 03.25.21

Notary Public
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

LISA M. STEPHENS, an individual

[Signature]

ACKNOWLEDGMENT

STATE OF TEXAS } ss.
COUNTY OF } ss.

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Lisa M. Stephens, an individual.

WITNESS my hand and official seal.

My commission expires: 03-25-21

[Signature]

Notary Public
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: [Signature]
Name: Megan D. Lasch
Title: Managing Member

ACKNOWLEDGMENT

STATE OF TEXAS )
) ss.
COUNTY OF Travis )

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Megan D. Lasch, as Managing Member of O-SDA Industries, LLC, the Sole Member of O-SDA Canova, LLC.

WITNESS my hand and official seal.

My commission expires: 08/12/2022

[Notary Stamp]
Notary Public
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By:  
Name: Megan D. Lasch  
Title: Managing Member

ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF Travis  
)
)

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Megan D. Lasch, as Managing Member of O-SDA Industries, LLC, sole member of O-SDA Canova, LLC.

WITNESS my hand and official seal.

My commission expires: 08/12/2022

Notary Public
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

MEGAN D. LASCH, an individual

[Signature]

ACKNOWLEDGMENT

STATE OF TEXAS )
COUNTY OF Travis ) ss.

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Megan D. Lasch.

WITNESS my hand and official seal.

My commission expires: 08/12/2022

[Notary Seal]

Notary Public
SPOUSAL CONSENT TO GUARANTY

I acknowledge that I am the spouse of Lisa M. Stephens, a guarantor who signed that certain Guaranty Agreement (the “Guaranty Agreement”), dated as of February 1, 2019 for the benefit of HCP-ILP, LLC, a Nevada limited liability company. I acknowledge that I have read the Guaranty Agreement and know its contents. I am aware that the Guaranty Agreement may affect community property, and I hereby consent to the terms of the Guaranty Agreement and agreed to be bound by the terms thereof. I hereby waive any right that I may have to set aside the Guaranty Agreement.

Dated: As of 2/2019

Signature of Spouse

Print Name of Spouse

[Signature]

4826-0680-0520.Final
SPOUSAL CONSENT TO GUARANTY

I acknowledge that I am the spouse of Megan D. Lasch, a guarantor who signed that certain Guaranty Agreement (the “Guaranty Agreement”), dated as of February 1, 2019 for the benefit of HCP-ILP, LLC, a Nevada limited liability company. I acknowledge that I have read the Guaranty Agreement and know its contents. I am aware that the Guaranty Agreement may affect community property, and I hereby consent to the terms of the Guaranty Agreement and agreed to be bound by the terms thereof. I hereby waive any right that I may have to set aside the Guaranty Agreement.

Dated: As of 2-2-19

Josh Lasch
Print Name of Spouse

Signature of Spouse
EXHIBIT G-1

PLEDGE AND SECURITY AGREEMENT

(CO-MANAGING MEMBER)
PLEDGE AND SECURITY AGREEMENT

(Co-Managing Member)

THIS PLEDGE AND SECURITY AGREEMENT (this “Agreement”) is made as of February 1, 2019 by SAIGEBROOK CANOVA, LLC, a Texas limited liability company (“Saigebrook”), whose address is 220 Adams Drive Ste. 280 #138, Weatherford, Texas 76086 (the “Debtor”), for the benefit of HCP-ILP, LLC, a Nevada limited liability company (the “Secured Party”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436, Attention: Jeffrey N. Weiss.

A. Debtor is the managing member and Secured Party is the investor member in Canova Palms, LLC, a Texas limited liability company (the “Company”), and the Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”). Capitalized terms not otherwise defined herein shall have the definitions given them in the Operating Agreement.

B. Saigebrook Development, LLC, a Florida limited liability company and O-SDA Industries, LLC, a Texas limited liability company (collectively, the “Developer”), and the Company have entered into that certain Development Agreement dated as of February 1, 2019 (the “Development Agreement”), pursuant to which the Developer has been appointed to render certain services in connection with its supervising and overseeing the development of the “Apartment Complex” (as defined therein). Developer is an Affiliate of the Debtor.

C. In order to secure: (a) the full payment and performance by Debtor of all of Debtor’s obligations, duties, expenses and liabilities under or in connection with the Operating Agreement, as the Operating Agreement may be now or hereafter amended, modified or restated; and (b) the full payment and performance by the Developer of all of the Developer’s obligations, duties, expenses and liabilities under or in connection with the Development Agreement, as the Development Agreement may be now or hereafter amended, modified or restated (such obligations, duties, expenses and liabilities described in clauses (a) and (b) above are collectively referred to herein as the “Obligations”), Debtor is entering into this Agreement for the benefit of Secured Party.

NOW, THEREFORE, in order to induce Secured Party to enter into the Operating Agreement with the Debtor, and in consideration of the recitals, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions.

(a) “Collateral” shall consist of all of the personal property of Debtor, wherever located, and whether now owned or hereafter acquired, including accounts, chattel paper, inventory, equipment, instruments (including promissory notes), investment property, documents, deposit accounts, letter of credit rights, general intangibles (including payment intangibles), and supporting obligations and including, without limitation, the following specific items of personal property:
(i) All of Debtor’s right, title and interest in the Company, whether now owned or hereafter acquired, including, without limitation, its general limited liability company interest in the Company and its right to receive distributions, allocations and payments under the Operating Agreement, as the Operating Agreement may be modified from time to time with the consent of Secured Party;

(ii) All fees and charges to be paid by the Company to Debtor, whether paid or unpaid, whether now owned or hereafter acquired, and whether arising under the Operating Agreement, or otherwise, including, without limitation, the MM Incentive Management Fee;

(iii) All indebtedness of the Company to Debtor of any kind or description, including, without limitation, Debtor’s right to receive payment of Operating Deficit Loans or other loans to the Company; and

(iv) To the extent not listed above as original collateral, all products and proceeds, whether cash proceeds or noncash proceeds, of any and all of the foregoing.

(b) “Event of Default” shall mean an event of default described in Paragraph 8 herein.

2. Pledge of Collateral and Grant of Security Interest. Debtor does hereby unconditionally and irrevocably assign, pledge, convey, transfer, deliver, set over and grant unto Secured Party, its successors and assigns, as security for Debtor’s complete and timely payment and performance of the Obligations, a continuing first priority security interest under the Uniform Commercial Code of the State of Texas in the Collateral. Debtor agrees, upon request, to deliver any other documents which Secured Party may reasonably request from time-to-time to further evidence, perfect or secure the liens and security interests created by this Agreement. Debtor acknowledges that Secured Party shall prepare and file UCC Financing Statements in the appropriate jurisdictions with respect to the Collateral and consents to such filing.

3. Delivery to Secured Party.

(a) Debtor agrees to execute and to cause all other necessary parties, and any successors and assigns thereof, to execute and deliver to Secured Party such other agreements, instruments and documentation as Secured Party may reasonably request from time to time to effect the conveyance, transfer, and grant to Secured Party of each and all of Debtor’s right, title and interest in and to the Collateral as security for the Obligations.

(b) Concurrently with the execution of this Agreement, Debtor shall cause the managing member and the investor member of the Company to execute the Consent and Waiver in the form attached hereto as Exhibit A (the “Consent”) evidencing the Consent of the managing member and the investor member to the assignment of Debtor’s limited liability company interests and its agreement to be bound by Paragraph 4 of this Agreement, and covenants to execute, if required by Secured Party, an amendment to the Agreement in such form as Secured Party may require to reflect the substitution of Secured Party in place of Debtor as a managing member in the Company. Debtor further agrees to execute and to cause the other members of the Company to execute and deliver to Secured Party such other agreements, instruments and
documentation as Secured Party may reasonably request from time to time to effectuate the conveyance, transfer, assignment and grant to Secured Party of all of Debtor’s right, title and interest in and to the Collateral and to evidence the substitution of Secured Party in place of Debtor as a managing member in the Company.

4. Proceeds and Products of the Collateral.

(a) Unless and until there occurs an Event of Default, Secured Party agrees to forbear in exercising its right to receive all benefits pertaining to the Collateral, and Debtor shall be permitted to exercise all rights and to receive all benefits of the Collateral, including, without limitation, the right to exercise all voting, approval, consent and similar rights of Debtor pertaining to the Collateral, payments due under, proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral and retain and enjoy the same, provided, however, that Debtor shall not cast any vote or give any approval, consent, waiver or ratification or take any action which would be inconsistent with or violate any provision of this Agreement.

(b) Debtor acknowledges and agrees with Secured Party, that unless Secured Party otherwise consents, in Secured Party’s sole discretion, Debtor shall not exercise any voting, approval, consent or other rights with respect to the Collateral at any time (i) after the occurrence of an Event of Default, and (ii) delivery of notice from Secured Party instructing Debtor not to exercise any such voting, approval, consent or other rights with respect to the Collateral; provided, however, that Debtor shall exercise any such right it may have under the Operating Agreement with respect to the business affairs of the Company as is reasonably necessary to protect and preserve the Collateral.

(c) Upon or at any time after the occurrence of an Event of Default, Secured Party, at its option to be exercised in its sole discretion, may exercise all rights and remedies granted under this Agreement, including, without limitation, the right to require the obligors under the Collateral to make all payments due under and to pay all proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral to Secured Party. Upon the giving of any such notice, the security constituted by this Agreement shall become immediately enforceable by Secured Party, without any presentment, further demand, protest or other notice of any kind, all of which are hereby expressly and irrevocably waived by Debtor. Debtor hereby authorizes and directs each respective obligor under the agreements constituting the Collateral, upon receipt of written notice from Secured Party of an Event of Default by Debtor hereunder, to assign, set over, transfer, distribute, pay and deliver any and all Collateral or said payments, proceeds or products of the Collateral to Secured Party, at such address as Secured Party may direct, at such time and in such manner as Collateral and such payments, proceeds and products of the Collateral would otherwise be distributed, transferred, paid or delivered to Debtor. The respective obligors under the agreements constituting the Collateral shall be entitled to conclusively rely on such notice and make all such assignments and transfers of the Collateral and all such payments with respect to the Collateral and pay all such proceeds and products of the Collateral to Secured Party and shall have no liability to Debtor for any loss or damage Debtor may incur by reason of said reliance.

5. No Assumption. Notwithstanding any of the foregoing, whether or not an Event of Default has occurred, and whether or not Secured Party elects to foreclose on its security
interest in the Collateral as set forth herein, neither the execution of this Agreement, receipt by
Secured Party of any of Debtor’s right, title and interest in and to the Collateral and the
payments, proceeds and products of the Collateral, now or hereafter due to Debtor from any
obligor of the Collateral, nor Secured Party’s foreclosure of its security interest in the Collateral,
shall in any way be deemed to obligate Secured Party to assume any of Debtor’s obligations,
duties, expenses or liabilities under the Collateral or any agreements constituting the Collateral,
as presently existing or as hereafter amended, or under any and all other agreements now existing
or hereafter drafted or executed (collectively, “Debtor’s Liabilities”), unless Secured Party
otherwise agrees to assume any or all of Debtor’s Liabilities in writing. In the event of
foreclosure by Secured Party of its security interest in the Collateral, Debtor shall remain bound
and obligated to perform its Debtor’s Liabilities and Secured Party shall not be deemed to have
assumed any of Debtor’s Liabilities, except as provided in the preceding sentence. If the entity
or person acquiring the Collateral at a foreclosure sale elects to assume Debtor’s Liabilities, such
assignee shall agree to be bound by the terms and provisions of the applicable agreement.

6. Indemnification. Debtor hereby agrees to indemnify, defend and hold Secured
Party, its successors and assigns harmless from and against any and all damages, losses, claims,
costs or expenses (including reasonable attorneys’ fees) and any other liabilities whatsoever that
Secured Party or its successors or assigns may incur by reason of this Agreement or by reason of
any assignment by Debtor of Debtor’s right, title and interest in and to any or all of the
Collateral.

7. Representations, Warranties and Covenants. In addition to the representations
made by Debtor in the Operating Agreement, Debtor makes the following representations and
warranties, which shall be deemed to be continuing representations and warranties in favor of
Secured Party, and covenants and agrees to perform all acts necessary to maintain the truth and
correctness, in all material respects, of the following:

(a) Debtor owns the Collateral free and clear of all claims, liens or encumbrances.

(b) Debtor has delivered to Secured Party true and complete copies of the
Operating Agreement and any other agreements pertinent to the Collateral, and such agreements
are currently in full force and effect and have not been amended or modified except as disclosed
to Secured Party in writing.

(c) Debtor has the full right and title to its interest in the Collateral and has the
full power, legal right and authority to pledge, convey, transfer and assign such interest. None of
the Collateral is subject to any existing or subsequent assignment, claim, lien, pledge, transfer or
other security interest of any character, or to any attachment, levy, garnishment or other judicial
process or to any claim for set-off, counterclaim, deduction or discount. Debtor shall not,
without the prior written consent of Secured Party, which consent may be granted or denied in
Secured Party’s sole discretion, further convey, transfer, set over or pledge to any party any of its
interests in the Collateral. Debtor agrees to (i) warrant and defend its title to the Collateral and
the security interest created by this Agreement against all claims of all persons (other than
Secured Party and persons claiming through Secured Party), and (ii) maintain and preserve the
Collateral and such security interests.
(d) Debtor’s Employer Identification Number is 45-3062708, and its principal place of business is located at 220 Adams Drive Ste. 280 #138, Weatherford, Texas 76086.

(e) Debtor agrees that it shall not, without at least thirty (30) days’ prior written notification to Secured Party, move or otherwise change its principal place of business or state of formation.

(f) Debtor shall not exercise any voting rights, or give any approvals, consents waiver or other ratifications in respect to the Collateral which would violate or contravene, or which would cause or otherwise authorize Debtor to violate or contravene, any provision of this Agreement.

(g) This Agreement and consummation of the transactions contemplated herein are not in conflict with and will not result in a breach of any of the terms, provisions or conditions of any other agreement or instrument to which Debtor may be bound, including, without limitation, the organizational documents for Debtor, or of any order, judgment, law, rule or regulation of any court or governmental body or administrative agency applicable to Debtor.

8. Event of Default. Each of the following shall constitute an Event of Default hereunder:

(a) An Event of Default (as defined in the Operating Agreement) has occurred under the Operating Agreement or the Development Agreement and such default shall not have been cured within any applicable grace period provided therein; or

(b) Any warranty, representation or statement of Debtor in this Agreement proves to have been false in any material respect when made or furnished; or

(c) There occurs the issuance of a writ, order of attachment or garnishment with respect to any of the Collateral and such writ, order of attachment or garnishment is not dismissed and removed within fifteen (15) days thereafter; or

(d) A material breach or violation of any covenant or agreement contained herein has occurred, which is not cured within ten (10) days after notice has been given to Debtor by Secured Party.

Any Event of Default under this Agreement shall be an event of default by Debtor under the Agreement.

9. Remedies.

(a) Upon the occurrence of an Event of Default, Secured Party may, by giving notice of such Event of Default, at its option, do any one or more of the following:

(i) Declare all of the Obligations secured hereby to be immediately due and payable, whereupon all unpaid principal and interest on said Obligations and other amounts declared due and payable shall become immediately due and payable without presentment, demand, protest or notice of any kind; and
(ii) Take possession of all or any of the Collateral, collect, and apply against the Obligations, all payments due, proceeds, whether cash proceeds or noncash proceeds, and products from any obligor under the agreements constituting the Collateral, that would otherwise be paid to Debtor; and

(iii) Either personally, or by means of a court appointed receiver, take possession of all or any of the Collateral and exclude therefrom Debtor and all others claiming under Debtor, and thereafter exercise all rights and powers of Debtor with respect to the Collateral or any part thereof. If Secured Party demands, or attempts to take possession of any of the Collateral in the exercise of any rights under this Agreement, Debtor promises and agrees to promptly turn over and deliver complete possession thereof to the Secured Party; and

(iv) Without notice to or demand upon Debtor, make such payments and do such acts as Secured Party may deem necessary to protect its security interest in the Collateral, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith; and

(v) Require Debtor to take all actions necessary to deliver such Collateral to Secured Party, or an agent or representative designated by it. Secured Party, and its agents and representatives, shall have the right to enter upon any or all of Debtor’s premises and property to exercise Secured Party’s rights hereunder; and

(vi) Foreclose upon this Agreement as herein provided or in any manner permitted by law, and exercise any and all of the rights and remedies conferred upon Secured Party by the Operating Agreement, or in any other document executed by Debtor in connection with the Obligations secured hereby, either concurrently or in such order as Secured Party may determine; and sell or cause to be sold in such order as Secured Party may determine, as a whole or in such parcels as Secured Party may determine, the Collateral, without affecting in any way the rights or remedies to which Secured Party may be entitled under the other such instruments; and

(vii) Sell or otherwise dispose of the Collateral at public sale, without having the Collateral at the place of sale, and upon terms and in such manner as Secured Party may determine. Secured Party may be a purchaser at any sale; and

(viii) Exercise any remedies of Secured Party under the Uniform Commercial Code of the State of Texas or any other applicable law; and

(ix) Exercise any remedies available to Secured Party under the Agreement, including, without limitation, the removal of Debtor as a Managing Member of the Company and exercise of any rights of offset in favor of Secured Party as a managing member of the Company; and

(x) Notwithstanding anything to the contrary contained in this Agreement, at any time after an Event of Default, Secured Party may, by delivering written notice to the Company and to Debtor, succeed, or designate its nominee or designee to succeed,
to all right, title and interest of Debtor (including, without limitation, the right, if any, to vote on or take any action with respect to Company matters) as a managing member of the Company in respect of the Collateral. Debtor hereby irrevocably authorizes and directs the Company on receipt of any such notice (a) to deem and treat Secured Party or such nominee or designee in all respects as a managing member (and not merely an assignee of a managing member) of the Company, entitled to exercise all the rights, powers and privileges (including the right to vote on or take any action with respect to Company matters pursuant to the Operating Agreement, to receive all distributions, to be credited with the capital account and to have all other rights, powers and privileges appertaining to the Collateral to which Debtor would have been entitled had the Collateral not been transferred to Secured Party or such nominee or designee), and (b) to file an amended certificate of Company, if required, admitting Secured Party or such nominee or designee as managing member of the Company in place of Debtor; and

(xi) The rights granted to Secured Party under this Agreement are of a special, unique, unusual and extraordinary character. The loss of any of such rights cannot reasonably or adequately be compensated by way of damages in any action at law, and any material breach by Debtor of any of Debtor’s covenants, agreements or obligations under this Agreement will cause Secured Party irreparable injury and damage. In the event of any such breach, Secured Party shall be entitled, as a matter of right, to injunctive relief or other equitable relief in any court of competent jurisdiction to prevent the violation or contravention of any of the provisions of this Agreement or to compel compliance with the terms of this Agreement by Debtor. Secured Party is absolutely and irrevocably authorized and empowered by Debtor to demand specific performance of each of the covenants and agreements of Debtor in this Agreement. Debtor hereby irrevocably waives any defense based on the adequacy of any remedy at law which might otherwise be asserted by Debtor as a bar to the remedy of specific performance in any action brought by Secured Party against Debtor to enforce any of the covenants or agreements of Debtor in this Agreement.

(b) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party shall give Debtor at least ten (10) days’ prior written notice of the time and place of any public sale of the Collateral subject to this Agreement or other intended disposition thereof to be made. Such notice shall be conclusively deemed to have been delivered to Debtor at the address set forth in Paragraph 7(d) of this Agreement, unless Debtor shall Notify Secured Party in writing of its change of its principal place of business and provide Secured Party with the address of its new principal place of business.

(c) The proceeds of any sale under Paragraph 9(a) above shall be applied as follows:

(i) To the repayment of the costs and expenses of retaking, holding and preparing for the sale and the selling of the Collateral (including actual legal expenses and attorneys’ fees) and the discharge of all assessments, encumbrances, charges or liens, if any, on the Collateral prior to the lien thereof (except any taxes, assessments, encumbrances, charges or liens subject to which such sale has been made);
(ii) To the payment of the whole amount then due and unpaid of the Obligations;

(iii) To the payment of all other amounts then secured hereby; and

(iv) The aggregate surplus, if any, shall be paid to Debtor in a lump sum, without recourse to Secured Party, or as a court of competent jurisdiction may direct.

(d) Secured Party has the right to enforce one or more remedies under this Agreement and under the Operating Agreement, successively or concurrently, and such action shall not operate to estop or prevent Secured Party from pursuing any further remedy which it may have, and any repossession or retaking or sale of the Collateral pursuant to the terms hereof shall not operate to release Debtor until full payment of any deficiency has been made in cash.

(e) DEBTOR ACKNOWLEDGES THAT SECURED PARTY MAY BE UNABLE TO EFFECT A PUBLIC SALE OF ALL OR ANY PART OF THE COLLATERAL AND MAY BE COMPELLED TO RESORT TO ONE OR MORE PRIVATE SALES TO A RESTRICTED GROUP OF PURCHASERS WHO WILL BE OBLIGATED TO AGREE, AMONG OTHER THINGS, TO ACQUIRE THE COLLATERAL FOR THEIR OWN ACCOUNT, FOR INVESTMENT AND NOT WITH A VIEW TO THE DISTRIBUTION OR RESALE THEREOF. DEBTOR FURTHER ACKNOWLEDGES THAT ANY SUCH PRIVATE SALES MAY BE AT PRICES AND ON TERMS LESS FAVORABLE THAN THOSE OF PUBLIC SALE, AND AGREES THAT SUCH PRIVATE SALES SHALL BE DEEMED TO HAVE BEEN MADE IN A COMMERCIALMELY REASONABLE MANNER AND THAT SECURED PARTY HAS NO OBLIGATION TO DELAY SALE OF ANY COLLATERAL TO PERMIT THE ISSUER THEREOF TO REGISTER IT FOR PUBLIC SALE UNDER THE SECURITIES ACT OF 1933. DEBTOR AGREES THAT SECURED PARTY SHALL BE PERMITTED TO TAKE SUCH ACTIONS AS SECURED PARTY DEEMS REASONABLY NECESSARY IN DISPOSING OF THE COLLATERAL TO AVOID CONDUCTING A PUBLIC DISTRIBUTION OF SECURITIES IN VIOLATION OF THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE, AS NOW ENACTED OR AS THE SAME MAY IN THE FUTURE BE AMENDED, AND ACKNOWLEDGES THAT ANY SUCH ACTIONS SHALL BE COMMERCIALMELY REASONABLE. IN ADDITION, DEBTOR AGREES TO EXECUTE, FROM TIME TO TIME, ANY AMENDMENT TO THIS AGREEMENT OR OTHER DOCUMENT AS SECURED PARTY MAY REASONABLY REQUIRE TO EVIDENCE THE ACKNOWLEDGMENTS AND CONSENTS OF DEBTOR SET FORTH IN THIS PARAGRAPH.

10. Right to Make Distributions. Except upon the occurrence and during the continuance of an Event of Default (without regard to any cure period), Debtor shall have the right without the consent of Secured Party to make distributions to its members (“Permitted Distributions”) of proceeds of any distributions and payments received by Debtor from the Company or from any capital contributions of its members. Any such Permitted Distributions shall be free and clear of the lien created by this Agreement.
11. **Attorneys’ Fees.** Debtor agrees to pay to Secured Party, without demand, reasonable attorneys’ fees and all costs and other expenses which Secured Party expends or incurs in collecting any amounts payable by Debtor hereunder or in enforcing this Agreement against Debtor whether or not suit is filed.

12. **Further Documentation.** Debtor hereby agrees to execute, from time to time, one or more financing statements and such other instruments as may be required to perfect the security interest created hereby, including any continuation or amendments of such financing statements, and pay the cost of filing or recording the same in the public records specified by Secured Party.

13. **Waiver and Estoppel.** Debtor represents and acknowledges that it knowingly waives each and every one of the following rights, and agrees that it will be estopped from asserting any argument to the contrary: (a) any promptness in making any claim or demand hereunder; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of Debtor or the failure to file or enforce a claim against Debtor’s estate (in administration, bankruptcy or any other proceeding); (c) any defense based upon an election of remedies by Secured Party which destroys or otherwise impairs any or all of the Collateral; (d) the right of Debtor to proceed against Secured Party or any other person, for reimbursement; (e) all duty or obligation of Secured Party to perfect, protect, retain or enforce any security for the payment of amounts payable by Debtor hereunder; and (f) any defense based on modification of the indebtedness secured hereby.

14. **Waiver of Jury Trial.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

15. **No Continuing Waiver.** No delay or failure on the part of Secured Party in the exercise of any right or remedy against Debtor or any other party against whom Secured Party may have any rights, shall operate as a waiver of any agreement or obligation contained herein, and no single or partial exercise by Secured Party of any rights or remedies hereunder shall preclude other or further exercise thereof or other exercise of any other right or remedy whether
contained in this Agreement or in any of the other documents regarding the Obligations, including, without limitation, the Operating Agreement. No waiver of the rights of Secured Party hereunder or in connection herewith and no release of Debtor shall be effective unless in writing executed by Secured Party. No actions of Secured Party permitted under this Agreement shall in any way impair or affect the enforceability of any agreement or obligation contained herein.

16. **Independent Obligations.** The obligations of Debtor are independent of the obligations of any other party which may be initially or otherwise responsible for performance or payment of the Obligations, and a separate action or actions for payment, damages or performance may be brought and prosecuted by Secured Party against Debtor, individually, for the full amount of the Obligations then due and payable, whether or not an action is brought against any other party, whether or not Secured Party is involved in any proceedings and whether or not Secured Party or Debtor or other person is joined in any action or proceedings.

17. **No Offset Rights of Debtor.** No lawful act of commission or omission of any kind or at any time upon the part of Debtor shall in any way affect or impair the rights of Secured Party to enforce any right, power or benefit under this Agreement, and no set-off, recoupment, counterclaim, claim, reduction or diminution of any obligation or any defense of any kind or nature which Debtor has or may have against any Secured Party or against any other party shall be available against Secured Party in any suit or action brought by Secured Party to enforce any right, power or benefit under this Agreement.

18. **Power of Attorney.** Debtor hereby appoints Secured Party as its attorney-in-fact to execute and file on its behalf any financing statements, continuation statements or other documentation required to perfect or continue the security interest created hereby. This power, being coupled with an interest, shall be irrevocable until all amounts secured hereby have been paid, satisfied and discharged in full.

19. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO AGREE THAT IN THE EVENT OF DEFAULT, THIS AGREEMENT MAY BE ENFORCED IN ANY COURT OF COMPETENT JURISDICTION IN THE STATE OF TEXAS AND ANY STATE IN WHICH ALL OR ANY PART OF THE COLLATERAL IS LOCATED AND THEY DO HEREBY SUBMIT TO THE JURISDICTION OF ANY AND ALL SUCH COURTS REGARDLESS OF THEIR PRINCIPAL PLACE OF BUSINESS OR WHERE THIS AGREEMENT MAY BE EXECUTED.

20. **Successors and Assigns.** All agreements, covenants, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

21. **Notices.** Whenever any party hereto shall desire to, or be required to, give or serve any notice, demand, request or other communication with respect to this Agreement, each such notice, demand, request or communication shall be in writing and shall be effective only if the same is delivered by personal service (including, without limitation, courier or express service) or mailed certified or registered mail, postage prepaid, return receipt requested, or sent...
by electronic mail to the parties at the addresses and email addresses shown throughout this
Agreement or such other addresses which the parties may provide to one another in accordance
herewith. If notice is sent to Secured Party, a copy of such notice shall also be given to Matthew
W. Mullen, Esq., Nixon Peabody LLP, 799 9th Street NW, Suite 500, Washington, DC 20001-
5327; Email: mmullen@nixonpeabody.com. Notices delivered personally will be effective upon
delivery to an authorized representative of the party at the designated address; notices sent by
mail in accordance with the above paragraph will be effective upon execution by the addressee
of the Return Receipt Requested.

22. **Consent of Debtor.** Debtor consents to the exercise by Secured Party of any
rights of Debtor in accordance with the provisions of this Agreement.

23. **Severability.** Every provision of this Agreement is intended to be severable. If
any term or provision hereof is declared by a court of competent jurisdiction to be illegal or
invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or
validity of the balance of the terms and provisions hereof, which terms and provisions shall
remain binding and enforceable.

24. **Amendment.** This Agreement may be modified or rescinded only by a writing
expressly relating to this Agreement and signed by all of the parties.

25. **Termination.** This Agreement shall terminate, and shall be of no further force or
effect, upon the earlier to occur of the repayment in full of the Obligations of Debtor or upon the
mutual consent of Debtor and Secured Party.

*(SIGNATURE APPEARS ON THE FOLLOWING PAGE)*
IN WITNESS WHEREOF, Debtor has executed this Pledge and Security Agreement as of the date first above written.

DEBTOR:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: 
Name: Lisa M. Stephens
Title: Manager
EXHIBIT A
TO
PLEDGE AND SECURITY AGREEMENT
(CO-MANAGING MEMBER)
CONSENT AND AGREEMENT OF MEMBERS
CONSENT TO SECURITY INTEREST AND AGREEMENT
OF MEMBERS OF
CANOVA PALMS, LLC, A TEXAS LIMITED LIABILITY COMPANY

The undersigned, being all the members of Canova Palms, LLC, a Texas limited liability company (the “Company”), hereby represent and certify to HCP-ILP, LLC, a Nevada limited liability company (“Secured Party”), as follows:

Each has received notice from Secured Party that Secured Party has a security interest in the following: 100% of the Limited Liability Company Interest in the Company owned by Saigebrook Canova, LLC, a Texas limited liability company and O-SDA Industries, LLC, a Texas limited liability company (“Debtor”), and registered to Debtor (the “Collateral”).

1. Other than the notice from Secured Party referred to above, the undersigned has not received any notice from any entity or person claiming an adverse claim against, lien on or security interest in the Collateral.

2. The security interest of Secured Party referred to above was duly registered in the books and records of the Company effective February 1, 2019.

3. Interests in the Company are not represented in any certificate, instrument or document, and such interest may be assigned, transferred or pledged without the party receiving such assignment, transfer or pledge taking physical possession of any certificate, instrument or document.

4. The Members hereby consent to the execution and delivery of the Pledge and Security Agreement by Debtor and agree hereby to be bound by Paragraph 4 thereof to assign, set over, transfer, distribute, pay and deliver the Collateral and any and all payments, proceeds or products due to Debtor under the Collateral to Secured Party.

5. The Members hereby consent to the admission of Secured Party, its nominee, designee or any person acquiring its interest under the Pledge and Security Agreement, as a managing member of the Company upon receipt of notice by Secured Party of an Event of Default by Debtor thereunder, and agree that Secured Party or such nominee, designee or person acquiring Secured Party’s interest thereunder shall not be deemed to have assumed any of Debtor’s liability by virtue of such admission as the managing member of the Company.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

**CO-MANAGING MEMBER:**

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company

Its: Managing Member

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

**ADMINISTRATIVE MEMBER:**

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company

Its: Sole Member

By: [Signature]
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: __________________________
Name: Lisa M. Stephens
Title: Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: __________________________
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

INVESTOR MEMBER:

HCP-ILP, LLC,
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company
Its: Manager

By: [Signature]
Name: Jeffrey M. Weiss
Title: President
EXHIBIT G-2

PLEDGE AND SECURITY AGREEMENT

(Administrative Member)
PLEDGE AND SECURITY AGREEMENT

(Administrative Member)

THIS PLEDGE AND SECURITY AGREEMENT (this “Agreement”) is made as of February 1, 2019 by O-SDA Canova, LLC, a Texas limited liability company (“O-SDA”), whose address is 5714 Sam Houston Circle, Austin, Texas 78731 (the “Debtor”), for the benefit of HCP-ILP, LLC, a Nevada limited liability company (the “Secured Party”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436, Attention: Jeffrey N. Weiss.

A. Debtor is the administrative member and Secured Party is the investor member in Canova Palms, LLC, a Texas limited liability company (the “Company”), and the Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”). Capitalized terms not otherwise defined herein shall have the definitions given them in the Operating Agreement.

B. Saigebrook Development, LLC, a Florida limited liability company and O-SDA Industries, LLC, a Texas limited liability company (collectively, the “Developer”), and the Company have entered into that certain Development Agreement dated as of February 1, 2019 (the “Development Agreement”), pursuant to which the Developer has been appointed to render certain services in connection with its supervising and overseeing the development of the “Apartment Complex” (as defined therein). Developer is an Affiliate of the Debtor.

C. In order to secure: (a) the full payment and performance by Debtor of all of Debtor’s obligations, duties, expenses and liabilities under or in connection with the Operating Agreement, as the Operating Agreement may be now or hereafter amended, modified or restated; and (b) the full payment and performance by the Developer of all of the Developer’s obligations, duties, expenses and liabilities under or in connection with the Development Agreement, as the Development Agreement may be now or hereafter amended, modified or restated (such obligations, duties, expenses and liabilities described in clauses (a) and (b) above are collectively referred to herein as the “Obligations”), Debtor is entering into this Agreement for the benefit of Secured Party.

NOW, THEREFORE, in order to induce Secured Party to enter into the Operating Agreement with the Debtor, and in consideration of the recitals, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions.

(a) “Collateral” shall consist of all of the personal property of Debtor, wherever located, and whether now owned or hereafter acquired, including accounts, chattel paper, inventory, equipment, instruments (including promissory notes), investment property, documents, deposit accounts, letter of credit rights, general intangibles (including payment intangibles), and supporting obligations and including, without limitation, the following specific items of personal property:
Administrative Member Pledge and Security Agreement

(i) All of Debtor’s right, title and interest in the Company, whether now owned or hereafter acquired, including, without limitation, its general limited liability company interest in the Company and its right to receive distributions, allocations and payments under the Operating Agreement, as the Operating Agreement may be modified from time to time with the consent of Secured Party;

(ii) All fees and charges to be paid by the Company to Debtor, whether paid or unpaid, whether now owned or hereafter acquired, and whether arising under the Operating Agreement, or otherwise, including, without limitation, the MM Incentive Management Fee;

(iii) All indebtedness of the Company to Debtor of any kind or description, including, without limitation, Debtor’s right to receive payment of Operating Deficit Loans or other loans to the Company; and

(iv) To the extent not listed above as original collateral, all products and proceeds, whether cash proceeds or noncash proceeds, of any and all of the foregoing.

(b) “Event of Default” shall mean an event of default described in Paragraph 8 herein.

2. Pledge of Collateral and Grant of Security Interest. Debtor does hereby unconditionally and irrevocably assign, pledge, convey, transfer, deliver, set over and grant unto Secured Party, its successors and assigns, as security for Debtor’s complete and timely payment and performance of the Obligations, a continuing first priority security interest under the Uniform Commercial Code of the State of Texas in the Collateral. Debtor agrees, upon request, to deliver any other documents which Secured Party may reasonably request from time-to-time to further evidence, perfect or secure the liens and security interests created by this Agreement. Debtor acknowledges that Secured Party shall prepare and file UCC Financing Statements in the appropriate jurisdictions with respect to the Collateral and consents to such filing.

3. Delivery to Secured Party.

(a) Debtor agrees to execute and to cause all other necessary parties, and any successors and assigns thereof, to execute and deliver to Secured Party such other agreements, instruments and documentation as Secured Party may reasonably request from time to time to effect the conveyance, transfer, and grant to Secured Party of each and all of Debtor’s right, title and interest in and to the Collateral as security for the Obligations.

(b) Concurrently with the execution of this Agreement, Debtor shall cause the managing member and the investor member of the Company to execute the Consent and Waiver in the form attached hereto as Exhibit A (the “Consent”) evidencing the Consent of the managing member and the investor member to the assignment of Debtor’s limited liability company interests and its agreement to be bound by Paragraph 4 of this Agreement, and covenants to execute, if required by Secured Party, an amendment to the Agreement in such form as Secured Party may require to reflect the substitution of Secured Party in place of Debtor as a managing member in the Company. Debtor further agrees to execute and to cause the other members of the Company to execute and deliver to Secured Party such other agreements, instruments and
documentation as Secured Party may reasonably request from time to time to effectuate the conveyance, transfer, assignment and grant to Secured Party of all of Debtor’s right, title and interest in and to the Collateral and to evidence the substitution of Secured Party in place of Debtor as a managing member in the Company.

4. **Proceeds and Products of the Collateral.**

   (a) Unless and until there occurs an Event of Default, Secured Party agrees to forbear in exercising its right to receive all benefits pertaining to the Collateral, and Debtor shall be permitted to exercise all rights and to receive all benefits of the Collateral, including, without limitation, the right to exercise all voting, approval, consent and similar rights of Debtor pertaining to the Collateral, payments due under, proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral and retain and enjoy the same, provided, however, that Debtor shall not cast any vote or give any approval, consent, waiver or ratification or take any action which would be inconsistent with or violate any provision of this Agreement.

   (b) Debtor acknowledges and agrees with Secured Party, that unless Secured Party otherwise consents, in Secured Party’s sole discretion, Debtor shall not exercise any voting, approval, consent or other rights with respect to the Collateral at any time (i) after the occurrence of an Event of Default, and (ii) delivery of notice from Secured Party instructing Debtor not to exercise any such voting, approval, consent or other rights with respect to the Collateral; provided, however, that Debtor shall exercise any such right it may have under the Operating Agreement with respect to the business affairs of the Company as is reasonably necessary to protect and preserve the Collateral.

   (c) Upon or at any time after the occurrence of an Event of Default, Secured Party, at its option to be exercised in its sole discretion, may exercise all rights and remedies granted under this Agreement, including, without limitation, the right to require the obligors under the Collateral to make all payments due under and to pay all proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral to Secured Party. Upon the giving of any such notice, the security constituted by this Agreement shall become immediately enforceable by Secured Party, without any presentment, further demand, protest or other notice of any kind, all of which are hereby expressly and irrevocably waived by Debtor. Debtor hereby authorizes and directs each respective obligor under the agreements constituting the Collateral, upon receipt of written notice from Secured Party of an Event of Default by Debtor hereunder, to assign, set over, transfer, distribute, pay and deliver any and all Collateral or said payments, proceeds or products of the Collateral to Secured Party, at such address as Secured Party may direct, at such time and in such manner as Collateral and such payments, proceeds and products of the Collateral would otherwise be distributed, transferred, paid or delivered to Debtor. The respective obligors under the agreements constituting the Collateral shall be entitled to conclusively rely on such notice and make all such assignments and transfers of the Collateral and all such payments with respect to the Collateral and pay all such proceeds and products of the Collateral to Secured Party and shall have no liability to Debtor for any loss or damage Debtor may incur by reason of said reliance.

5. **No Assumption.** Notwithstanding any of the foregoing, whether or not an Event of Default has occurred, and whether or not Secured Party elects to foreclose on its security
interest in the Collateral as set forth herein, neither the execution of this Agreement, receipt by
Secured Party of any of Debtor’s right, title and interest in and to the Collateral and the
payments, proceeds and products of the Collateral, now or hereafter due to Debtor from any
obligor of the Collateral, nor Secured Party’s foreclosure of its security interest in the Collateral,
shall in any way be deemed to obligate Secured Party to assume any of Debtor’s obligations,
duties, expenses or liabilities under the Collateral or any agreements constituting the Collateral,
as presently existing or as hereafter amended, or under any and all other agreements now existing
or hereafter drafted or executed (collectively, “Debtor’s Liabilities”), unless Secured Party
otherwise agrees to assume any or all of Debtor’s Liabilities in writing. In the event of
foreclosure by Secured Party of its security interest in the Collateral, Debtor shall remain bound
and obligated to perform its Debtor’s Liabilities and Secured Party shall not be deemed to have
assumed any of Debtor’s Liabilities, except as provided in the preceding sentence. If the entity
or person acquiring the Collateral at a foreclosure sale elects to assume Debtor’s Liabilities, such
assignee shall agree to be bound by the terms and provisions of the applicable agreement.

6. Indemnification. Debtor hereby agrees to indemnify, defend and hold Secured
Party, its successors and assigns harmless from and against any and all damages, losses, claims,
costs or expenses (including reasonable attorneys’ fees) and any other liabilities whatsoever that
Secured Party or its successors or assigns may incur by reason of this Agreement or by reason of
any assignment by Debtor of Debtor’s right, title and interest in and to any or all of the
Collateral.

7. Representations, Warranties and Covenants. In addition to the representations
made by Debtor in the Operating Agreement, Debtor makes the following representations and
warranties, which shall be deemed to be continuing representations and warranties in favor of
Secured Party, and covenants and agrees to perform all acts necessary to maintain the truth and
correctness, in all material respects, of the following:

(a) Debtor owns the Collateral free and clear of all claims, liens or
encumbrances.

(b) Debtor has delivered to Secured Party true and complete copies of the
Operating Agreement and any other agreements pertinent to the Collateral, and such agreements
are currently in full force and effect and have not been amended or modified except as disclosed
to Secured Party in writing.

(c) Debtor has the full right and title to its interest in the Collateral and has the
full power, legal right and authority to pledge, convey, transfer and assign such interest. None of
the Collateral is subject to any existing or subsequent assignment, claim, lien, pledge, transfer or
other security interest of any character, or to any attachment, levy, garnishment or other judicial
process or to any claim for set-off, counterclaim, deduction or discount. Debtor shall not,
without the prior written consent of Secured Party, which consent may be granted or denied in
Secured Party’s sole discretion, further convey, transfer, set over or pledge to any party any of its
interests in the Collateral. Debtor agrees to (i) warrant and defend its title to the Collateral and
the security interest created by this Agreement against all claims of all persons (other than
Secured Party and persons claiming through Secured Party), and (ii) maintain and preserve the
Collateral and such security interests.
(d) Debtor’s Employer Identification Number is 80-0641068, and its principal place of business is located at 5714 Sam Houston Circle, Austin, Texas 78731, Austin, Texas 78731.

(e) Debtor agrees that it shall not, without at least thirty (30) days’ prior written notification to Secured Party, move or otherwise change its principal place of business or state of formation.

(f) Debtor shall not exercise any voting rights, or give any approvals, consents waiver or other ratifications in respect to the Collateral which would violate or contravene, or which would cause or otherwise authorize Debtor to violate or contravene, any provision of this Agreement.

(g) This Agreement and consummation of the transactions contemplated herein are not in conflict with and will not result in a breach of any of the terms, provisions or conditions of any other agreement or instrument to which Debtor may be bound, including, without limitation, the organizational documents for Debtor, or of any order, judgment, law, rule or regulation of any court or governmental body or administrative agency applicable to Debtor.

8. Event of Default. Each of the following shall constitute an Event of Default hereunder:

(a) An Event of Default (as defined in the Operating Agreement) has occurred under the Operating Agreement or the Development Agreement and such default shall not have been cured within any applicable grace period provided therein; or

(b) Any warranty, representation or statement of Debtor in this Agreement proves to have been false in any material respect when made or furnished; or

(c) There occurs the issuance of a writ, order of attachment or garnishment with respect to any of the Collateral and such writ, order of attachment or garnishment is not dismissed and removed within fifteen (15) days thereafter; or

(d) A material breach or violation of any covenant or agreement contained herein has occurred, which is not cured within ten (10) days after notice has been given to Debtor by Secured Party.

Any Event of Default under this Agreement shall be an event of default by Debtor under the Agreement.

9. Remedies.

(a) Upon the occurrence of an Event of Default, Secured Party may, by giving notice of such Event of Default, at its option, do any one or more of the following:

(i) Declare all of the Obligations secured hereby to be immediately due and payable, whereupon all unpaid principal and interest on said Obligations and other
amounts declared due and payable shall become immediately due and payable without presentment, demand, protest or notice of any kind; and

(ii) Take possession of all or any of the Collateral, collect, and apply against the Obligations, all payments due, proceeds, whether cash proceeds or noncash proceeds, and products from any obligor under the agreements constituting the Collateral, that would otherwise be paid to Debtor; and

(iii) Either personally, or by means of a court appointed receiver, take possession of all or any of the Collateral and exclude therefrom Debtor and all others claiming under Debtor, and thereafter exercise all rights and powers of Debtor with respect to the Collateral or any part thereof. If Secured Party demands, or attempts to take possession of any of the Collateral in the exercise of any rights under this Agreement, Debtor promises and agrees to promptly turn over and deliver complete possession thereof to the Secured Party; and

(iv) Without notice to or demand upon Debtor, make such payments and do such acts as Secured Party may deem necessary to protect its security interest in the Collateral, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith; and

(v) Require Debtor to take all actions necessary to deliver such Collateral to Secured Party, or an agent or representative designated by it. Secured Party, and its agents and representatives, shall have the right to enter upon any or all of Debtor’s premises and property to exercise Secured Party’s rights hereunder; and

(vi) Foreclose upon this Agreement as herein provided or in any manner permitted by law, and exercise any and all of the rights and remedies conferred upon Secured Party by the Operating Agreement, or in any other document executed by Debtor in connection with the Obligations secured hereby, either concurrently or in such order as Secured Party may determine; and sell or cause to be sold in such order as Secured Party may determine, as a whole or in such parcels as Secured Party may determine, the Collateral, without affecting in any way the rights or remedies to which Secured Party may be entitled under the other such instruments; and

(vii) Sell or otherwise dispose of the Collateral at public sale, without having the Collateral at the place of sale, and upon terms and in such manner as Secured Party may determine. Secured Party may be a purchaser at any sale; and

(viii) Exercise any remedies of Secured Party under the Uniform Commercial Code of the State of Texas or any other applicable law; and

(ix) Exercise any remedies available to Secured Party under the Agreement, including, without limitation, the removal of Debtor as a Managing Member of the Company and exercise of any rights of offset in favor of Secured Party as a managing member of the Company; and
(x) Notwithstanding anything to the contrary contained in this Agreement, at any time after an Event of Default, Secured Party may, by delivering written notice to the Company and to Debtor, succeed, or designate its nominee or designee to succeed, to all right, title and interest of Debtor (including, without limitation, the right, if any, to vote on or take any action with respect to Company matters) as a managing member of the Company in respect of the Collateral. Debtor hereby irrevocably authorizes and directs the Company on receipt of any such notice (a) to deem and treat Secured Party or such nominee or designee in all respects as a managing member (and not merely an assignee of a managing member) of the Company, entitled to exercise all the rights, powers and privileges (including the right to vote on or take any action with respect to Company matters pursuant to the Operating Agreement, to receive all distributions, to be credited with the capital account and to have all other rights, powers and privileges appertaining to the Collateral to which Debtor would have been entitled had the Collateral not been transferred to Secured Party or such nominee or designee), and (b) to file an amended certificate of Company, if required, admitting Secured Party or such nominee or designee as managing member of the Company in place of Debtor; and

(xi) The rights granted to Secured Party under this Agreement are of a special, unique, unusual and extraordinary character. The loss of any of such rights cannot reasonably or adequately be compensated by way of damages in any action at law, and any material breach by Debtor of any of Debtor’s covenants, agreements or obligations under this Agreement will cause Secured Party irreparable injury and damage. In the event of any such breach, Secured Party shall be entitled, as a matter of right, to injunctive relief or other equitable relief in any court of competent jurisdiction to prevent the violation or contravention of any of the provisions of this Agreement or to compel compliance with the terms of this Agreement by Debtor. Secured Party is absolutely and irrevocably authorized and empowered by Debtor to demand specific performance of each of the covenants and agreements of Debtor in this Agreement. Debtor hereby irrevocably waives any defense based on the adequacy of any remedy at law which might otherwise be asserted by Debtor as a bar to the remedy of specific performance in any action brought by Secured Party against Debtor to enforce any of the covenants or agreements of Debtor in this Agreement.

(b) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party shall give Debtor at least ten (10) days’ prior written notice of the time and place of any public sale of the Collateral subject to this Agreement or other intended disposition thereof to be made. Such notice shall be conclusively deemed to have been delivered to Debtor at the address set forth in Paragraph 7(d) of this Agreement, unless Debtor shall Notify Secured Party in writing of its change of its principal place of business and provide Secured Party with the address of its new principal place of business.

(c) The proceeds of any sale under Paragraph 9(a) above shall be applied as follows:

(i) To the repayment of the costs and expenses of retaking, holding and preparing for the sale and the selling of the Collateral (including actual legal expenses and attorneys’ fees) and the discharge of all assessments, encumbrances, charges or liens, if any, on
the Collateral prior to the lien hereof (except any taxes, assessments, encumbrances, charges or liens subject to which such sale has been made);

(ii) To the payment of the whole amount then due and unpaid of the Obligations;

(iii) To the payment of all other amounts then secured hereby; and

(iv) The aggregate surplus, if any, shall be paid to Debtor in a lump sum, without recourse to Secured Party, or as a court of competent jurisdiction may direct.

(d) Secured Party has the right to enforce one or more remedies under this Agreement and under the Operating Agreement, successively or concurrently, and such action shall not operate to estop or prevent Secured Party from pursuing any further remedy which it may have, and any repossession or retaking or sale of the Collateral pursuant to the terms hereof shall not operate to release Debtor until full payment of any deficiency has been made in cash.

(e) DEBTOR ACKNOWLEDGES THAT SECURED PARTY MAY BE UNABLE TO EFFECT A PUBLIC SALE OF ALL OR ANY PART OF THE COLLATERAL AND MAY BE COMPelled TO RESORT TO ONE OR MORE PRIVATE SALES TO A RESTRICTED GROUP OF PURCHASERS WHO WILL BE OBLIGATED TO AGREE, AMONG OTHER THINGS, TO ACQUIRE THE COLLATERAL FOR THEIR OWN ACCOUNT, FOR INVESTMENT AND NOT WITH A VIEW TO THE DISTRIBUTION OR RESALE THEREOF. DEBTOR FURTHER ACKNOWLEDGES THAT ANY SUCH PRIVATE SALES MAY BE AT PRICES AND ON TERMS LESS FAVORABLE THAN THOSE OF PUBLIC SALES, AND AGREES THAT SUCH PRIVATE SALES SHALL BE DEEMED TO HAVE BEEN MADE IN A COMMERCIALLy REASONABLE MANNER AND THAT SECURED PARTY HAS NO OBLIGATION TO DELAY SALE OF ANY COLLATERAL TO PERMIT THE ISSUER THEREOF TO REGISTER IT FOR PUBLIC SALE UNDER THE SECURITIES ACT OF 1933. DEBTOR AGREES THAT SECURED PARTY SHALL BE PERMITTED TO TAKE SUCH ACTIONS AS SECURED PARTY DEEMS REASONABLY NECESSARY IN DISPOSING OF THE COLLATERAL TO AVOID CONDUCTING A PUBLIC DISTRIBUTION OF SECURITIES IN VIOLATION OF THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE, AS NOW ENACTED OR AS THE SAME MAY IN THE FUTURE BE AMENDED, AND ACKNOWLEDGES THAT ANY SUCH ACTIONS SHALL BE COMMERCIALLy REASONABLE. IN ADDITION, DEBTOR AGREES TO EXECUTE, FROM TIME TO TIME, ANY AMENDMENT TO THIS AGREEMENT OR OTHER DOCUMENT AS SECURED PARTY MAY REAShONABLY REQUIRE TO EVIDENCE THE ACKNOWLEDGMENTS AND CONSENTS OF DEBTOR SET FORTH IN THIS PARAGRAPH.

10. Right to Make Distributions. Except upon the occurrence and during the continuance of an Event of Default (without regard to any cure period), Debtor shall have the right without the consent of Secured Party to make distributions to its members (“Permitted Distributions”) of proceeds of any distributions and payments received by Debtor from the
Company or from any capital contributions of its members. Any such Permitted Distributions shall be free and clear of the lien created by this Agreement.

11. **Attorneys’ Fees.** Debtor agrees to pay to Secured Party, without demand, reasonable attorneys’ fees and all costs and other expenses which Secured Party expends or incurs in collecting any amounts payable by Debtor hereunder or in enforcing this Agreement against Debtor whether or not suit is filed.

12. **Further Documentation.** Debtor hereby agrees to execute, from time to time, one or more financing statements and such other instruments as may be required to perfect the security interest created hereby, including any continuation or amendments of such financing statements, and pay the cost of filing or recording the same in the public records specified by Secured Party.

13. **Waiver and Estoppel.** Debtor represents and acknowledges that it knowingly waives each and every one of the following rights, and agrees that it will be estopped from asserting any argument to the contrary: (a) any promptness in making any claim or demand hereunder; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of Debtor or the failure to file or enforce a claim against Debtor’s estate (in administration, bankruptcy or any other proceeding); (c) any defense based upon an election of remedies by Secured Party which destroys or otherwise impairs any or all of the Collateral; (d) the right of Debtor to proceed against Secured Party or any other person, for reimbursement; (e) all duty or obligation of Secured Party to perfect, protect, retain or enforce any security for the payment of amounts payable by Debtor hereunder; and (f) any defense based on modification of the indebtedness secured hereby.

14. **Waiver of Jury Trial.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

15. **No Continuing Waiver.** No delay or failure on the part of Secured Party in the exercise of any right or remedy against Debtor or any other party against whom Secured Party
may have any rights, shall operate as a waiver of any agreement or obligation contained herein, and no single or partial exercise by Secured Party of any rights or remedies hereunder shall preclude other or further exercise thereof or other exercise of any other right or remedy whether contained in this Agreement or in any of the other documents regarding the Obligations, including, without limitation, the Operating Agreement. No waiver of the rights of Secured Party hereunder or in connection herewith and no release of Debtor shall be effective unless in writing executed by Secured Party. No actions of Secured Party permitted under this Agreement shall in any way impair or affect the enforceability of any agreement or obligation contained herein.

16. **Independent Obligations.** The obligations of Debtor are independent of the obligations of any other party which may be initially or otherwise responsible for performance or payment of the Obligations, and a separate action or actions for payment, damages or performance may be brought and prosecuted by Secured Party against Debtor, individually, for the full amount of the Obligations then due and payable, whether or not an action is brought against any other party, whether or not Secured Party is involved in any proceedings and whether or not Secured Party or Debtor or other person is joined in any action or proceedings.

17. **No Offset Rights of Debtor.** No lawful act of commission or omission of any kind or at any time upon the part of Debtor shall in any way affect or impair the rights of Secured Party to enforce any right, power or benefit under this Agreement, and no set-off, recoupment, counterclaim, claim, reduction or diminution of any obligation or any defense of any kind or nature which Debtor has or may have against any Secured Party or against any other party shall be available against Secured Party in any suit or action brought by Secured Party to enforce any right, power or benefit under this Agreement.

18. **Power of Attorney.** Debtor hereby appoints Secured Party as its attorney-in-fact to execute and file on its behalf any financing statements, continuation statements or other documentation required to perfect or continue the security interest created hereby. This power, being coupled with an interest, shall be irrevocable until all amounts secured hereby have been paid, satisfied and discharged in full.

19. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO AGREE THAT IN THE EVENT OF DEFAULT, THIS AGREEMENT MAY BE ENFORCED IN ANY COURT OF COMPETENT JURISDICTION IN THE STATE OF TEXAS AND ANY STATE IN WHICH ALL OR ANY PART OF THE COLLATERAL IS LOCATED AND THEY DO HEREBY SUBMIT TO THE JURISDICTION OF ANY AND ALL SUCH COURTS REGARDLESS OF THEIR PRINCIPAL PLACE OF BUSINESS OR WHERE THIS AGREEMENT MAY BE EXECUTED.

20. **Successors and Assigns.** All agreements, covenants, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

21. **Notices.** Whenever any party hereto shall desire to, or be required to, give or serve any notice, demand, request or other communication with respect to this Agreement, each
such notice, demand, request or communication shall be in writing and shall be effective only if the same is delivered by personal service (including, without limitation, courier or express service) or mailed certified or registered mail, postage prepaid, return receipt requested, or sent by electronic mail to the parties at the addresses and email addresses shown throughout this Agreement or such other addresses which the parties may provide to one another in accordance herewith. If notice is sent to Secured Party, a copy of such notice shall also be given to Matthew W. Mullen, Esq., Nixon Peabody LLP, 799 9th Street NW, Suite 500, Washington, DC 20001-5327; Email: mmullen@nixonpeabody.com. Notices delivered personally will be effective upon delivery to an authorized representative of the party at the designated address; notices sent by mail in accordance with the above paragraph will be effective upon execution by the addressee of the Return Receipt Requested.

22. **Consent of Debtor.** Debtor consents to the exercise by Secured Party of any rights of Debtor in accordance with the provisions of this Agreement.

23. **Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

24. **Amendment.** This Agreement may be modified or rescinded only by a writing expressly relating to this Agreement and signed by all of the parties.

25. **Termination.** This Agreement shall terminate, and shall be of no further force or effect, upon the earlier to occur of the repayment in full of the Obligations of Debtor or upon the mutual consent of Debtor and Secured Party.

**(SIGNATURE APPEARS ON THE FOLLOWING PAGE)**
IN WITNESS WHEREOF, Debtor has executed this Pledge and Security Agreement as of the date first above written.

DEBTOR:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: ________________
Name: Megan D. Dasch
Title: Managing Member
EXHIBIT A
TO
PLEDGE AND SECURITY AGREEMENT
(ADMINISTRATIVE MEMBER)
CONSENT AND AGREEMENT OF MEMBERS
CONSENT TO SECURITY INTEREST AND AGREEMENT
OF MEMBERS OF
CANOVA PALMS, LLC, A TEXAS LIMITED LIABILITY COMPANY

The undersigned, being all the members of Canova Palms, LLC, a Texas limited liability company (the “Company”), hereby represent and certify to HCP-ILP, LLC, a Nevada limited liability company (“Secured Party”), as follows:

Each has received notice from Secured Party that Secured Party has a security interest in the following: 100% of the Limited Liability Company Interest in the Company owned by Saigebrook Canova, LLC, a Texas limited liability company and O-SDA Industries, LLC, a Texas limited liability company (“Debtor”), and registered to Debtor (the “Collateral”).

1. Other than the notice from Secured Party referred to above, the undersigned has not received any notice from any entity or person claiming an adverse claim against, lien on or security interest in the Collateral.

2. The security interest of Secured Party referred to above was duly registered in the books and records of the Company effective February 1, 2019.

3. Interests in the Company are not represented in any certificate, instrument or document, and such interest may be assigned, transferred or pledged without the party receiving such assignment, transfer or pledge taking physical possession of any certificate, instrument or document.

4. The Members hereby consent to the execution and delivery of the Pledge and Security Agreement by Debtor and agree hereby to be bound by Paragraph 4 thereof to assign, set over, transfer, distribute, pay and deliver the Collateral and any and all payments, proceeds or products due to Debtor under the Collateral to Secured Party.

5. The Members hereby consent to the admission of Secured Party, its nominee, designee or any person acquiring its interest under the Pledge and Security Agreement, as a managing member of the Company upon receipt of notice by Secured Party of an Event of Default by Debtor thereunder, and agree that Secured Party or such nominee, designee or person acquiring Secured Party’s interest thereunder shall not be deemed to have assumed any of Debtor’s liability by virtue of such admission as the managing member of the Company.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

[Signature]
Name: Lisa M. Stephens
Title: Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

[Signature]
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC.
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: _________________________
Name: Lisa M. Stephens
Title: Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: _________________________
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

INVESTOR MEMBER:

HCP-ILP, LLC,
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company
Its: Manager

By: [Signature]
Name: Jeffrey M. Weiss
Title: President
EXHIBIT H

PLEDGE AND SECURITY AGREEMENT

(DEVELOPER)
PLEDGE AND SECURITY AGREEMENT

(Developer)

THIS PLEDGE AND SECURITY AGREEMENT (this “Agreement”) is made as of February 1, 2019, by SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook”) and O-SDA Industries, LLC, a Texas limited liability company (“O-SDA” and together with Saigebrook, the “Debtor”), whose addresses are set forth below, for the benefit of the HCP-ILP, LLC, a Nevada limited liability company (the “Secured Party”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436, Attention: Jeffrey N. Weiss.

A. Saigebrook Canova, LLC, a Texas limited liability company (the “Co-Managing Member”), is the co-managing member, O-SDA Canova, LLC, a Texas limited liability company (the “Administrative Member”) is the administrative member and Secured Party is the investor member in Canova Palms, LLC, a Texas limited liability company (the “Company”), and the Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”). Capitalized terms not otherwise defined herein shall have the definitions given them in the Operating Agreement.

B. The Company and Debtor have entered into that certain Development Agreement (the “Development Agreement”) dated of even date herewith, wherein, among other things, the Company agrees to pay Debtor a Development Fee under the terms of the Development Agreement (the “Development Fee”).

C. In order to secure the full payment and performance by: (a) Debtor of all of Debtor’s obligations, duties, expenses and liabilities under or in connection with the Development Agreement as the Development Agreement may be now or hereafter amended, modified or restated; and (b) the Managing Member of all of the Managing Member’s obligations, duties, expenses and liabilities under or in connection with the Operating Agreement and the Managing Member Pledge, as the Operating Agreement and the Managing Member Pledge may be now or hereafter amended, modified or restated (such obligations, duties, expenses and liabilities set forth in clauses (a) and (b) hereof and all other sums of any kind which may or shall become due thereunder are collectively referred to herein as the “Obligations”), Debtor is entering into this Agreement for the benefit of Secured Party.

NOW, THEREFORE, in order to induce Secured Party to enter into the Operating Agreement with the Managing Member, and in consideration of the recitals, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions.

(a) “Collateral” shall mean the following:

(i) Any and all fees and charges to be paid by the Company to Debtor, whether paid or unpaid, whether now owned or hereafter acquired, and whether arising under the
Operating Agreement, the Development Agreement, or otherwise, including, without limitation, the Development Fee; and

(ii) All proceeds, whether cash proceeds or noncash proceeds, and products of any and all of the foregoing.

(b) “Event of Default” shall mean an event of default described in Paragraph 8 herein.

2. Pledge of Collateral and Grant of Security Interest. Debtor does hereby unconditionally and irrevocably assign, pledge, convey, transfer, deliver, set over and grant unto Secured Party, its successors and assigns, as security for Debtor’s, the Company’s and the Managing Member’s complete and timely payment and performance of the Obligations, a continuing first priority security interest under the Uniform Commercial Code of the State of Texas in the Collateral and Debtor agrees, upon request, to deliver any other documents which Secured Party may reasonably request from time-to-time to further evidence, perfect or secure the liens and security interests created by this Agreement. Debtor acknowledges that Secured Party shall prepare and file UCC Financing Statements suitable for filing in the appropriate jurisdictions with respect to the Collateral and consents to such filing.

3. Delivery to Secured Party. Debtor agrees to execute and to cause all other necessary parties, and any successors and assigns thereof, to execute and deliver to Secured Party such other agreements, instruments and documentation as Secured Party may reasonably request from time to time to effect the conveyance, transfer, and grant to Secured Party of each and all of Debtor’s right, title and interest in and to the Collateral as security for the Obligations.

4. Proceeds and Products of the Collateral.

(a) Unless and until there occurs an Event of Default, Secured Party agrees to forbear in exercising its right to receive all benefits pertaining to the Collateral, and Debtor shall be permitted to exercise all rights and to receive all benefits of the Collateral, including, without limitation, the right to exercise all voting, approval, consent and similar rights of Debtor pertaining to the Collateral, payments due under, proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral and retain and enjoy the same, provided, however, that Debtor shall not cast any vote or give any approval, consent, waiver or ratification or take any action which would be inconsistent with or violate any provision of this Agreement.

(b) Debtor acknowledges and agrees with Secured Party, that unless Secured Party otherwise consents, in Secured Party’s sole discretion, Debtor shall not exercise any voting, approval, consent or other rights with respect to the Collateral at any time (i) after the occurrence of an Event of Default, and (ii) delivery of notice from Secured Party instructing Debtor not to exercise any such voting, approval, consent or other rights with respect to the Collateral; provided, however, that Debtor shall exercise any such right it may have under the Development Agreement as is reasonably necessary to protect and preserve the Collateral.

(c) Upon or at any time after the occurrence of an Event of Default, Secured Party, at its option to be exercised in its sole discretion, may exercise all rights and remedies granted under this Agreement, including, without limitation, the right to require the obligors
under the Collateral to make all payments due under and to pay all proceeds, whether cash
proceeds or noncash proceeds, and products of the Collateral to Secured Party. Upon the giving
of any such notice, the security constituted by this Agreement shall become immediately
enforceable by Secured Party, without any presentment, further demand, protest or other notice
of any kind, all of which are hereby expressly and irrevocably waived by Debtor. Debtor hereby
authorizes and directs each respective obligor under the agreements constituting the Collateral,
that upon receipt of written notice from Secured Party of an Event of Default by Debtor
hereunder, to assign, set over, transfer, distribute, pay and deliver any and all Collateral or said
payments, proceeds or products of the Collateral to Secured Party, at such address as Secured
Party may direct, at such time and in such manner as Collateral and such payments, proceeds and
products of the Collateral would otherwise be distributed, transferred, paid or delivered to
Debtor. The respective obligors under the agreements constituting the Collateral shall be entitled
to conclusively rely on such notice and make all such assignments and transfers of the Collateral
and all such payments with respect to the Collateral and pay all such proceeds and products of
the Collateral to Secured Party and shall have no liability to Debtor for any loss or damage
Debtor may incur by reason of said reliance.

5. **No Assumption.** Notwithstanding any of the foregoing, whether or not an Event
of Default has occurred, and whether or not Secured Party elects to foreclose on its security
interest in the Collateral as set forth herein, neither the execution of this Agreement, receipt by
Secured Party of any of Debtor’s right, title and interest in and to the Collateral and the
payments, proceeds and products of the Collateral, nor hereafter due to Debtor from any
obligor of the Collateral, nor Secured Party’s foreclosure of its security interest in the Collateral,
shall in any way be deemed to obligate Secured Party to assume any of Debtor’s obligations,
duties, expenses or liabilities under the Collateral or any agreements constituting the Collateral,
as presently existing or as hereafter amended, or under any and all other agreements now existing
or hereafter drafted or executed (collectively, “Debtor’s Liabilities”), unless Secured Party
otherwise agrees to assume any or all of Debtor’s Liabilities in writing. In the event of
foreclosure by Secured Party of its security interest in the Collateral, Debtor shall remain bound
and obligated to perform its Debtor’s Liabilities and Secured Party shall not be deemed to have
assumed any of Debtor’s Liabilities, except as provided in the preceding sentence. If the entity
or person acquiring the Collateral at a foreclosure sale elects to assume Debtor’s Liabilities, such
assignee shall agree to be bound by the terms and provisions of the applicable agreement.

6. **Indemnification.** Debtor hereby agrees to indemnify, defend and hold Secured
Party, its successors and assigns harmless from and against any and all damages, losses, claims,
costs or expenses (including reasonable attorneys’ fees) and any other liabilities whatsoever that
Secured Party or its successors or assigns may incur by reason of this Agreement or by reason of
any assignment by Debtor of Debtor’s right, title and interest in and to any or all of the
Collateral.

7. **Representations, Warranties and Covenants.** In addition to the representations,
warranties and covenants made by the Debtor in the Development Agreement, the Debtor makes
the following representations and warranties, which shall be deemed to be continuing
representations and warranties in favor of Secured Party, and covenants and agrees to perform all
acts necessary to maintain the truth and correctness, in all material respects, of the following
(provided that, each such representation, warranty, and covenant is made by Saigebrook and O-SDA only as to itself and not the other Debtor):

(a) Debtor owns the Collateral free and clear of any and all claims, liens or encumbrances.

(b) Debtor has delivered to Secured Party true and complete copies of the Development Agreement and any other agreements pertinent to the Collateral, and such agreements are currently in full force and effect and have not been amended or modified except as disclosed to Secured Party in writing.

(c) Debtor has the full right and title to its interest in the Collateral and has the full power, legal right and authority to pledge, convey, transfer and assign such interest. None of the Collateral is subject to any existing or subsequent assignment, claim, lien, pledge, transfer or other security interest of any character, or to any attachment, levy, garnishment or other judicial process or to any claim for set-off, counterclaim, deduction or discount. Debtor shall not, without the prior written consent of Secured Party, which consent may be granted or denied in Secured Party’s sole discretion, further convey, transfer, set over or pledge to any party any of its interests in the Collateral. Debtor agrees to (i) warrant and defend its title to the Collateral and the security interest created by this Agreement against all claims of all persons (other than Secured Party and persons claiming through Secured Party), and (ii) maintain and preserve the Collateral and such security interests.

(d) Saigebrook’s Employer Identification Number is 45-3062708, and its principal place of business is located at 412 W 3rd Street, Suite 1504, Austin, Texas 78701. O-SDA’s Employer Identification Number is 80-0641068, and its principal place of business is located at 5714 Sam Houston Circle, Austin, Texas 78731.

(e) Debtor agrees that it shall not, without at least thirty (30) days’ prior written notification to Secured Party, move or otherwise change its principal place of business or state of formation.

(f) Debtor shall not exercise any voting rights, or give any approvals, consents waiver or other ratifications in respect to the Collateral which would violate or contravene, or which would cause or otherwise authorize Debtor to violate or contravene, any provision of this Agreement.

(g) This Agreement and consummation of the transactions contemplated herein are not in conflict with and will not result in a breach of any of the terms, provisions or conditions of any other agreement or instrument to which Debtor may be bound, including, without limitation, the organizational documents for Debtor, or of any order, judgment, law, rule or regulation of any court or governmental body or administrative agency applicable to Debtor.

8. **Event of Default.** Each of the following shall constitute an Event of Default hereunder:
(a) An event of default has occurred under the Development Agreement or the Operating Agreement, and such default shall not have been cured within any applicable grace period provided therein; or

(b) Any warranty, representation or statement of Debtor in this Agreement proves to have been false in any material respect when made or furnished; or

(c) There occurs the issuance of a writ, order of attachment or garnishment with respect to any of the Collateral and such writ, order of attachment or garnishment is not dismissed and removed within fifteen (15) days thereafter; or

(d) A material breach or violation of any covenant or agreement contained herein has occurred, which is not cured within ten (10) days after notice has been given to Debtor by Secured Party.

9. Remedies.

(a) Upon the occurrence of an Event of Default, Secured Party may, by giving notice of such Event of Default, at its option, do any one or more of the following:

(i) Declare all of the Obligations secured hereby to be immediately due and payable, whereupon all unpaid principal and interest on said Obligations and other amounts declared due and payable shall become immediately due and payable without presentment, demand, protest or notice of any kind; and

(ii) Take possession of all or any of the Collateral, collect, and apply against the Obligations, all payments due, proceeds, whether cash proceeds or noncash proceeds, and products from any obligor under the agreements constituting the Collateral, that would otherwise be paid to Debtor; and

(iii) Either personally, or by means of a court appointed receiver, take possession of all or any of the Collateral and exclude therefrom Debtor and all others claiming under Debtor, and thereafter exercise all rights and powers of Debtor with respect to the Collateral or any part thereof. If Secured Party demands, or attempts to take possession of any of the Collateral in the exercise of any rights under this Agreement, Debtor promises and agrees to promptly turn over and deliver complete possession thereof to the Secured Party; and

(iv) Without notice to or demand upon Debtor, make such payments and do such acts as Secured Party may deem necessary to protect its security interest in the Collateral, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith; and

(v) Require Debtor to take all actions necessary to deliver such Collateral to Secured Party, or an agent or representative designated by it. Secured Party, and its agents and representatives, shall have the right to enter upon any or all of Debtor’s premises and property to exercise the Secured Party’s rights hereunder; and
(vi) Foreclose upon this Agreement as herein provided or in any manner permitted by law, and exercise any and all of the rights and remedies conferred upon Secured Party by the Development Agreement or the Operating Agreement, or in any other document executed by Debtor in connection with the Obligations secured hereby, either concurrently or in such order as Secured Party may determine; and sell or cause to be sold in such order as Secured Party may determine, as a whole or in such parcels as Secured Party may determine, the Collateral, without affecting in any way the rights or remedies to which Secured Party may be entitled under the other such instruments; and

(vii) Sell or otherwise dispose of the Collateral at public sale, without having the Collateral at the place of sale, and upon terms and in such manner as Secured Party may determine. Any Secured Party may be a purchaser at any sale; and

(viii) Exercise any remedies of Secured Party under the Uniform Commercial Code of the State of Florida, Uniform Commercial Code of the State of Texas or any other applicable law; and

(ix) The rights granted to Secured Party under this Agreement are of a special, unique, unusual and extraordinary character. The loss of any of such rights cannot reasonably or adequately be compensated by way of damages in any action at law, and any material breach by Debtor of any of Debtor’s covenants, agreements or obligations under this Agreement will cause Secured Party irreparable injury and damage. In the event of any such breach, Secured Party shall be entitled, as a matter of right, to injunctive relief or other equitable relief in any court of competent jurisdiction to prevent the violation or contravention of any of the provisions of this Agreement or to compel compliance with the terms of this Agreement by Debtor. Secured Party is absolutely and irrevocably authorized and empowered by Debtor to demand specific performance of each of the covenants and agreements of Debtor in this Agreement. Debtor hereby irrevocably waives any defense based on the adequacy of any remedy at law which might otherwise be asserted by Debtor as a bar to the remedy of specific performance in any action brought by Secured Party against Debtor to enforce any of the covenants or agreements of Debtor in this Agreement.

(b) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party shall give Debtor at least ten (10) days’ prior written notice of the time and place of any public sale of the Collateral subject to this Agreement or other intended disposition thereof to be made. Such notice shall be conclusively deemed to have been delivered to Debtor at the address set forth in Paragraph 7(d) of this Agreement, unless Debtor shall Notify Secured Party in writing of its change of its principal place of business and provide Secured Party with the address of its new principal place of business.

(c) The proceeds of any sale under Paragraph 9(a) above shall be applied as follows:

(x) To the repayment of the costs and expenses of retaking, holding and preparing for the sale and the selling of the Collateral (including actual legal expenses and attorneys’ fees) and the discharge of all assessments, encumbrances, charges or liens, if any, on
the Collateral prior to the lien hereof (except any taxes, assessments, encumbrances, charges or liens subject to which such sale has been made);

(xi) To the payment of the whole amount then due and unpaid of the Obligations;

(xii) To the payment of all other amounts then secured hereby; and

(xiii) The aggregate surplus, if any, shall be paid to Debtor in a lump sum, without recourse to Secured Party, or as a court of competent jurisdiction may direct.

(d) Secured Party has the right to enforce one or more remedies hereunder and/or under the Development Agreement, successively or concurrently, and such action shall not operate to estop or prevent Secured Party from pursuing any further remedy which it may have, and any repossession or retaking or sale of the Collateral pursuant to the terms hereof shall not operate to release Debtor until full payment of any deficiency has been made in cash.

(e) DEBTOR ACKNOWLEDGES THAT SECURED PARTY MAY BE UNABLE TO EFFECT A PUBLIC SALE OF ALL OR ANY PART OF THE COLLATERAL AND MAY BE COMPelled TO RESORT TO ONE OR MORE PRIVATE SALES TO A RESTRICTED GROUP OF PURCHASERS WHO WILL BE OBLIGATED TO AGREE, AMONG OTHER THINGS, TO ACQUIRE THE COLLATERAL FOR THEIR OWN ACCOUNT, FOR INVESTMENT AND NOT WITH A VIEW TO THE DISTRIBUTION OR RESALE THEREOF. DEBTOR FURTHER ACKNOWLEDGES THAT ANY SUCH PRIVATE SALES MAY BE AT PRICES AND ON TERMS LESS FAVORABLE THAN THOSE OF PUBLIC SALES, AND AGREES THAT SUCH PRIVATE SALES SHALL BE DEEMED TO HAVE BEEN MADE IN A COMMERCIALLy REASONABLE MANNER AND THAT SECURED PARTY HAS NO OBLIGATION TO DELAY SALE OF ANY COLLATERAL TO PERMIT THE ISSUER THEREOF TO REGISTER IT FOR PUBLIC SALE UNDER THE SECURITIES ACT OF 1933. DEBTOR AGREES THAT SECURED PARTY SHALL BE PERMITTED TO TAKE SUCH ACTIONS AS SECURED PARTY DEEMS REASONABLY NECESSARY IN DISPOSING OF THE COLLATERAL TO AVOID CONDUCTING A PUBLIC DISTRIBUTION OF SECURITIES IN VIOLATION OF THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE, AS NOW ENACTED OR AS THE SAME MAY IN THE FUTURE BE AMENDED, AND ACKNOWLEDGES THAT ANY SUCH ACTIONS SHALL BE COMMERCIALLy REASONABLE. IN ADDITION, DEBTOR AGREES TO EXECUTE, FROM TIME TO TIME, ANY AMENDMENT TO THIS AGREEMENT OR OTHER DOCUMENT AS SECURED PARTY MAY REASONABLY REQUIRE TO EVIDENCE THE ACKNOWLEDGMENTS AND CONSENTS OF DEBTOR SET FORTH IN THIS PARAGRAPH.

10. Attorneys’ Fees. Debtor agrees to pay to Secured Party, without demand, reasonable attorneys’ fees and all costs and other expenses which Secured Party expends or incurs in collecting any amounts payable by Debtor hereunder or in enforcing this Agreement against Debtor, whether or not suit is filed.
11. **Further Documentation.** Debtor hereby agrees to execute, from time to time, one or more financing statements and such other instruments as may be required to perfect the security interest created hereby, including any continuation or amendments of such financing statements, and pay the cost of filing or recording the same in the public records specified by Secured Party.

12. **Waiver and Estoppel.** Debtor represents and acknowledges that it knowingly waives each and every one of the following rights, and agrees that it will be estopped from asserting any argument to the contrary: (a) any promptness in making any claim or demand hereunder; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of Debtor or the failure to file or enforce a claim against Debtor’s estate (in administration, bankruptcy or any other proceeding); (c) any defense based upon an election of remedies by Secured Party which destroys or otherwise impairs any or all of the Collateral; (d) the right of Debtor to proceed against Secured Party or any other person, for reimbursement; (e) all duty or obligation of Secured Party to perfect, protect, retain or enforce any security for the payment of amounts payable by Debtor hereunder; and (f) any defense based on modification of the indebtedness secured hereby.

13. **Waiver of Jury Trial.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

14. **No Continuing Waiver.** No delay or failure on the part of Secured Party in the exercise of any right or remedy against Debtor or any other party against whom Secured Party may have any rights, shall operate as a waiver of any agreement or obligation contained herein, and no single or partial exercise by Secured Party of any rights or remedies hereunder shall preclude other or further exercise thereof or other exercise of any other right or remedy whether contained in this Agreement or in any of the other documents regarding the Obligations, including, without limitation, the Development Agreement and the Operating Agreement. No waiver of the rights of Secured Party hereunder or in connection herewith and no release of Debtor shall be effective unless in writing executed by Secured Party. No actions of Secured
Party permitted under this Agreement shall in any way impair or affect the enforceability of any agreement or obligation contained herein.

15. **Independent Obligations.** The obligations of Debtor are independent of the obligations of any other party which may be initially or otherwise responsible for performance or payment of the Obligations, and a separate action or actions for payment, damages or performance may be brought and prosecuted by Secured Party against Debtor, individually, for the full amount of the Obligations then due and payable, whether or not an action is brought against any other party, whether or not Secured Party is involved in any proceedings and whether or not Secured Party or Debtor or other person is joined in any action or proceedings.

16. **No Offset Rights of Debtor.** No lawful act of commission or omission of any kind or at any time upon the part of Debtor shall in any way affect or impair the rights of Secured Party to enforce any right, power or benefit under this Agreement, and no set-off, recoupment, counterclaim, claim, reduction or diminution of any obligation or any defense of any kind or nature which Debtor has or may have against Secured Party or against any other party shall be available against Secured Party in any suit or action brought by Secured Party to enforce any right, power or benefit under this Agreement.

17. **Power of Attorney.** Debtor hereby appoints Secured Party as its attorney-in-fact to execute and file on its behalf any financing statements, continuation statements or other documentation required to perfect or continue the security interest created hereby. This power, being coupled with an interest, shall be irrevocable until all amounts secured hereby have been paid, satisfied and discharged in full.

18. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO AGREE THAT IN THE EVENT OF DEFAULT, THIS AGREEMENT MAY BE ENFORCED IN ANY COURT OF COMPETENT JURISDICTION IN THE STATE OF TEXAS, AND ANY STATE IN WHICH ALL OR ANY PART OF THE COLLATERAL IS LOCATED AND THEY DO HEREBY SUBMIT TO THE JURISDICTION OF ANY AND ALL SUCH COURTS REGARDLESS OF THEIR PRINCIPAL PLACE OF BUSINESS OR WHERE THIS AGREEMENT MAY BE EXECUTED.

19. **Successors and Assigns.** All agreements, covenants, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

20. **Notices.** Whenever any party hereto shall desire to, or be required to, give or serve any notice, demand, request or other communication with respect to this Agreement, each such notice, demand, request or communication shall be in writing and shall be effective only if the same is delivered by personal service (including, without limitation, courier or express service) or mailed certified or registered mail, postage prepaid, return receipt requested, or sent by electronic mail to the parties at the addresses and email addresses shown throughout this Agreement or such other addresses which the parties may provide to one another in accordance herewith. If notice is sent to Secured Party, a copy of such notice shall also be given to to Matthew W. Mullen, Esq., Nixon Peabody LLP, 799 9th Street NW, Suite 500, Washington, DC
21. **Consent of Debtor.** Debtor consents to the exercise by Secured Party of any rights of Debtor in accordance with the provisions of this Agreement.

22. **Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

23. **Amendment.** This Agreement may be modified or rescinded only by a writing expressly relating to this Agreement and signed by all of the parties.

24. **Termination.** This Agreement shall terminate, and shall be of no further force or effect, upon the earlier to occur of the repayment in full of the Obligations of Debtor or upon the mutual consent of Debtor and Secured Party.

25. **Expenses.** Debtor shall pay all reasonable out-of-pocket fees and charges incurred by Secured Party in connection with this Agreement and the documents entered into in connection therewith, including, without limitation, reasonable attorneys’ fees incurred by Secured Party.

**(SIGNATURE APPEARS ON THE FOLLOWING PAGE)**
IN WITNESS WHEREOF, Debtor has executed this Pledge and Security Agreement as of the date first above written.

DEBTOR:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: 
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: 
Name: Megan D. Lasch
Title: Managing Member
IN WITNESS WHEREOF, Debtor has executed this Pledge and Security Agreement as of the date first above written.

DEBTOR:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: __________________________
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: __________________________
Name: Megan D. Lasch
Title: Managing Member
EXHIBIT I

MANAGEMENT AGREEMENT

[To be attached at the full funding of the First Installment.]
[SCHEDULE III TO EXHIBIT I]
MANAGEMENT AGREEMENT

MANAGEMENT PLAN

[To be attached at the full funding of the First Installment.]
SCHEDULE [___]TO EXHIBIT I
MANAGEMENT AGREEMENT

FORM OF LEASE DOCUMENTS

[To be attached at the full funding of the First Installment.]
This Lease Contract is valid only if filed out before January 1, 2016.

Apartment Lease Contract

This is a binding contract. Read carefully before signing.

Date of Lease Contract:
[when this Lease Contract is filled out]

Moving In — General Information

1. Parties. This Lease Contract ("Lease") is between you, the resident(s) listed all people signing the Lease:

[Name 1]

and us, the owner: La Ventana Apartments

(name of apartment community or title holder). You are renting Apartment No. ____________________________

(street address)

(city), Texas, 78213 Zip code for use as a private residence only. The term "you", "your", "tenants", "this lease", and "Lease" refer to all the parties listed above or, in the event of a sole resident's death, to someone authorized to act for the estate. The terms "we", "us", and "our" refer to the owner listed above and to no property managers or anyone else.

Neither we nor any of our representatives have made any oral promises, representations, or agreements. This Lease is the entire agreement between you and us.

2. Occupants. The apartment will be occupied only by you and (list all other occupants not signing the Lease):

[Name 2]

—and no one else. Anyone not listed here cannot stay in the apartment for more than 3 consecutive days without our prior written consent, and no more than twice that many days in any one month. If the previous space isn't filled in, 2 days total per month will be the limit.

3. Lease Term. The initial term of the Lease begins on the day of ____________ (month), ____________ (year), and ends at midnight the day of ____________ (month), ____________ (year).

After this, the Lease automatically renew month-to-month unless either party gives 30 days written notice of termination or intent to move out as required by Par. 36. If the number of days isn't filled in, notice of at least 30 days is required.

4. Security Deposit. The total security deposit for all residents is $200.00. Due on or before the date this Lease is signed. This amount (check one): [ ] does or [ ] does not include an animal deposit. Any animal deposit will be designated in an animal addendum. Security deposit will be refunded (check one):

[ ] in full within 30 days of the termination of your tenancy
[ ] less than 30 days if you have damaged the premises
[ ] less than 30 days by a mutual agreement between us
[ ] less than 30 days by a court

5. Keys, Move-Out, and Furniture. You'll be given ____________ apartment keys, ____________ mailbox keys, and ____________ other access devices for this property.

Before moving out, you must give our representative advance written move-out notice as stated in Par. 36. The move-out date in your notice (check one): [ ] must be the last day of the month, or [ ] may be the exact day designated in your notice. If neither option is checked here, the second applies. Any resident, occupant, or spouse who, according to a remaining resident's affidavit, has permanently moved out or is under court order not to enter the apartment, is (at our option) no longer entitled to occupancy keys, or other access devices. Your apartment will be (check one): furnished or [ ] unfurnished

6. Rent and Charges. You will pay $__________ per month for rent, in advance and without demand (check one):

[ ] at the onsite manager's office
[ ] through our online payment site
[ ] Other:

[ ] Late fees [ ] Security deposit [ ] Move-out fees

7. Utilities and Services. We'll pay for the following items, if checked:

Electricity [ ] Gas [ ] Water [ ] Cable TV [ ] Internet [ ] Stormwater drainage

[other]

You'll pay for all other utilities and services, related deposits, and any changes or fees on such utilities and services during your Lease term. See Par. 3 for other related provisions regarding utilities and services.

8. Insurance. Our insurance doesn't cover the loss of or damage to your personal property. You are required to buy and maintain renter's liability insurance, unless specifically excluded, or not required to buy renter's or liability insurance if neither option is checked. In insurance is not required but is still strongly recommended. Even if not required, we urge you to get your own insurance for losses due to theft, fire, water, pipe leaks, and similar occurrences. Renter's insurance doesn't cover or losses due to a flood. Information on renter's insurance is available from the Texas Department of Insurance.

9. Special Provisions. The following or attached special provisions and any addenda or written notices furnished to you at or before signing will become a part of this Lease and will supersede any conflicting provisions of this printed Lease form:

10. Unlawful Early Move-Out And Reletting Charge. 10.1 Your Responsibility. You'll be liable for a moving charge of ________ (not to exceed $200) for month in the lease term if you fail to move in, or fall to give written move-out notice as required in Par. 35 or 36, or move out without paying rent in full for the entire lease term or renewal period. If you fail to move out at our demand because of your default, or if you are evicted, the moving charge is a cancellation fee and does not release you from your obligations under this Lease. See the next section.
10.2 Not a Release. The reletting charge is neither a Lease cancellation nor a buyout fee. It is a liquidated amount covering only part of our damages—for our time, effort, and expenses in finding and processing a replacement resident. These damages are uncertain and hard to ascertain—particularly those relating to inconvenient, paperwork, and sorting housing, apartment, utilities, for showing, checking prospects, overhead, marketing costs, and legal service fees. You agree that the reletting charge is a reasonable estimate of our damages and that the charge is due whether or not our reletting attempts succeed. If no amount is stipulated, you must pay our actual reletting costs as far as they can be determined. The reletting charge doesn’t release us from continued liability for future or past due rent; charges for cleaning, repairing, repainting, or dealing with unresolved keys or other issues due.


11.1 What We Provide. Texas Property Code secs. 92.131, 92.133, and 92.134 require, with some exceptions, that we provide a door lock on each window; (B) a doorknob (peep-hole) on each exterior door; (C) a pin lock on each sliding door; (D) either a door-handle latch or a security bar on each sliding door; (E) a keyless bolting device (deadbolt) on each exterior door; and (F) either a keyed deadbolt lock or a keyed deadbolt lock on one entry door. Keyless locks will be replaced after the prior resident moves out. The rekeying will be done either before you move in or within 7 days after you move in, as required by law. If we fail to install or repair security devices as required by law, you have the right to do so and deduct the reasonable cost from your next rent payment under Texas Property Code sec. 92.1651. We may deactivate or do not install keyless bolting devices on your doors if (A) you or an occupant in the dwelling is over 55 or disabled, and (B) the requirements of Texas Property Code sec. 92.1651 or (C) you are satisfied.

11.2 Who Pays What. We’ll pay for installing security devices that are required by law. You or your family, your occupant, or your guest, if you immediately after the work is done are satisfied for the installation.

12. Other Utilities and Services. Television channels that are provided may be changed during the Lease term if the change applies to all residents. You may use utilities only for normal household purposes and must not waste them. If your electricity is interrupted, you must use only battery-operated lighting (no flames). You must not allow any utilities (other than cable or internet) to be cut off or switched for any reason—including disconnection for not paying your bills—until the Lease term or renewal period ends. If a utility is not turned on or available by an allocation formula, we’ll allow an addendum to this Lease in compliance with state-agency rules. If a utility is inoperable and must be corrected in your name and must correct the provider of your move-out date so that the meter can be read. If you delay getting the meter returned in your name by the lease’s end date or cause it to be returned back into your name before you surrender or abandon the apartment, you’ll be liable for a $50.00 charge (not to exceed $50 per violation, plus the actual or estimated cost of the utilities used while the utility should have been connected in your name. If you’re in an area open to competition and your apartment is individually metered, you may choose to change your rent utility provider at any time. If you qualify, your provider will be the same as ours, unless you choose a different provider. If you choose to change your provider, you must give us written notice. You must pay all applicable fees, including any fees to change service back to our name after you move out.


13.1 Damage in the Apartment Community. You must promptly pay or reimburse us for loss, damage, consequential damages, government fines or charges, or cost of repairs or service in the apartment community because of your actions or the actions of any other of the residents, or your guests; or any other cause not due to our negligence or fault as allowed by law, except for damages by acts of God to the extent they could not be mitigated by your action or inaction.

13.2 Indemnification by You. You’ll defend, indemnify and hold us harmless from all liabilities, claims, demands, actions, lawsuits or proceedings, whether brought by you or by the residents, or your guests, or on behalf of any person or corporation to which you are or may become liable, including, without limitation, all liabilities, claims, demands, actions, lawsuits or proceedings, whether brought by you or by the residents, or your guests, or on behalf of any person or corporation to which you are or may become liable, as a result of your own or any other person’s negligence or fault, intentional or accidental, whether or not you are negligent or at fault. We may use the rent and other amounts you owe us to pay any such liabilities, claims, demands, actions, lawsuits or proceedings.

13.3 Damage and Wastewater Stoppage. Unless damage or wastewater stoppage is due to our negligence, we’re not liable for—and you must pay for—repairs, replacement, and damage of the following kind if occurring during the Lease term or renewal period: (A) damage to doors, windows, or screens; (B) damage from windows or doors left open; and (C) damage from wastewater stoppages caused by improper objects in the exterior lines exclusive of your apartment.

13.4 No Waiver. We may require payment at any time, including advance payment to repair damage that you are liable for. Delay in demanding sums you owe is not a waiver.


14.1 Lien Against Your Property for Rent. All property in the apartment (unless exempt under Texas Property Code sec. 54.401) is subject to a contractual lien to secure payment of delinquent rent (except as prohibited by Texas Government Code sec. 2206.6738, for owners supported ed by housing tax-credit allocations). For this purpose, “apartment” includes common areas but includes the interior living areas and exterior patios, balconies, attached garages, and any storerooms for your exclusive use.

14.2 Removal After We Exercise Lien for Rent. If your rent is delinquent, our representative may peacefully enter the apartment and remove and/or store all property subject to lien. All property in the apartment is presumed to be yours unless proved otherwise. After the property is removed, a written notice of entry identifying the property from your place in the apartment—including a list of items removed, the amount of delinquent rent due, and the time, address, and phone number of the person to contact, the notice must also state that the property will be promptly returned when the delinquent rent is fully paid.

14.3 Removal After Surrender, Abandonment, or Eviction. We, or officers, may remove or store all property remaining in the apartment or in the common areas (including any vehicles you or any occupant or guest owns or uses if you’re not judicially evicted or you surrender or abandon the apartment (see definitions in Par. 4));

14.4 Storage.

(A) No duty. We’ll store property removed under a contractual lien we may—but we have no duty to—store property removed after judicial eviction, surrender, or abandonment of the apartment.

(B) No liability. We’re not liable for casualty, loss, damage, or theft, except for property removed under a contractual lien.

(C) Changes you pay. You must pay reasonable charges for our packing, removal, storing, and selling of any property.

14.5 Redemption.

(A) Property on which we have a lien. If we’ve seized and stored property under a contractual lien for rent as authorized by law, you may redeem the property by paying all delinquent rent due at the time of seizure. But if notice of our seizure (Par. 16.02C) is given before you seek redemption, you may redeem only by paying the delinquent rent plus our reasonable charges for packing, removing, and storing.

(B) Property removed after surrender, abandonment, or judicial eviction. If we’ve removed and stored property after surrender, abandonment, or judicial eviction, you may redeem only by paying all sums you owe, including rent, late charges, reletting charges, storage charges, damages, etc.

(C) Place and payment for return. We may return redeemed property at the place of storage, the management office, or the apartment (at our option). We may require payment by cash, money order, or certified checks.

14.6 Disposition or Sale.

(A) Our options. Except for animals and property removed after judicial eviction, we may throw away or give to a charitable organization all personal property that:

Yours sincerely,                     Initials of Releasing Agent:  

Apartment Lease Contract ©2015, Texas Apartment Association, Inc.
I left the apartment after surrender or abandonment; or
(2) left outside more than 1 hour after work of possession is executed, following unlawful eviction.
(B) Animals. An animal removed after surrender, abandonment, or eviction may be kennelled or turned over to a local authority, humane society, or rescue organization.
(C) Sale or property. Property not thrown away or given to charity may be disposed of only by sale, which must be held no sooner than 30 days after written notice of the date, time, and place of sale is sent by both regular mail and certified mail (return receipt requested) to your last known address. The notice must itemize the amounts you owe and provide the name, address, and phone number of the person to contact about the sale, the amount owed, and your right to redeem the property. The sale may be public or private but is subject to any third-party ownership or lien claims. Must be to the highest cash bidder; and may be in bulk, in batches, or by item-by-item. If the proceeds from the sale are more than what you owe, the excess amount must be mailed to you at your last known address within 30 days after sale.

15. Failing to Pay First Month’s Rent. If you don’t pay the first month’s rent when you sign the Lease, all future rent for the Lease term will be automatically arrested without notice and become immediately due and payable. We also reserve your right of occupancy and security deposit, interest rate, interest on late payments, attorney’s fees, court costs, and other lawful charges. Our rights, remedies, and duties under Par. 12 and 32 apply to acceleration under this paragraph.

16. Rent Increases and Lease Changes. No rent increase or lease changes are allowed after the initial lease term ends, except for those allowed by special provisions in Par. 13. By written advance-notice and tenant acknowledgment signed by you and us, and by reasonable changes of apartment rules allowed under Par. 19, if at least 30 days before the advance-notice deadline referred to in Par. 3, we give you written notice of rent increase or lease changes that become effective when the Lease term or renewal period ends, this Lease will automatically continue month to month with the increased rent or lease changes. The new modified Lease will begin on the date stated in the notice (without needing your approval) unless you give us written move-out notice under Par. 36. This written move-out notice under Par. 36 applies only to the end of the current Lease or renewal period.

17. Delay of Occupancy. 17.1 Lease Remains In Force. We are not responsible for any delay of your occupancy caused by construction, repairs, clearing, or a previous tenant’s tardy decision. The Lease will remain in force subject to:
(A) abatement of rent on a daily basis during delay, and
(B) your right to terminate the lease in writing as set forth below.

17.2 Your Termination Rights. Termination notice must be in writing. After termination, you are entitled only to refund of any deposit and any rent paid. If we terminate the Lease or the Lease termination does not apply if the delay is for cleaning or repairs that don’t prevent you from moving into the apartment.

17.3 Notice of Delay. If there is a delay of your occupancy and we haven’t given notice of delay as set forth above, you may terminate this Lease up to the date when the apartment is ready for occupancy, but not later.
(a) If we give written notice of any of your occupants or your rent or the Lease begins, and the notice states that occupancy has been delayed because of construction or a previous tenant’s holding over and that the apartment will be ready on a specific date— you may terminate the Lease within 30 days after you receive written notice.
(b) If you notify us of any written notice before the date the Lease begins and the notice states that a construction delay is expected and that the apartment will be ready for you to occupy on a specific date, you may terminate the Lease 5 days after receiving written notice, but no later. The readiness date stated in the written notice becomes the new effective lease date for all purposes. This new date cannot be moved to an earlier date unless we agree in writing.

18. Disclosure of Information. If someone requests information about you or your rental history for law enforcement, government, or business purposes, we may provide it. At our request, any utility provider may give us information about pending or actual connections or disconnections of utility service to your apartment.
22. Release of Resident.

22.1 Generally. You may have the right under Texas law to terminate the Lease early in certain situations involving family violence, certain sexual offenses, or stalking. Otherwise, unless you’re entitled to terminate this Lease under Par. 8, you won’t be released from this Lease for any reason—including voluntary or involuntary school withdrawal or transfer, voluntary or involuntary job transfer, marriage, separation, divorce, reconciliation, loss of consents, loss of employment, bad health, property purchase, or death.

22.2 Death of Sole Resident. If you are the sole resident and die during the Lease term, an authorized representative of your estate may terminate the Lease without penalty by giving at least 30 days’ written notice. Your estate will be liable for paying rent until the latter of (a) the termination date or (b) removal of all persons from the apartment. Your estate will also be liable for all changes and damages until the apartment is vacated, and any removal or storage costs.


23.1 Termination Rights. You may have the right under Texas law to terminate the Lease in certain situations involving military deployment or transfer. You may terminate the Lease if you are called into active service in the U.S. Armed Forces. You may also terminate the Lease if you: (a) are a member of the U.S. Armed Forces or Reserves on active duty, or (b) a member of the National Guard called to active duty for more than 30 days in response to a national emergency declared by the President.

23.2 How to Terminate Under This Par. 23.  You must furnish a copy of your military orders, such as permanent-change-of-station orders, call-up orders, or deployment orders (or letter equivalent). Military permission for base housing doesn’t constitute a permanent-change-of-station order. You must deliver to us your written termination notice, after which the Lease will be terminated under this military clause 30 days after the later date your renal payment is due. After your move-out, we’ll return your security deposit, less lawful deduction.

23.3 Who May Be Released. For the purposes of this Lease, orders described in (a) under Par. 23.1 above will release only the resident who qualifies under both (a) and (b) above and receives the orders during the Lease term, plus that resident’s spouse or legal dependents living in the resident’s household. A dependent who is not the spouse or dependent of a military resident cannot terminate under this military clause.

23.4 Your Representations. Unless you state otherwise in Par. 9, you represent when signing this Lease that: (a) you do not already have deployment or change-of-station orders; (b) you will not be retiring from the military during the Lease term; and (c) the term of your enlistment or obligation will not end before the Lease term ends. You must notify us immediately if you are called to active duty or receive deployment or permanent-change-of-station orders.

23.5 Damages for False Representations. Liquidated damages for making a false representation of the above will be the amount of unpaid rent for the remainder of the Lease term when and if you move out, minus rent from others received in mitigation under Par. 32.6.


24.1 Disclaimer. We disclaim any express or implied warranties of safety. We care about your safety and that of other occupants and guests. You agree to make every effort to follow any Security Guidelines Addendum attached to this Lease. No security system is fail-safe. Even the best system can’t prevent theft. Always keep on if Security Systems don’t exist since they are subject to malfunction, tampering, and human error. The best safety measures are the ones you take as a matter of common sense and habit.

24.2 Your Duty of Due Care. You, your occupants, and your guests must exercise due care for your own and others’ safety and security, especially in using smoke alarms and other detection devices, door and window locks, and other safety or security devices. Window screens are not for security or to keep people from falling out of windows.

24.3 Alarm and Detection Devices.

(A) What we’ll do. We’ll furnish smoke alarms or other detection devices required by law or ordinance. We may install additional detectors not so required. We’ll test them and provide working batteries when you first take possession of your apartment. Upon request, we’ll provide, as required by law, a smoke alarm capable of alerting a person with a hearing impairment disability.

(B) Your duties. You must pay for and replace batteries as needed unless the law provides otherwise. We may re- place dead or missing batteries at your expense, without prior notice to you. You must immediately report alarms or detector malfunctions to us. Neither you nor others may disable alarms or detectors. If your damage or disable the smoke alarm, or remove a battery without replacing it with a working battery, you may be liable to us under Texas Property Code sec. 92.2661 for $100 plus one month’s rent, actual damages, and attorney’s fees. You’ll be liable to us and others if you fail to report malfunctions, or fail to report any fire, fire damage, or fires resulting from fire, smoke, or water.

24.4 Loss. Unless otherwise required by law, we’re not liable to any resident, guest, or occupant for personal injury or damage, loss of personal property, or loss of business or personal income, from any cause, including fire, smoke, rain, flood, water leaks, hail, ice, snow, lightning, wind, explosions, interruption of utilities, pipe leaks, theft, vandalism, or negligent or intentional acts of residents, occupants, or guests. We have no duty to remove any ice, sleet, or snow but may remove any amount with or without notice. Unless we instruct otherwise, during freezing weather you must for 24 hours a day: (a) keep the apartment heated to at least 55°F; (b) keep cabinet and closet doors open, and (c) use both hot- and cold-water faucets. You’ll be liable for any damage to our and others’ property caused by broken water pipes due to your violating these requirements.

24.5 Crime or Emergency. Immediately dial 911 or call local medical-emergency, fire, or police personnel in case of accidents, fire, smoke, suspected criminal activity, or any other emergency involving imminent harm. You should then contact our representative. None of our security measures are an express or implied warranty of safety—or a guarantee against crime or of reduced risk of crime. Unless otherwise provided by law, we’re not liable to you, your occupants, or your guests for injury, damage, or loss to person or property caused by criminal acts of other persons, including theft, burglary, assault, vandalism, or other crimes. Even if previously provided, we’re not obliged to furnish security personnel, patrols, lighting, gates, fences, or other forms of security services required. We’re not responsible for obtaining mammoth-history stars on any residents, occupants, guests, or contractors in the apartment community. If you, your occupants, or your guests are affected by a crime, you must make a written report to the appropriate local law enforcement agency and to our representative. You must also give the law enforcement agency’s incident report number upon request.

25. Condition of the Premises and Alterations.

25.1 As-Is. We disclaim all implied warranties. You accept the apartment, features, and furnishing as is, except for conditions materially affecting the health or safety of ordinary persons. You’ll be given an Inventory & Condition form on or before move-in. Within 48 hours after move-in, you must note on the form all defects or damage, sign the form, and return it to us. Otherwise, everything will be considered to be in a clean, safe, and good-working condition.
25.2 Standards and Improvements. You must use customary
care and diligence in maintaining the apartment and not damaging
or littering the common areas. Unless authorized by law or
by us in writing, you must not do any repairs, painting,
wallpapering, carpeting, electrical changes, or otherwise
alter our property. No holes or stickers are allowed inside
or outside the apartment. Unless noted as state or federal
law, we will permit a reasonable number of small nail holes for
hanging pictures on sheetrock walls and grooves of wood-
paneling/ceilings. No water furniture, washing machines, extra
phone or television outlets, alarm systems, or lock changes;
additions, or altering is permitted unless allowed by
law or we’ve consented in writing. You may install a satellite
dish or antenna, but only if you sign our satellite-dish or
antenna lease addendum, which complies with reason-
able restrictions allowed by federal law. You must not alter,
damage, or remove our property, including alarm systems,
detection devices, furnishers, telephones and television serv-
ing, screens, locks, and security devices. When you move
in, we’ll supply light bulbs for fixtures we furnish, including
exterior fixtures operated from inside the apartment after
that, you’ll replace them at your expense with bulbs of the
same type and wattage. Your improvements to the apart-
ment (made with or without our consent) becomes ours un-
less we agree otherwise in writing.

25.3 Fair Housing. We are committed to the principles of fair housing. In accordance with fair-housing laws, we’ll make reasonable accommodations to our rules, policies, practic-
es, or services. We’ll allow reasonable modifications and
these laws to give disabled persons access to and use of
this apartment community. We may require you to sign an
addendum regarding the implementation of any accom-
modations or modifications, as well as your restoration ob-
ligations, if any.

26. Requests, Repairs, and Malfunctions.

26.1 Written Requests Required. If you or any occupant
needs to send a notice or request—for example, for re-
pairs, installations, services, ownership disclosure, or
security, relative repairs. It must be written, signed, and
delivered to our designated representative (in some
cases, a non-market, gas, explosion, over-flowing sewer,
uncontrollable running water, electrical short, crime in progress, or fair-housing accommodation or modifica-
tion). Our written notes on your oral request do not con-
stitute a written request from you. Our complying with or
responding to any oral request regarding security or any
other matter doesn’t waive the strict requirement for writ-

26.2 Required Notifications. You must promptly notify us
in writing of water leaks, mold, electrical problems, malfunc-
tioning lights, broken or missing locks or latches, and other
conditions that pose a hazard to property, health, or safety.

26.3 Utilities. We may charge or install utility lines or equip-
ment serving the apartment if the work is done reason-
ably without substantially increasing your utility costs. We
can turn off equipment and interrupt utilities as needed
in order to avoid property damage or to perform work. If utilities
malfunction or are damaged by fire, water, or similar cause,
you must notify our representative immediately.

26.4 Air-Conditioning and Other Equipment. Air-condi-
tioning problems are normally not emergencies. If an air-condi-
tioning or other equipment malfunctions, you must notify
us as soon as possible on a business day. We’ll act with cus-
tomy diligence to make repairs and reconstructions, tak-
ing into consideration when casualty-insurance proceeds
are received. Your rent will not be abated in whole or in part.

26.5 Our Right to Terminate. If we believe that fire or cata-

27. Animals.
27.1 No Animals Without Consent. No animals (including
mammals, reptiles, birds, fish, rodents, amphibians, arachnids, and insects) are allowed, even temporarily,
anywhere in the apartment or apartment community unless we’ve given written permission. If we allow an ani-
mal, you must sign a separate animal addendum and, ex-
ccept as set forth in the addendum, pay an animal deposit.
An animal deposit is considered a general security deposit.

The animal addendum includes information governing an-
imals, including assistance or service animals. We’ll autho-
rize an assistance or support animal for a disabled person
without requiring an animal deposit. We may require ver-
ification of your disability and the need for such an animal.
You must not feed stray or wild animals.

27.2 Violations of Animal Policies.
(A) Charges for violations. If you or any guest or occu-
pant violates animal restrictions (with or without our con-
sent), we’ll charge you for all cleaning and repair costs,
including de-fecating, deodorizing, and shampooing;
initial and daily animal-violation charges and animal-
removal charges are liquidated damages for our time,
reproduction, and torn or torn by other pets times and
litigation costs in any animal restrictions and rules.

(B) Removal and return of animal. We may remove an
unauthorized animal by (1) leaving, in a conspicuous
place in the apartment, a written notice of our intent
to remove the animal within 24 hours; and (2) follow-

28. When We May Enter. If you or any guest or occupant is pres-
ent, then repairs, services, contractors, law officers, govern-
ment representatives, lenders, appraisers, prospective residents or buyers, insurance agents, persons seeking to enter under
your rental application, or our representatives may peacefully
enter the apartment at reasonable times for reasonable busi-
ness purposes. If nobody is in the apartment, then any person
can enter peacefully and at reasonable times by duplicate
or master key or by breaking a window or other means
necessarily for reasonable business purposes if written notice of
the entry is left in a conspicuous place in the apartment imme-
diately after the entry.

29. Multiple Residents. Each resident is jointly and severally liable
for all Lease obligations. If you or any guest or occupant violation
the Lease or rules, all residents are considered to have violated the
Lease. Our requests and notices (including suit notices) to any
resident constitute notice to all residents and occupant. Not-
tices and requests from any resident or occupant constitute no-
tice from all residents. Your notice of Lease termination may
be given only by resident. In eviction suits, each resident is consid-
ered the agent of all other residents in the apartment for service
of process. Any resident who defaults under this Lease will in-
validate the nondisrupting tenants and their guarantors.

30. Replacements.

30.1 When Allowed. Replacing a resident, subletting, or as-
signing a resident’s rights is allowed only when we con-

30.2 Procedures for Replacement. If we approve a repla-
cement resident, then, at our option: (A) the replacement res-

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Responsibilities of Owner and Resident

31. Our Responsibilities.

31.1 Generally. We act with customary diligence to:
(a) keep common areas reasonably clean, subject to Par. 25;
(b) maintain fixtures, hot water, heating, and air-conditioning equipment;
(c) substantially comply with all applicable laws regarding safety, sanitation, and fire hosting; and
(d) make all reasonable repairs, subject to your obligation to pay for damages for which you are liable.

31.2 Your Responsibility. If, at any time of the lease, you may possibly terminate this Lease and exercise other remedies under Texas Property Code Sec. 92.0516 by following this procedure:
(a) all rent must be current, and you must make a written request for repair or remedy of the condition—after which we will have a reasonable time for repair or remedy;
(b) if we fail to do so, you must make a second written request for the repair or remedy; to make sure that there has been no miscommunication between us—after which we will have a reasonable time to repair or remedy, and
(c) if the repair or remedy still hasn’t been accomplished within that reasonable time period, you may immediately terminate this Lease by giving us a final written notice.

You also may exercise other statutory remedies, including those under Texas Property Code Sec. 92.0511.

31.3 Request by Mail. Instead of giving the two written requests referred to above, you may give us one request by certified mail, return receipt requested, or by registered mail—after which we will have a reasonable time to repair or remedy. "Reasonable time" for the nature of the problem and the reasonable availability of materials, labor, and utilities. Your rent must be current when you make any request. We’ll refund security deposits and prorated rent as requested by law.

32. Default by Resident.

32.1 Acts of Default. You’ll be in default if (A) you don’t timely pay rent or other amounts you owe; (B) you or any guest or occupant violates this Lease, apartment rules, or fire, safety, health, or criminal laws, regardless of whether or where arrests or convictions occur; (C) you abandon: the apartment; (D) you give incorrect or false answers in a rental application; (E) you or any occupant is arrested, charged, detained, convicted, or given deferred adjudication or pre-trial diversion for (F) a felony offense involving actual or potential physical harm to a person, or involving possession, manufacture, or delivery of a controlled substance, marijuana, or drug paraphernalia as defined in the Texas Controlled Substances Act, or (G) any sex-related crime, including a misdemeanor; or (H) you are found to have any illegal drugs or paraphernalia in your apartment; or (I) you or any occupant, in bad faith, makes an invalid withholding complaint to the tenant’s official or employer of a utility company or the government.

32.2 Eviction. If you default or fail over, we may end your tenancy by giving you at least a 24-hour written notice to vacate. Notice may be given by: (A) regular mail; (B) certified mail, return receipt requested; (C) personal service to any resident; or (D) personal service at the apartment to any occupant over 16 years old or (E) affixing the notice to the inside of the apartment’s main entrance door. Notice by mail will be considered delivered on the earlier of actual delivery, or 3 days increasing to 5 days before Sundays and federal holidays after the notice is deposited in the U.S. Postal Service with postage. Termination of your possession rights or a later reentry doesn’t release you from liability for future rent or other obligations. After giving notice to vacate or filing an eviction suit, we may still accept rent or other sums due the failure or acceptance doesn’t waive or diminish our right of action in any other contractual or statutory right. Accepting money at any time doesn’t waive our right to damages, to past or future rent or other sums, or to our continuing with eviction proceedings.

32.3 Acceleration. Unless we elect not to accelerate rent, all unpaid rent and interest on the rest of the lease term or renewal period will be accelerated automatically without notice or demand that or after an arbitration, and will be immediately due and deductible if not our written consent: (A) you move out, remove property in preparing to move, or you or any occupant gives us oral or written notice of intent to move out before the Lease term or renewal period ends; and (B) you haven’t paid all past due for the entire Lease term or renewal period. Such period is considered a default for which we need not give you notice. Remaining rent will also be accelerated if you’re judicially evicted or move out when we demand because you’ve defaulted. Acceleration is subject to our mitigation obligations below.

32.4 Holder. For any occupant, invitee, or guest must not hold over beyond the date contained in your move-out notice or our notice to vacate for your different move-out date agreed to by the parties in writing. If a holder occurs, then (A) a holder rent is due in advance on a daily basis and may become delinquent without notice or demand, (B) rent for the holder period will be increased by 25% over the then-existing rent, without notice, (C) you’ll be liable to us (subject to our mitigation duties) for all rent for the full term of the previously-leased lease of any resident who can’t occupy because of the holder; and (D) at our option, we may extend the Lease term—for up to one month from the date of notice of Lease extension—by delivering written notice to you or your apartment while you continue to hold over.

32.5 Other Remedies. We may report unpaid amounts to credit agencies. If we or a third-party debt collector we use try to collect any money you owe, you agree that we or the debt collector may call you on your cellphone and may use an automated dialer if you default, you will pay us, in addition to other sums due, any amounts stated to be rental discounts or concessions agreed to in writing. Upon your default, we have all other legal remedies, including legal termination and statutory lockout under Texas Property Code Sec. 92.008, except as Corrections and observing are prohibited by Texas Government Code Sec. 2306.6730 for owners supported by housing-tax-credit allocations. A prevailing party may recover reasonable attorney’s fees and all other litigation costs from the nonprevailing parties, except a party may not recover attorney’s fees and litigation costs in connection with a party’s claiming personal injury, sentimental, exemplary or punitive damages. We may recover attorney’s fees in connection with enforcing our rights under this lease. We reserve the right to charge late charges are liquidated damages representing a reasonable estimate of the value of our time, inconvenience, and overhead associated with collecting late rent but are not for attorney’s fees and litigation costs. All unpaid amounts you owe, including judgments, bear 18% interest per year from the due date, compounded annually. You must pay all collection agency fees if we use any, and we’ll deduct sums due from 10 days after we mail you a letter demanding payment and stating that collection agency fees will be added if you don’t pay all sums by that deadline.

32.6 Mitigation of Damages. If you move out early, you’ll be subject to the 10% and all other remedies. We’ll excuse our customary diligence to relet and minimize damages. We’ll credit all later rent that we actually receive from subsequent tenants against your liability for past-due and future rent and other sums due.

General Clauses

33. Other Important Provisions.

33.1 Representatives’ Authority: Waivers; Notice. Our representatives (including management personnel, employees, and agents) have no authority to waive, amend, or terminate this Lease or any part of it unless in writing, and no authority to make new agreements, or modifications or changes in agreements that impose securities duties or other obligations on us or our representatives, unless in writing. Any dimensions and sizes provided to us relating to the apartment are only approximations or estimates; actual dimensions and sizes may vary. No act or omission by us will be considered a waiver of our rights or any subsequent violation, default, or time or place of performance. Our net reducing or helpfully enforcing written notice requirements, rental due dates, acceleration, fees, or other rights isn’t a waiver under any circumstances. Except when notice or demand is required by law, you waive any notice and demand for performance from us if you default. If any other has guaranteed performance of the Lease is a separate lease, Guaranty for each guarantor must be executed. Written notice to or from our managers constitutes notice to or from us. Any person giving a notice under this Lease should keep a copy of the notice, letter, or fax that was given (and any transactional verification) fax or electronic signature are binding. All notices must be in writing. Unless this lease or the law requires otherwise, any notice required to be provided, sent, or delivered by writing may be given electronically, subject to our rules.

33.2 Miscellaneous. All remedies are cumulative. Exercising one remedy won’t constitute an election or waiver of other
remedies. All provisions regarding our nonliability or non-
duty apply to our employees, agents, and management companies. No employee, agent, or management compa-
ny is personally liable for any of our contractual, statutory, or other obligations merely by virtue of acting on our be-
half. This Lease binds subsequent owners. This Lease is sub-
ordinate to existing and future recorded mortgages, unless
the owner's lender chooses otherwise. All Lease obliga-
tions must be performed in the county where the apart-
ment is located. Neither an invalid clause nor the omission
of initials on any page invalidates this Lease. If you have in-
surance covering the apartment or your personal belong-
ings at the time you or we suffer or allege a loss, you and
we agree to waive any insurance subrogation rights. All no-
tices and documents may be in English and, at our option,
in any other language that you read or speak. The term “inc-
cluding” in this Lease should be interpreted to mean “in-
cluding but not limited to.”

34. Payments. Payment of each sum due is an independent covenant. When we receive money, other than sale proceeds under Part 14 or utility payments subject to government regulation, we may apply it at our option and without notice first to any of your unpaid obliga-
tions, then to current rent. We may do so regardless of notices
on checks or money orders in accordance with the timing of the obligations
arose. All sums other than rent are due on demand. After the
due date, we do not have to accept any payments.

35. TAA Membership. We represent, that at the time of signing this Lease, we, the management company representing us, or any
locators service that procured you is a member in good stand-
ing of each of the Texas Apartment Association and the affiliated
local apartment association for the area where the apartment is
located. The member is either an owner-management compa-
ny member or an associate member doing business as a locator
servicewith whose name and address must be disclosed on page 2.
First, the following applies: (A) This Lease is voidable at your op-
tion if the premises are unhabitable by you (except for property damages); and (B) and (B) we may not recover past or future rent or other charges.
The above-renders are void if both of the following occur: (1) The
lease is automatically renewed on a month-to-month basis more than
once after membership in TAA and the local associa-
tion has lapsed; and (2) whether the owner or the management
company is a member of TAA and the local association during
the third automatic renewal. A signed affidavit from the affili-
ated local apartment association attesting to nonmember status
is required and will be conclusive evi-
dence of nonmembership. Governmental entities may use TAA
forms if TAA is writing in.

36. When Moving Out

36.1 Requirements and Compliance. Your move-out notice doesn’t release you from liability for the full term of the Lease or renewal term. You’ll be liable for the entire Lease term if you move out early except under Par 19, 22.23, or 31. Your move-out notice must comply with each of the following:

(a) We must receive advance written notice of your move-
out date. Your surrender of the Lease and your move out
must occur by at least 30 days after the lease expiration or abandonment.
(b) If you give a written notice of your intention to move out, you’ll agree that you will move out in accordance with the terms of the Lease and any other agreements.
(c) If you don’t give such notice, the owner will have the right to enter and inspect the premises.

36.2 Unacceptable Notice. Your notice is not acceptable if it doesn’t comply with all of the above. We recommend that you write your move-out form to ensure that you provide all the information needed. You must get us a written acknowledgment of your notice. If we fail to give a reminder notice, 30 days’ written notice to move out is required. If we terminate the Lease, we must give you the same notice as we did in default.

37. Move-Out Procedures. The move-out date can’t be changed unless you and I both agree in writing. You won’t move out before

the Lease term or renewal period ends unless all rent for the entire Lease term or renewal period is fully paid. Failure to provide all of the above, if any, will result in retaining charges and an acceleration of future rent under Par. 19 and 32. You’re prohibited by law from applying any security deposit
against rent. If you can’t stay beyond the lease, you must vacate in the order
in which you entered, and move our personal property within 30 days
after the end of the Lease term. All items must be returned in the
same condition as when you moved in. You must give us a
written notice to move out, including all personal belongings.

38. Cleaning. You must thoroughly clean the apartment, including
dishes, windows, furniture, bathrooms, kitchen appliances, pa-
tillos, balconies, garages, carpets, and storage rooms. You must follow move-out cleaning instructions if they were provided, or
if you don’t clean adequately you’ll be liable for reasonable cleaning charges—including charges for cleaning carpets, drap-
ery, furniture, walls, etc. that are soiled beyond normal wear (stains, wear or soiling that cannot be cleaned without negligence, cardiac
risks, accidents, or abuse).

39. Move-Out Inspection. You should meet with our representative
for a move-out inspection. Our representative has no au-
thority to bind or limit us regarding deductions for repairs, damages, or charges. Any inspections or estimates by us or our representative are subject to our correction, modification, or dis-
approval before final accounting or refunding.

40. Security Deposit Deductions and Other Charges. You’ll be liable
for the following charges, if applicable: unpaid rent; un-
paid utilities; unreimbursed service charges; repairs or damag-
ges caused by negligence, recklessness, accidents, or abuse, in-
cluding stickers, scratches, teeth, burns, stains, or unsanitary
holes; replacement cost of our property that was in or attached
to the apartment and/or missing, replacing dead or missing alarm or
detector devices at any time; utilities for repairs or cleaning; trips to let in company representatives to remove your telecommunication, television service equipment, or any furnishing, (if you request or have moved out, trips to open the apartment when you or your guest or occupant is missing a key, unattended keys; missing or burned-out bulbs, replacement or cleaning un-
authorized security devices or alarm systems; aged detector charges; packing, removing, or storing property removed or
stored under Par. 16; removing or boosting illegally parked vehi-
cles; special trips for trash removal caused by parked vehicles blocking driveways; false security-alarms charges unless due to our negligence; animal-related charges under Par. 14, 21, and 27; govern-
ment fees or fines against you, for violation (by you, your occu-
pants, or your guests) of local ordinances relating to alarms and
detector devices, false alarms, recycling, or other matters. Burs
and returned check charges; a charge not to exceed $300 for our time and inconvenience in our lawful removal of an animal or in any valid eviction proceeding against you, plus at-
terest at 1% per month, and King has actually paid and other
sums due under this Lease. You’ll be liable to the following:
(A) Charges for replacing any keys and access devices referenced in Par. 5 and 12; and (B) if you’ve violated Par. 31.

41. Deposit Return, Surrender, and Abandonment.

41.1 Your Deposit. We’ll mail you your security deposit refund (less lawful deductions) and an itemized accounting of any deductions, no later than 30 days after your surrender or aban-
donment, unless laws provide otherwise.

41.2 Surrender. You have surrendered the apartment when (A) the move-out date has passed and no one is living in the apartment in our reasonable judgment; or (B) apartment keys and access devices listed in Par. 5 have been turned in to us—whichever happens first.

41.3 Abandonment. You have abandoned the apartment when all of the following have occurred: (A) your personal prop-
ners appear to have moved out in our reasonable judgment; (B) we have no knowledge of your whereabouts. If a responsible party
has not been heard from in 30 days, we must vacate the premises
in accordance with our reasonable judgment; and (C) you have
not paid rent for more than 30 days and we have notified you in the mail or by phone that you have not paid rent for more than 30 days.

41.4 The Ending of Your Rights. Surrender, abandonment, or
judicial eviction ends your right of occupancy for all pur-
purposes and gives us the immediate right to clean up, make repairs in, and retake the apartment. Determine any security-
deposit deductions, and remove property left in the apart-
m. Surrender, abandonment, and judicial eviction affect your rights to property left in the apartment (Par. 14), but don’t affect our mitigation obligations (Par. 12).
### Signature and Attachments

42. **Attachments.** We will provide you with a copy of the Lease as required by statute. This may be in paper format, in an electronic format if requested or by email if we have communicated by email about this Lease. Our rules and community policies, if any, will be attached to this lease and given to you at signing. When an Inventory and Condition form is completed, both you and we should retain a copy. The items checked below are attached to, and become a part of this lease and are binding even if not initialed or signed.

- Access Gate Addendum
- Additional Special-Provisions
- Allocation Addendum for: Electricity, Gas, Water, Sewage, Cable/Satellite
- Animal Addendum
- Apartment Rules or Community Policies
- Asbestos Addendum (if asbestos is present)
- Bed Bug Addendum
- Early Termination Addendum
- Enclosed Garage, Carport, or Storage Unit Addendum
- Intrusion Alarm Addendum
- Inventory & Condition Form
- Lead Paint Disclosure Form
- Lease Contract Guaranty (gurantees, if more than one)
- Legal Description of Apartment (optional, if rental term longer than one year)
- Military Leasing Addendum
- Mold Information and Prevention Addendum
- Move-Out Cleaning Instructions
- Notice of Intent to Move Out Form
- Parking Permit or Sticker (if any)
- Pest Control Addendum
- Renters or Liability Insurance Addendum
- Repair or Service Request Form
- Security Deposit Addendum
- Security Guidelines Addendum
- Tenant Guide to Water Allocation
- Utilities Submetering Addendum: Electricity, Gas, Water
- Other

Name, address and telephone number of locator service, if applicable. Must be completed to verify TAA membership under Par. 35.

---

You are legally bound by this document. Please read it carefully.

A facsimile or electronic signature on this Lease is as binding as an original signature.

Before submitting a rental application or signing a Lease, you may take a copy of these documents to review and/or consult an attorney.

Additional provisions or changes may be made in the Lease if agreed to in writing by all parties.

You are entitled to receive a copy of this Lease after it is fully signed. Keep it in a safe place.

This lease is the entire agreement between you and us. You are NOT relying on any oral representations.

**Resident or Residents (as signed below)**

- **Name of Resident:**
- **Date signed:**

- **Name of Resident:**
- **Date signed:**

- **Name of Resident:**
- **Date signed:**

- **Name of Resident:**
- **Date signed:**

- **Name of Resident:**
- **Date signed:**

**Owner or Owner's Representative (signing on behalf of owner)**

- Address and telephone number of owner's representative for notice purposes

- **After-hours phone number**
  (Always call 911 for police, fire, or medical emergencies.)
  **Date form is filled out (same as on top of page 1)"**

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4826-0680-0520.3

I-22
Lease Contract Addendum for Units Participating in Government Regulated Affordable Housing Programs

Date of Lease: __________

1. **Addendum.** This is an addendum to the Lease Contract ("Lease") executed by you, the resident(s), on the dwelling you have agreed to rent. That dwelling is:

   **Apartment number** at __________
   **Name of Apartments**
   **City/State where dwelling is located**

   **Street address of house, duplex, etc.**

2. **Participation in Government Program.** We, as the owner of the dwelling you are renting, are participating in a government regulated affordable housing program. This program requires both you and us to verify certain information and to agree to certain provisions contained in this addendum.

3. **Accurate Information in Application.** By signing this addendum, you are certifying that the information provided in the Rental Application or any Supplemental Rental Application regarding your household annual income is true and accurate.

4. **Requests for Information.** By signing this addendum, you agree that the annual income and other eligibility requirements for participation in this government regulated affordable housing program are substantial and material obligations under the lease.

5. **Failure to Answer or Inaccurate Information May Be Good Cause Grounds for Eviction.** If you refuse to answer or do not provide accurate information in response to the requests in Par. 4 above, it may be considered a substantial violation of the lease and good cause grounds for terminating and/or removing the lease and for an eviction. It makes no difference whether the inaccuracy of the information furnished was intentional or unintentional.

6. **Termination or Non-Renewal of Lease for Housing Tax Credit (HTC) and HOME Program Units.** Provisions in Par. 6.6 of this Addendum shall apply only to residents living in a dwelling covered by either the HTC program or the HOME program. Par. 6.6.3 of this Addendum also overrides any contrary provisions contained in Par. 32 and Par. 33 of the Lease. We will not evict a resident solely on the basis that the resident is or has been a victim of domestic violence, dating violence, sexual assault or stalking.

7. **No Lien or Lockout for Unpaid Sums.** For rental properties that are supported by HTC allocations, sec. 2306.6738, Texas Government Code, prohibits such property owners from threatening or conducting a lockout unless allowed by judicial process; necessary to perform repair or construction work; or responding to an emergency. Personal property of a resident may not be seized or threatened to be seized except by judicial process unless the premises has been abandoned as required by 24 CFR 92.253. This paragraph overrides any contrary provisions contained in Par. 14 or Par. 32 of the Lease.

8. **Student Status.** By signing this addendum, you agree to notify the owner, in writing, if there are any changes in the student status of any residents (including replacement residents) occupying the unit.

9. **Conflict with Governing Law.** To the extent that any part of your Lease or this addendum conflicts with applicable federal, state, or local laws or regulations, the law or regulation overrides that portion of your Lease or this addendum.

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**Resident or Residents (all sign below)**

<table>
<thead>
<tr>
<th>Name of Resident</th>
<th>Date signed</th>
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</table>

<table>
<thead>
<tr>
<th>Name of Resident</th>
<th>Date signed</th>
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</thead>
</table>

**Owner or Owner’s Representative (sign below)**

<table>
<thead>
<tr>
<th>Name of Owner</th>
<th>Date signed</th>
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You are entitled to receive a copy of this Addendum after it is fully signed. Keep it in a safe place.

---

4826-0680-0520.3 I-23
SCHEDULE [___] TO EXHIBIT I
MANAGEMENT AGREEMENT

REPORTING REQUIREMENTS

The Operations Manager shall prepare and provide in a form approved by the Owner:

a) **Lease-up Monitoring.** Beginning with the Occupancy Commencement Date and ending on the date on which Initial 100% Occupancy occurs, a weekly report:

   i) A summarized discussion of activities for the reporting period
   ii) Marketing activities to generate interest
   iii) Traffic Summary/Traffic stop reports
   iv) Vacancy Report and Rent Rolls

b) **Compliance.** On or before the tenth (10th) day of each month beginning with the initial leasing period:

   i) A low income housing credit monitoring form, an occupancy/rental report in the form approved by the Investor Member, provided monthly one month in arrears, within ten (10) days of the end of the month being reported
   
   ii) copies of all initial tenant leases and associated application information, including third party verification information and copy of the audit, for leases entered into or renewed during the preceding month, and as requested copies of all leases other than initial leases and any related back-up documentation.

c) **Monthly Reporting.** Within twenty (20) days after the end of each month, beginning with the initial leasing period of the Apartment Complex, a report containing:

   i) A summarized discussion of Apartment Complex operations and activities for the reporting period.

   ii) Financial Statements (unaudited) in Month to Date and Year to Date format:

      (1) Balance Sheet
      (2) Income Statement
      (3) Cash flow statement
(4) Trial Balance in Excel format or equivalent form approved by the Owner

(5) Statements for the reserve account

(6) Complete Detailed General Ledger for the reporting period

(7) Mortgage Statements

iii) A LIHTC Monthly Housing Credit Form

iv) A Rent Roll/Occupancy Report

v) A certification of the Company Manager that Apartment Complex and its tenants are in compliance with all applicable federal, state and local requirements and regulations

vi) All other information, which would be pertinent to the Owner regarding the Apartment Complex activities during the reporting period.

d) **First Year Operations.** Operations Manager shall prepare and provide to Owner a first year (1st) operating budget at least forty-five (45) days prior to the start of occupancy.

e) **Annual Reporting Requirement.**

i) By October 15, of each year an annual pro-forma operating budget or the company for the next year, which budget shall have been prepared by Management Agent.

ii) Capital improvement plan

iii) All other information, which would be pertinent to the Owner regarding the Apartment Complex activities.

Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Operating Agreement.
REQUEST FOR PAYMENT

REQUEST NO. __________

DATE: _________________

<table>
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<tr>
<th>DRAW #:</th>
<th>Amount:</th>
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<tbody>
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1. Pursuant to that certain Amended and Restated Operating Agreement dated as of February 1, 2019 and any modifications thereof (the “Agreement”) of Canova Palms, LLC, a Texas limited liability company (the “Company”), between Saigebrook Canova, LLC, a Texas limited liability company (the “Co-Managing Member”), O-SDA Canova, LLC, a Texas limited liability company (the “Administrative Member”), and HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”), the Company hereby requests a Draw of proceeds of [the Loans/Capital Contributions]. The Investor Member has appointed Hunt Capital Partners, LLC, a Delaware limited liability company (“Hunt”), as its agent for reviewing and approving Draw requests.

2. The Company has furnished to Hunt a waiver of liens to date, in form and content approved by Hunt, from the Contractor, and each of the subcontractors who were paid by the Company with the proceeds from all preceding advances, upon request of Hunt.

3. The Managing Member covenants and agrees herewith that:

   (a) Each of the Managing Member and the Company has complied with all duties and obligations required to date to be carried out and performed pursuant to the terms of the Agreement and each Project Document.

   (b) All representations and warranties made in the Agreement are true and correct in all material respects as of the date of this certification (other than representations and warranties made as to a specific date).

   (c) No default or Event of Default has occurred and is continuing under the Agreement or any Project Document.

   (d) The Apartment Complex has not been damaged by fire or other casualty or, in such event, to the extent permitted under the terms and provisions of the Agreement and the Project Documents, the Apartment Complex shall have been fully repaired and restored, or be in the process of being fully repaired and restored, to the state of completion achieved immediately before the casualty.

   (e) All funds previously disbursed have been used solely for the purposes as set forth in the Agreement and the Project Documents.

   (f) All construction prior to the date of this request has been accomplished substantially in accordance with the approved Plans and Specifications.
(g) All sums advanced by Hunt on account of this Draw will be used solely for the purpose of reimbursing the Company for amounts paid by the Company as shown on the documentation provided or as otherwise provided for in the Agreement or Project Documents.

(h) There are no liens outstanding against the Premises or its equipment except as permitted under the Agreement.

(i) The amount of undisbursed funds is sufficient to pay the cost of completing the project in accordance with the approved Plans and Specifications.

4. The terms used herein have the same meaning and definitions as those set forth in the Agreement.

5. The Company certifies that the statements made in this certification and any documents submitted herewith and identified herein are true and has duly caused this certification to be signed on its behalf by the undersigned authorized agent to request disbursements.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS whereof, this Request for Payment is dated as of the date set forth above.

SAIGEBROOK CANOVA, LLC, a Texas limited liability company

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: ______________________________
Name: Lisa M. Stephens
Its: Manager
EXHIBIT K

RESERVED
EXHIBIT L

RESERVED
EXHIBIT M

FORM OF ASSIGNMENT AND ASSUMPTION AND AMENDMENT
ASSIGNMENT AND ASSUMPTION OF LIMITED LIABILITY COMPANY INTERESTS
AND
AMENDMENT TO FIRST AMENDED AND RESTATED OPERATING AGREEMENT
OF
CANOVA PALMS, LLC

This Assignment and Assumption of Limited Liability Company Interests and Amendment to First Amended and Restated Operating Agreement of Canova Palms, LLC (the “Assignment and Assumption Agreement”), dated as of [__________] (the “Assignment Date”), is entered into by and among HCP-ILP, LLC, a Nevada limited liability company (the “Assignor”); Canova Palms, LLC, a Texas limited liability company (the “Company”); Saigebrook Canova, LLC, a Texas limited liability company and O-SDA Canova, LLC, a Texas limited liability company in their capacity as the managing members of the Company (collectively, the “Managing Member”); Hunt Capital Partners Tax Credit Fund ______, LP, a Delaware limited partnership (the “Assignee”); and the Managing Member, in its role as guarantor, Saigebrook Development, LLC, a Florida limited liability company (“Saigebrook Development”), O-SDA Industries, LLC, a Texas limited liability company (“O-SDA Developer”), Lisa M. Stephens, individually and Megan D. Lasch, individually, (jointly and severally) are referred to herein as the “Guarantors”). The Assignor and Assignee are sometimes referred to together as the “Assigning Parties”; all other parties are sometimes referred to collectively as the “Non-Assigning Parties”.

WHEREAS, the Assignor acquired a Limited Liability Company Interest in the Company (the “ILP Interest”) pursuant to a First Amended and Restated Operating Agreement of the Company dated as of February 1, 2019 (the “Agreement”);

WHEREAS, Section 11.1 of the Agreement permits Assignors to make an assignment of the ILP Interest to Assignee;

WHEREAS, Section 11.2 of the Agreement authorizes the substitution of the Assignee as a Substitute Investor Member;

WHEREAS, the Assignor wishes to assign the ILP Interest to the Assignee, as of the Assignment Date, and the Assignee wishes to accept such assignment of the ILP Interest for the consideration and upon the terms and conditions hereinafter set forth;

WHEREAS, the Assignee is willing to undertake all of the remaining obligations of Assignor under the Agreement (the “Obligations”); and

WHEREAS, the Guarantors entered into that certain Guaranty Agreement dated as of February 1, 2019 (the “Guaranty”) in which they agreed to guarantee certain obligations of the Managing Member under the Agreement;

WHEREAS, the Non-Assigning Parties desire to acknowledge such undertaking of the respective Obligations by the Assignees and to release the Assignors from the Obligations;
NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration hereinafter described, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Capitalized terms used but not defined herein shall have the respective meanings attributed thereto in the Agreement.

2. The Assignor hereby assigns to the Assignee and the Assignee hereby accepts from the Assignor, one hundred percent (100%) of the Assignor’s right, title and interest in and to the ILP Interest. The ILP Interest consists of the Assignor’s entire right to allocations of profits, gain, income or losses and tax credits and all items entering into the computation thereof, and to distributions of cash, however denominated, under the Agreement.

3. In consideration of the assignment effected hereby, the Assignee hereby assumes and agrees to discharge all of the Obligations. In addition, the Assignee shall promptly reimburse the Assignor for all Capital Contributions heretofore made by the Assignor to the Company and for such other expenditures heretofore incurred by the Assignor relating to its acquisition of the ILP Interest as the Assignor and the Assignee shall mutually determine.

4. The Non-Assigning Parties hereby (i) acknowledge the assignment of the ILP Interest and assumption by Assignee of the Obligations pursuant to this Assignment and Assumption Agreement and (ii) release Assignor from all of its respective Obligations. Accordingly, from and after the Assignment Date, the Assignee shall be responsible for all of the Obligations of the Assignor under the Agreement.

5. By its execution hereof, Assignee hereby agrees to become a Substitute Investor Member of the Company and, subject to the foregoing provisions of this Assignment and Assumption Agreement, agrees to be bound (to the same extent as Assignor was bound) by the Project Documents to which the Assignor was a party and by the provisions of the Agreement as they relate to the Assignor or the ILP Interest.

6. Assignee is hereby admitted to the Company as a Substitute Investor Member for all purposes of the Agreement.

7. The Assignor represents, warrants and covenants to the Assignee that (i) the Assignor is the sole owner of the ILP Interest, free and clear of all undisclosed liens, encumbrances, security interests or claims of third parties of any kind or description; (ii) the Assignor has the power and authority to effect the assignment of the ILP Interest as provided herein and such assignment does not violate any law or constitute a default under any agreement to which the Assignor is a party or by which the Assignor is bound; (iii) this Assignment and Assumption Agreement is sufficient in all respects to assign to the Assignee the ILP Interest and (iv) the Assignor will take no action inconsistent with or in derogation of the assignment of the ILP Interest effected hereunder.

8. The Assignee represents, warrants and covenants to the Assignor that the Assignee has the power and authority to acquire the ILP Interest as provided herein and assume the Obligations such acquisition and assumption do not violate any law or constitute a default under any agreement to which the Assignee is a party or by which the Assignee is bound.
9. The Member Information Schedule to the Agreement is deleted in its entirety and the attached Amended Member Information Schedule substituted therefor. From and after the Assignment Date, the attached Amended Member Information Schedule shall be the Member Information Schedule for all purposes of the Agreement.

10. The Guarantors hereby reaffirm and confirm their respective obligations under the Guaranty for the benefit of the Assignee and acknowledge that the Assignee shall succeed to all rights of the Assignor pursuant to the Guaranty.

11. The parties hereto hereby confirm the continuing validity and enforceability of the Agreement, acknowledging that the Assignee shall succeed to all rights and obligations of the Assignor thereunder as of the Assignment Date. This provision shall be construed to amend the Agreement to the extent necessary to reflect the admission of the Assignee to the Company as a Substitute Investor Member and to give effect to the other provisions of this Assignment and Assumption Agreement.

12. The parties agree that the assignment of the ILP Interest, the admission of the Assignee to the Company as a Substitute Investor Member and the other transactions effected hereby shall be effective for all purposes as of the Assignment Date.

13. The parties hereto agree to cooperate in good faith to effect any further amendments to the Agreement or Project Documents and to take such other steps as may be necessary or appropriate in order to more fully reflect and further evidence the assignment of the ILP Interest and the other transactions effected hereby.

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

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have caused this Assignment and Assumption Agreement to be executed and delivered as a sealed instrument as of the Assignment Date.

ASSIGNOR:

HCP-ILP, LLC,
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company
Its: Manager

By: ___________________________
Name: Jeffrey N. Weiss
Title: President

ASSIGNEE:

HUNT CAPITAL PARTNERS TAX CREDIT FUND _____, LP, a Delaware limited partnership

By: HCP GP _____, LLC, a Nevada limited liability company, its general partner

By: Hunt Capital Partners, LLC, a Delaware limited liability company, its sole member

By: ___________________________
Jeffrey N. Weiss, President

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
COMPANY:

CANOVA PALMS, LLC,
a Texas limited liability company

By:  Saigebrook Canova, LLC,
a Texas limited liability company
Its:  Managing Member

By:  Saigebrook Development, LLC,
a Florida limited liability company
Its:  Managing Member

By:  __________________________
Name: Lisa M. Stephens
Title:  Manager

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By:  Saigebrook Development, LLC,
a Florida limited liability company
Its:  Managing Member

By:  __________________________
Name: Lisa M. Stephens
Title:  Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By:  O-SDA Industries, LLC,
a Texas limited liability company
Its:  Sole Member

By:  __________________________
Name: Megan D. Lasch
Title:  Managing Member
### AMENDED MEMBER INFORMATION SCHEDULE
TO THE
FIRST AMENDED AND RESTATED
OPERATING AGREEMENT OF
CANOVA PALMS, LLC

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<thead>
<tr>
<th>Name and Address</th>
<th>Capital Contribution</th>
<th>Taxpayer Identification No.</th>
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<tbody>
<tr>
<td><strong>Managing Members:</strong></td>
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<tr>
<td>Saigebrook Canova, LLC</td>
<td>$100.00</td>
<td>45-3062708</td>
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<tr>
<td>220 Adams Drive Ste. 280 #138</td>
<td></td>
<td></td>
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<tr>
<td>Weatherford, Texas 76086</td>
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<td><strong>Administrative Member:</strong></td>
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<tr>
<td>O-SDA Canova, LLC</td>
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<td>80-0641068</td>
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<tr>
<td>5714 Sam Houston Circle</td>
<td></td>
<td></td>
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<tr>
<td>Austin, Texas 78731</td>
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<td><strong>Investor Member:</strong></td>
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<tr>
<td>Hunt Capital Partners Tax Credit Fund LP</td>
<td>$__________</td>
<td>[__________]</td>
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<tr>
<td>15910 Ventura Boulevard, Suite 1100</td>
<td>(subject to adjustment as provided in the Agreement)</td>
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<tr>
<td>Encino, California 91436</td>
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(subject to adjustment as provided in the Agreement)
EXHIBIT O

PURCHASE OPTION AGREEMENT
PURCHASE OPTION AGREEMENT

This Purchase Option Agreement (this “Agreement”) is made and entered into as of this February 1, 2019, by and between Canova Palms, LLC, a Texas limited liability company ("Owner"), Saigebrook Canova, LLC, a Texas limited liability (the “Offeree”), HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”) with reference to the following recitals of fact:

REcITALS:

A. WHEREAS, Owner owns that certain real property located in the City of Irving, State of Texas and more particularly described on Exhibit A attached hereto and incorporated herein by this reference, and owns certain improvements situated thereon, commonly known as “Canova Palms,” a 58-unit low income housing development (collectively, the “Property” or the “Project”);

B. WHEREAS, Owner desires to grant to the Offeree an option to purchase the Property;

C. WHEREAS, the Investor Member is the sole investor member of the Owner and owns a 99.99% investor member interest (the “Interest”) in the Owner;

D. WHEREAS, the Investor Member desires to grant to the Offeree an option to purchase the Interest; and

E. WHEREAS, the parties hereto desire to set forth the terms of the option granted herein from the Owner to the Offeree to purchase the Property.

NOW, THEREFORE, the parties hereto agree as follows:

AGREEMENT:

1. Grant of Option. Owner and Investor Member hereby grants to the Offeree, or its nominee, which nominee may be O-SDA Canova, LLC, a Texas limited liability company (the “Administrative Member”), an option (the “Option”) to purchase the Property or the Interest on the terms and conditions set forth in this Agreement.

2. Term of Option. The term of the Option shall commence on the first day following the expiration of the Compliance Period and shall expire at 11:59 p.m. (Pacific Standard Time) on the last day of the 24th month following its commencement (the “Option Term”); provided, however, that the Option Term shall terminate upon the earlier removal and/or withdrawal of the Offeree as a managing member of the Owner pursuant to the terms of Owner’s First Amended and Restated Operating Agreement of even date herewith (as the same may be amended from time to time, the “Operating Agreement”); further provided, however, that if the Administrative Member remains the administrative member of the Owner pursuant to the terms of the Operating Agreement and is not in default under the Operating Agreement, then the Administrative Member will become the Offeree.
3. **Manner of Exercising Option.** The Offeree may exercise the Option by delivering to the Owner, at any time during the Option Term, written notice of such exercise, provided, however, that the Option may not be exercised if an Event of Default has occurred under the Operating Agreement and has not been cured under any applicable cure period. The notice of exercise shall state that the Option is exercised without condition or qualification.

4. **Purchase Price.**

   (a) **Purchase Price for the Project.** The purchase price for the Project pursuant to the Option shall be the greater of the following amounts, subject to the provisos set forth herein below:

   (i) **Debt and Taxes.** The sum of (i) the amount of any outstanding indebtedness secured by the Project, which indebtedness may be assumed by the Offeree, if permitted by the lenders associated therewith, (ii) the amount of federal, state and local tax liability that the partners of Owner would incur as a result of such sale, including any tax liability on amounts paid under this clause (ii) and clauses (iii) and (iv) below, (iii) the amount of unreimbursed deficiency in Code Section 42 low income housing tax credits recognized by the Investor Member as an investor member of Owner with respect to the Project as compared to the level agreed to be provided to the Investor Member by the Owner, and (iv) any Tax Credit Shortfall Payments and Asset Management Fees and other indemnification payments otherwise due and owing to the Investor Member under the terms of the Agreement.

   (ii) **Fair Market Value.** The fair market value of the Project (without regard to any customary costs) appraised as a low-income housing development to the extent continuation of such use is required under any restrictions applicable to the Project. The fair market value of the Project shall be determined as follows: Owner and the Offeree shall select a mutually acceptable appraiser. In the event the parties are unable to agree upon an appraiser the Owner and the Offeree shall each select an appraiser. For purposes of this subparagraph 4(b), the parties hereto agree that, on behalf of Owner, Investor Member, or a successor investor member in Owner, shall have the right to select the appraiser(s) that Owner is entitled to select hereunder. If the difference between the two appraisals is less than or equal to ten percent (10%) of the lower of the two appraisals, the fair market value shall be the average of the two appraisals. If the difference between the two appraisals is greater than ten percent (10%) of the lower of the two appraisals, then the two appraisers shall jointly select a third appraiser whose determination of fair market value shall be deemed binding on all parties. If the two appraisers are unable jointly to select a third appraiser, either the Owner or the Offeree may, upon written notice to the other, request that the appointment be made by the Case Management Center of the American Arbitration Association for Texas. The Owner and the Offeree shall each pay the costs of an appraiser they each select and shall share the cost equally of any appraiser jointly selected or any third appraiser, including any appraiser chosen by the American Arbitration Association chapter president.

   (b) **Purchase Price for the Interest.** The purchase price for the Interest pursuant to the Option shall be equal to (i) what the Investor Member would have received under the Operating Agreement assuming the Project was sold using the purchase price determined by Section 4(a) above.
5. **Reserved.**

6. **Completion of Sale.**

(a) Prior to the close of escrow on the Property following exercise of the Option, the Owner shall cause a title company to issue, upon close of escrow, an ALTA owner’s policy of title insurance dated as of the close of escrow, in an amount equal to the purchase price for the Property, showing title to the Property vested in the Offeree and showing as exceptions all encumbrances of record.

(b) Escrow for the sale of the Property shall close no earlier than the later of ninety (90) days after Owner’s receipt of the Offeree’s written notice of exercise of the Option, or the last day of the Compliance Period, at which time the purchase price shall be due and payable. The Offeree shall use its best efforts to obtain the consent to the sale of the holders of any mortgages or deeds of trust on the Property, if required. Owner shall convey the Property to the Offeree by means of a grant deed. The costs of such sale shall be apportioned between Owner and the Offeree according to the custom then in effect in Irving, Texas. The following shall apply to the sale of the Property: (i) the sale of the Property shall be on an as-is, where-is basis, without representation or warranty, except such representations or warranties as are customarily included in a grant deed in Texas; and (ii) rents, insurance, taxes and debt service then due and payable shall be apportioned as of the day the grant deed is actually recorded in the official records of Irving, Texas.

7. **Quitclaim Deed and Termination of Option.** Upon termination of the Option, the Offeree agrees, upon the Owner’s request, to (a) execute and deliver to the Owner a quitclaim deed, releasing all of the Offeree’s right, title and interest in and to the Option within thirty (30) days after termination of the Option Term, and (b) execute, acknowledge and deliver such other documents as may be reasonably required by the Owner’s title company to remove the cloud of the Option from title to the Property.

8. **Notices.** Notices, demands and communications between the parties shall be in writing and shall be served personally or by depositing the same in the certified United States mail, return receipt requested, post prepaid, and,

if intended for the Owner shall be addressed to:

    Canova Palms, LLC
    220 Adams Drive Ste. 280 #138
    Weatherford, Texas 76086
    Attention: Lisa Stephens
    Email: lisa@saigebrook.com
with a copy to:

Saigebrook Canova, LLC  
220 Adams Drive Ste. 280 #138  
Weatherford, Texas 76086  
Attention: Lisa Stephens  
Email: lisa@saigebrook.com

with a copy to:

Shutts & Bowen LLP  
200 South Biscayne Boulevard, Suite 4100  
Miami, Florida 33131  
Attention: Gary J. Cohen  
Email: gcohen@shutts.com

and:

HCP-ILP, LLC  
15910 Ventura Boulevard, Suite 1100  
Encino, California 91436  
Attention: Jeffrey N. Weiss  
Email: jeff.weiss@huntecompanies.com

with a copy to:

Nixon Peabody LLP  
799 9th Street NW, Suite 500  
Washington, DC 20001-5327  
Attention: Matthew W. Mullen  
Email: mmullen@nixonpeabody.com

if intended for Offeree shall be addressed to:
Saigebrook Canova, LLC  
220 Adams Drive Ste. 280 #138  
Weatherford, Texas 76086  
Attention:  Lisa Stephens  
Email: lisa@saigebrook.com

with a copy to:  
Shutts & Bowen LLP  
200 South Biscayane Boulevard, Suite 4100  
Miami, Florida 33131  
Attention: Gary J. Cohen  
Email: gcohen@shutts.com

or to such address as either party may have furnished to the other in writing as a place for the service of notice. Any notice so mailed shall be deemed to have been given on the delivery date, or the date that delivery is refused by the addressee, as shown on the return receipt.

9. Attorney’s Fees. In the event of any action or proceeding at law or in equity between any of the parties hereto to enforce any provision of this Agreement or to protect or establish any right or remedy of either party hereunder, the unsuccessful party to the litigation shall pay to the prevailing party all costs and expenses, including, without limitation, reasonable attorneys’ fees incurred therein by the prevailing party, and if the prevailing party recovers judgment in any action or proceeding, the costs, expenses and attorney’s fees shall be included in and as part of the judgment.

10. Miscellaneous.

(a) The Owner and the Offeree each represent and warrant that neither has had or will have any dealings with any person, firm, broker or finder in connection with the negotiation of this Agreement and/or the consummation of the transactions contemplated hereby. Each party hereto hereby agrees to indemnify and hold harmless the other party from and against costs, expenses or liabilities for compensation, commissions or charges which may be claimed by any broker, finder or similar party by reason of any actions of the indemnifying party.

(b) The rights and obligations of the Owner and the Offeree under this Agreement shall inure to the benefit of and bind the respective successors and assigns.

(c) The captions used herein are for convenience of reference only and are not part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

(d) Time is of the essence of each and every agreement, covenant and condition of this Agreement.

(e) This Agreement shall be interpreted in accordance with, and governed by, the laws of the State of Texas.
(f) This Agreement constitutes the entire agreement by and among the Owner and the Offeree with respect to the subject matter hereof, and supersedes all prior offers and negotiations, oral and written. This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by the Owner and the Offeree; provided, however, that no amendment or modification shall be effective unless consented to in writing by the Investor Member as the investor member of the Owner.

(g) Owner and the Offeree shall subordinate this Agreement to the lien of any deed of trust necessary to develop the Property.

(h) The parties shall not record this Agreement or a Memorandum of Purchase Option Agreement in the official records of Irving Texas or Texas.

(i) Capitalized terms not otherwise defined herein shall have the meanings set forth in the Operating Agreement.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, Owner and the Offeree have executed this Agreement as of the date first above written.

OWNER:

CANOVA PALMS, LLC,
a Texas limited liability company

By:  Saigebrook Canova, LLC,
a Texas limited liability company
Its:  Managing Member

By:  Saigebrook Development, LLC,
a Florida limited liability company
Its:  Managing Member

By:  
Name: Lisa M. Stephens
Title:  Manager

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, Owner and the Offeree have executed this Agreement as of the date first above written.

OFFEREE:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, Owner and the Offeree have executed this Agreement as of the date first above written.

OWNER:

CANOVA PALMS, LLC,
a Texas limited liability company

By: Saigebrook Canova, LLC,
a Texas limited liability company
Its: Managing Member

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: __________________________
Name: Lisa M. Stephens
Title: Manager

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, Owner and the Offeree have executed this Agreement as of the date first above written.

INVESTOR MEMBER:

HCP-ILP, LLC,
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company

Its: Manager

By:________________________
Name: Jeffrey A. Weiss
Title: President
EXHIBIT A

LEGAL DESCRIPTION

Tract 1: (Fee Simple)

Being Lot 1, in Block A, of J D I, LLC, ADDITION, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded under cc# 20080220250, Real Property Records, Dallas County, Texas.

Tract 2: (Easement Estate)

Non-Exclusive Access Easement as shown and created on plat across a portion of Lot 2, Block A, of J D I, LLC, ADDITION, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded under cc# 20080220250, Real Property Records, Dallas County, Texas.
EXHIBIT P

PLANS AND SPECIFICATIONS

[To be attached at the full funding of the First Installment.]
EXHIBIT Q

TITLE AND SURVEY REQUIREMENTS
SURVEY RESPONSIBILITIES AND SPECIFICATIONS

1. ____ Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses.

2. ____ Address(es) if disclosed in Record Documents, or observed while conducting the survey.

3. ____ Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by scaled map location and graphic plotting only.

4. ____ Gross land area (and other areas if specified by the client).

5. ____ Reserved.

6. ____ Current zoning classification, as provided by the insurer.

7. ____ Exterior dimensions of all buildings at ground level.

8. ____ Square footage of:
   ____ (1) exterior footprint of all buildings at ground level.
   ____ (2) other areas as specified by the client.

9. ____ Measured height of all buildings above grade at a location specified by the Company. If no location is specified, the point of measurement shall be identified.

10. ____ Determination of the relationship and location of certain division or party walls designated by the client with respect to adjoining properties (client to obtain necessary permissions). **AS APPLICABLE.**

11. ____ Determination of whether certain walls designated by the Company are plumb (Company to obtain necessary permissions).

12. Location of utilities (representative examples of which are listed below) existing on or serving the surveyed property as determined by:
   ____ (a) Observed evidence.
   ____ (b) Observed evidence together with evidence from plans obtained from utility companies or provided by client, and markings by utility companies and other appropriate sources (with reference as to the source of information).
   • Railroad tracks, spurs and sidings;
   • Manholes, catch basins, valve vaults and other surface indications of subterranean uses;
   • Wires and cables (including their function, if readily identifiable) crossing the surveyed property, and all poles on or within ten feet of the surveyed property. Without expressing a legal opinion as to the ownership or nature of the potential encroachment, the dimensions of all encroaching utility pole cross
members or overhangs; and

- utility company installations on the surveyed property.

12. ____ Governmental Agency survey-related requirements as specified by the Company, such as for HUD surveys, and surveys for leases on Bureau of Land Management managed lands.
13. ____ Names of adjoining owners of platted lands according to current public records.
14. ____ Distance to the nearest intersecting street.
15. ____ Observed evidence of current earth moving work, building construction or building additions.
16. ____ Proposed changes in street right of way lines, if information is available from the controlling jurisdiction. Observed evidence of recent street or sidewalk construction or repairs.
17. ____ Observed evidence of site use as a solid waste dump, sump or sanitary landfill.
18. ____ Location of wetland areas as delineated by appropriate authorities.
19. ____ (a) Locate improvements within any offsite easements or servitudes benefitting the surveyed property that are disclosed in the Record Documents provided to the surveyor and that are observed in the process of conducting the survey. **AS APPLICABLE.**
20. ____ Professional Liability Insurance policy obtained by the surveyor in the minimum amount of $1MM per occurrence / $2MM aggregate to be in effect throughout the contract term. Certificate of Insurance to be furnished upon request.
21. ____ Surveyor’s Certificate in the form attached.
SURVEYOR’S CERTIFICATE

To:

HCP-ILP LLC, a Nevada limited liability company, its successors and/or assigns and Hunt Capital Partners, LLC, a Delaware limited liability company its successors and/or assigns, Company, Title Company, Etc….:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1-4, 6(a),(b), 7(a),(b)(1),(c), 8-10, 11, 13, 14, 16-19 and 20 of Table A thereof. The field work was completed on ___________.

Date of Plat or Map: _____

(Surveyor’s signature, printed name and seal with Registration/License Number)
TITLE POLICY REQUIREMENTS

The title policy for the property must be acceptable to the Investor Members and must be in compliance with the following requirements:

1. The Owner’s Title Policy should be an extended coverage ALTA 2006 Owner’s Policy of Title Insurance with all requirements, general exceptions and standard exceptions deleted. The face amount of the policy should be in the amount of the full development budget for the Project (to be provided at a later date). The policy must name the Company as the insured and ensure the fee interest in the Property is vested in the name of the Company free and clear of all preexisting liens and encumbrances except those approved by the Company.

2. The title policy must be written on the current standard ALTA owner’s policy form or a similar form approved by the Investor Members. If the property is located in a state in which ALTA forms of coverage are not used or are unacceptable, the title policy shall provide similar coverage.

3. The title policy shall be issued as an extended coverage policy that insures against and/or deletes any pre-printed or standard exceptions.

4. The amount of the title policy must equal the amount of the full development budget as set forth in Exhibit B.

5. The effective date of the title policy shall be no earlier than the Closing Date. Upon the resyndication of the Investor Member’s Interest, the effective date shall be brought down to the date of admission of the substitute Investor Member.

6. Schedule A of the title policy must (a) name as the “Insured” the Company as constituted as of the issuance date of the title policy and as may be reconstituted from time to time, (b) insure that the property is owned solely by the Company, and (c) insure that the Company’s interest in the property is fee simple absolute or a leasehold, as applicable.

7. The legal description of the property described in the title policy must match that shown on the survey of the property and must include any appurtenant easements.

8. If Schedule B of the title policy indicates the presence of any easements that are not found on the survey and identified by recording information, the title policy must provide affirmative insurance against any loss that conflicts with the use or diminishes the value of the improvements resulting from the exercise by the holder of such easement or its right to use or maintain that easement.

9. If the title policy includes any exception for taxes, assessments or other items which may become a lien on the property, it must insure that such taxes, assessments or items are “not yet due and payable.”

10. Any tenant’s rights exception should contain a qualification that such rights are “to leaseholds of parties in possession, as tenants only, under unrecorded leases.”
11. The Owner’s Policy shall include such other endorsements whenever available as follows: (1) ALTA 9 (comprehensive endorsement), (2) Land Same as Survey, (3) Contiguity (if applicable), (4) Access, (5) Tax Lot, (6) Subdivision Map Act, (7) Zoning, (8) Future Improvements/Blanket Easement (similar to CLTA 103.1-06, (9) Mechanic’s Lien, (10) Environmental, (11) Non-imputation (similar to the ALTA 15.1-06 and adding HCP-ILP LLC, a Nevada limited liability company and Hunt Capital Partners, LLC, a Delaware limited liability company to the parties identified as incoming entities), (12) Special Valuation (tax credit benefit or maximum actual loss), (13) Utility facility (14) Fairway (if ALTA 2006 form not used), (15) Street address (if possible), (16) Mineral (if applicable), (17) Arbitration, (18) Sample Datedown (the form of this endorsement, when issued, must bring down the date of the final Policy) and (19) Gap (if applicable).

12. The Policy should reflect that the title is vested as fee simple in Canova Palms, LLC.

13. Prior to the issuance of the title policy, the Investor Members and their legal counsel shall each be provided with recorded copies of all exceptions to title coverage. Upon the issuance of the title policy, each shall be provided with a true, correct and complete copy.
EXHIBIT R

FORM OF PAYMENT CERTIFICATE
PAYMENT CERTIFICATE

SAIGEBROOK CANOVA, LLC, a Texas limited liability company, as the co-managing member of CANOVA PALMS, LLC, a Texas limited liability company, and SAIGEBROOK CANOVA, LLC, a Texas limited liability company (“Co-Managing Member”), O-SDA CANOVA, LLC, a Texas limited liability company (“Administrative Member”), SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook Development”), O-SDA INDUSTRIES, LLC, a Texas limited liability company (“O-SDA Developer”), Lisa M. Stephens, individually and Megan D. Lasch, individually, as guarantors, hereby certify to HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”), with respect to the Investor Member’s _______________ Installment (as that and all other capitalized terms used herein are defined in the First Amended and Restated Operating Agreement of the Company dated as of February 1, 2019 (the “Agreement”)), as follows:

[revise conditions as applicable]

1. The Installment Funding Conditions have been achieved and/or satisfied.

2. The Company is not in default in any of its obligations under the Project Documents to which it is a party, no event has occurred which, with the giving of notice or the passage of time, or both, could constitute a default by the Company under the Project Documents to which it is a party and no Bankruptcy of the Company has occurred.

3. All of the representations and warranties of the Managing Member set forth in the Agreement are true and correct in all respects as of the date hereof as if made thereon.

4. The covenants, duties, and obligations of the Managing Member set forth in the Agreement that are required to have been satisfied on or before the date hereof have been satisfied, and the Managing Member has made all payments for all costs incurred by the Company and there are no unpaid costs or invoices outstanding [except [____________]].[List all unpaid costs/invoices, if none, delete bracketed language.]

5. The Managing Member and Company are still in good standing, are still authorized to engage in the activities as set forth in the Agreement, and except as provided to the Investor Member there have been no changes or amendments to the articles, by-laws, certificates or other organizational documents of the Managing Member or the Company.

6. There has been no material adverse change in the financial condition of any Managing Member or Guarantor.

7. No Managing Member is in default in any of its obligations under the Agreement or any of the Project Documents to which it is a party, no event has occurred which, with the giving of notice or the passage of time, or both, could constitute a default by any Managing Member under the Agreement or any of the Project Documents to which it is a party and no Bankruptcy of any Managing Member has occurred.

8. No Guarantor is in default in any of its obligations under the Agreement or any of the Project Documents to which it is a party, no event has occurred which, with the giving of
notice or the passage of time, or both, could constitute a default by any Guarantor under the Agreement or any of the Project Documents to which it is a party and no Bankruptcy of any Guarantor has occurred.

9. None of the Lenders has refused to fund all or any disbursement of its Loan.

10. The Installments of the Investor Member’s Capital Contribution previously contributed to the Company by the Investor Member, and the proceeds of the loans previously funded to the Company by the Lenders have been applied by the Company in accordance with the Development Budget for the Apartment Complex approved by the Investor Member.

11. The undersigned is not aware of the existence of any fact or circumstance which makes untrue or misleading in any material respect any of the statements or information provided to the Investor Member in support of the Funding Conditions for the Installment to which this Certificate relates.

12. There have been no changes or modifications of any kind to the Plans and Specifications, except as disclosed to the Investor Member in writing.

13. All conditions to the effectiveness of the Carryover Allocation imposed by the Code, the Agency or otherwise, which are required to be satisfied prior to the funding of the Installment to which this Certificate relates, have been satisfied, except for the following:

_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________
_____________________________________________________________________

14. The Managing Member has fully complied with furnishing the Investor Member any reports or other information required to be provided by the Managing Member pursuant to Article 18 of the Agreement.

(SIGNATURE APPEARS ON THE FOLLOWING PAGE)
This certificate is made on the date hereof to induce the Investor Member to contribute the __________ Installment as set forth in the Agreement.

Dated: ____________________

SAIGEBROOK CANOVA, LLC, a Texas limited liability company

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: ______________________________
Name: Lisa M. Stephens
Its: Manager

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: ______________________________
Name: Lisa M. Stephens
Its: Manager

_________________________________
Lisa M. Stephens, an individual
O-SDA CANOVA, LLC, a Texas limited liability company

By: O-SDA Industries, LLC, a Texas limited liability company, its sole member

By: _________________________________
Name: Megan D. Lasch
Its: Managing Member

O-SDA INDUSTRIES, LLC, a Texas limited liability company

By: _________________________________
Name: Megan D. Lasch
Its: Managing Member

_________________________________
Megan D. Lasch, an individual
EXHIBIT S

FORM OF LIHTC CERTIFICATE
LIHTC CERTIFICATE

THIS CERTIFICATE is made to HCP-ILP, LLC, a Nevada limited liability company, and its successors and assigns (the “Investor Member”) as of February 1, 2019, by Saigebrook Canova, LLC, a Texas limited liability company and O-SDA Canova, LLC, a Texas limited liability company (referred to herein, even if only one, as the “Managing Members”), the managing members of Canova Palms, LLC, a Texas limited liability company (the “Company”), with reference to the following facts:

WHEREAS:

A. The Company is the owner of the Canova Palms apartment complex located at 1717 Irving Blvd., Irving, Dallas County, Texas (the “Apartment Complex”);

B. The Investor Member, organized for the purpose, inter alia, of acquiring limited liability company interests in limited liability companies owning housing projects that qualify for low income housing tax credits (the “Housing Tax Credits”) under Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”), desires to acquire a limited liability company interest (the “Interest”) in the Company; and

C. Counsel to the Investor Member has been requested to render a tax opinion as to the availability of Housing Tax Credits with respect to the Apartment Complex; and

D. All terms not defined herein shall have the meaning set forth in the First Amended and Restated Operating Agreement of the Company dated as of February 1, 2019.

NOW, THEREFORE, to induce the Investor Member to acquire its Interest and to induce counsel to the Investor Member to render a tax opinion as to the availability of Housing Tax Credits with respect to the Apartment Complex, the Managing Member hereby certifies that the following are true, correct and complete on the date hereof and will remain true, correct and complete throughout the Compliance Period and that the Managing Member shall take no action which would make any of the following untrue:

- The Apartment Complex, consisting of one residential building, is comprised of 58 residential rental units (whether or not occupied). The aggregate square footage of the portions of the Apartment Complex is as follows:

<table>
<thead>
<tr>
<th>Type:</th>
<th>Housing Tax Credit Units</th>
<th>Market Rate Apartment Units</th>
<th>Commercial Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of units:</td>
<td>50</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Aggregate square feet:</td>
<td>36,792</td>
<td>6,552</td>
<td>0</td>
</tr>
</tbody>
</table>

- Each of the Housing Tax Credit Units will be occupied by tenants whose income is 60% or less of area median gross income, i.e., a family or individuals whose total income, determined in a manner consistent with the determination of lower income families or individuals under Section 42 of the Code and Section 8 of the United States Housing Act of 1937.
(“Section 8”), does not exceed the amount of income levels set forth in the table below, as may be adjusted in accordance with area median income figures provided by U.S. Department of Housing and Urban Development for future years:

[INSERT INCOME LIMIT TABLE]

Furthermore, five (5) of the Housing Tax Credit Units will be occupied by persons whose incomes are at or below 30% of the established area median gross income, twenty (20) of the Housing Tax Credit Units will be occupied by persons whose incomes are at or below 50% of the established area median gross income and twenty-five (25) of the Housing Tax Credit Units will be occupied by persons whose incomes are at or below 60% of the established area median gross income, in accordance with the requirements of the Project Documents.

There are no tenants as of the Closing because the Apartment Complex has not yet been built.

- There are eight (8) units in the Apartment Complex which are not Housing Tax Credit Units. The units in the Apartment Complex which are not Housing Tax Credit Units are not above the average quality standard of the Housing Tax Credit Units.

- On August 15, 2018, the Apartment Complex was granted a Credit Reservation of Housing Tax Credits for the year 2018 in the amount of $890,850 by the Texas Department of Housing and Community Affairs (the “Agency”), the appropriate “housing credit agency” (as defined in Section 42(h)(7)(A) of the Code) of the State of Texas which is the State having jurisdiction over the Apartment Complex. Effective on December 20, 2018, the Apartment Complex received a Carryover Allocation of Housing Tax Credits for the year 2018 in the amount of $890,850 from the Agency. Such Credit Reservation and Carryover Allocation were made based on the application for Housing Tax Credits dated January 23, 2018 and submitted to the Agency for the Apartment Complex, and are in full force and effect.

- The Eligible Basis, as defined in Section 42 of the Code, for the Apartment Complex is projected as follows:
  
  – Structure and buildings: $__________
  – Personal Property: $__________
  – Site Work: $__________

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)
This Certificate is intended to take effect as a sealed instrument, shall inure to the benefit of the Investor Member and its successors and assigns and shall be binding upon each of the undersigned and each of its successors and assigns. This Certificate may be executed in any number of counterparts which together shall constitute one instrument. This instrument, and all rights and remedies of the parties, shall be determined as to their validity, construction, effect and enforcement, and in all other respects of the same or different nature, by the internal laws of the State of Texas. The undersigned acknowledge that tax counsel to the Investor Member will rely upon the foregoing certifications for purposes of its preparation and delivery of a tax opinion in connection with this transaction and hereby consent to such reliance.

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: ____________________________
Name: Lisa M. Stephens
Title: Manager

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: ____________________________
Name: Megan D. Lasch
Title: Managing Member
This Certificate is intended to take effect as a sealed instrument, shall inure to the benefit of the Investor Member and its successors and assigns and shall be binding upon each of the undersigned and each of its successors and assigns. This Certificate may be executed in any number of counterparts which together shall constitute one instrument. This instrument, and all rights and remedies of the parties, shall be determined as to their validity, construction, effect and enforcement, and in all other respects of the same or different nature, by the internal laws of the State of Texas. The undersigned acknowledge that tax counsel to the Investor Member will rely upon the foregoing certifications for purposes of its preparation and delivery of a tax opinion in connection with this transaction and hereby consent to such reliance.

SAIGEBROOK CANOVA, LLC,

a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company

Its: Managing Member

By: ________________________________

Name: Lisa M. Stephens
Title: Manager

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company

Its: Sole Member

By: ________________________________

Name: Megan D. Lasch
Title: Managing Member
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet
Documentation of Request for Consent Cover Page §11.9(c)(6)(A)(ii)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Canova Palms

ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program)

Describe and attach the request made by the Applicant or Affiliate to the Third Party asking for consent:

Letter to Hunt Capital requesting to add 811 units

ATTACH PDF OF THE REQUEST FROM THE APPLICANT OR AFFILIATE TO THE THIRD PARTY BEHIND THIS PAGE.
February 28, 2019

Mr. William Teschke
Director
Hunt Capital Partners
15910 Ventura Blvd., Ste. 1100
Encino, CA 91436

Re: 811 Units – Canova Palms

Dear Billy:

Per the 2019 TDHCA Qualified Allocation Plan, we are hereby submitting a request for your consideration to add up to an additional ten 811 program units at Canova Palms, in Irving, Texas.

Under the First Amended and Restated Operating Agreement for Canova Palms, the Managing Member’s Authority is restricted under section 5.3 without consent of the Investor Member to modify any agreement with the Agency, to enter into any new Project Document or amend any Project Document. As such, Investor Member consent would be required to add 811 units other than those already committed to by Canova Palms in its Participation Agreement with the Department.

A written response is required by TDHCA for submission in our 2019 applications. If you have any questions about this request, you may reach me at 352-213-8700.

Sincerely,

Lisa M. Stephens
President
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet
Documentation of Request for Consent Cover Page §11.9(c)(6)(A)(iii)

2019 Uniform Multifamily Application: #19285 & 19277

Existing Development Name: Canova Palms

iii) Documentation that the Third Party possessing the legal right to withhold a required consent
has provided notice of their decision not to provide a required consent (Example: Letter from the
Third Party that they are denying an Existing Development from participation).

Describe and attach the response from the Third Party that was received by the Applicant or Owner
that reflects their decision not to provide the requested consent:
Letter from Hunt denying the request to add 811 units.

ATTACH PDF OF THE RESPONSE FROM THE THIRD PARTY THAT REFLECTS THEIR DECISION
TO DENY THE REQUESTED CONSENT BEHIND THIS PAGE.
MEMORANDUM

March 1, 2019

Texas Department of Community Affairs (TDHCA)
Attn: Spencer Duran, Section 811 PRAC Program Manager
221 E. 11th Street
Austin, TX 78701

RE: #18361 Canova Palms – additional 811 units

Mr. Duran:

As the investor member in Canova Palms, LLC, we have reviewed your request to increase the number of Section 811 units at the Canova Palms project in Irving. Canova Palms was underwritten with 10 Section 811 units (out of 58 total units) at the time HCP entered Canova Palms, LLC. The addition of more Section 811 units would put a heavier burden on property management to review tenant referrals and coordinate case management. In our experience, higher turnover is often associated with these units. The addition of more Section 811 units would therefore have a detrimental impact on the underwriting of the expected lease-up and operations of the property that HCP approved internally and represented to its investors. As such, HCP cannot approve the addition of more Section 811 units for this property at this time.

Should you need any further assistance, please feel free to contact me with any questions at (818) 380-6112 or via email at william.teschke@huntcompanies.com.

Sincerely,

[Signature]

William Teschke
Director, Project Management
Hunt Capital Partners
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Introduction

The purpose of this Packet is to formalize the process by which an Applicant establishes its lack of legal authority to commit Section 811 PRA Program Units in a Development as described pursuant to 10 TAC §11.9(c)(6)(A) of the Qualified Allocation Plan ("QAP").

This Packet is required only if all of the following conditions are true:

1) An Applicant is selecting points under Tenant Populations with Special Housing Needs pursuant to 10 TAC §11.9(c)(6) AND

2) An Applicant is seeking to establish its lack of legal authority where an Applicant or Affiliate Owns or Controls an Existing Development that otherwise meets the criteria established by 10 TAC §11.9(c)(6)(B) of the QAP.

One Packet must be submitted for each Existing Development for which the Applicant or Affiliate is seeking a determination that the needed legal authority is lacking and that the Development can be excluded from consideration.

Instructions: Complete the Questionnaire on page 2 of this packet, then complete the fields on each of the subsequent form cover pages, and attach the denoted documentation for each item behind each included cover pages. Submit each Packet, including Attachments in PDF format and include bookmarks for each item. The Packet must be saved and uploaded as one standalone file to the Serv-U folder associated with each 2019 Multifamily Application.

This Packet and all supporting documentation must be uploaded to the Department’s Serv-U system at the same time as, but as a separate document from, the Application. Refer to the Multifamily Programs Procedures Manual posted at http://www.tdhca.state.tx.us/multifamily/applyfunds.htm for an explanation of the process to set-up a Serv-U Account if needed.

Questions about this Packet may be submitted to Spencer Duran: spencer.duran@tdhca.state.tx.us
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Questionnaire

2019 Uniform Multifamily Application #19285 & 19277

1) Selecting Points under 10 TAC §11.9(c)(6)?
   ☐ No – STOP. PACKET SUBMISSION NOT NEEDED
   ☑ Yes – CONTINUE TO QUESTION 2

2) To obtain Points under 10 TAC §11.9(c)(6), Applicants must first attempt to meet the requirements in §11.9(c)(6)(B).
   Does the Applicant Own or Control an Existing Development that appears on the List of Qualified Existing Developments?
   ☐ No – STOP. PACKET SUBMISSION NOT NEEDED
   ☑ Yes – CONTINUE TO QUESTION 3

3) Is the Applicant seeking to establish its lack of legal authority where an Applicant Owns or Controls an Existing Development that appears on the List of Qualified Existing Developments?
   ☐ No - STOP. PACKET SUBMISSION NOT NEEDED
   ☑ Yes – CONTINUE TO QUESTION 4

4) Can the Applicant provide all three of the following items listed under §11.9(c)(6)(A)(i)-(iii)?
   ☐ No - STOP. PACKET SUBMISSION NOT NEEDED
   ☑ Yes – CONTINUE TO COVER PAGES
   (i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement);

   (ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program); AND

   (iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party identified in (ii) that they are denying an Existing Development from participation).
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Legal Right to Withhold Cover Page §11.9(c)(6)(A)(i)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Kaia Pointe

(i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement)

Describe the specific legally enforceable agreement being attached: Second Amended & Restated Operating Agreement

Provide the name of the Third Party: Boston Capital Corporation

List the specific citation in the agreement that clearly denotes the Third Party has a legal right to withhold consent: Section 6.2 - Restrictions on Authority - para a(x) and a(xiii); Section 6.5 Duties and Obligations - para p

List the page number in the agreement that clearly denotes the Third Party has a legal right to withhold consent: 46-47, 53 and definitions on page 3, 19, 20, 21 & 22

ATTACH PDF OF THE LEGALLY ENFORCEABLE AGREEMENT BEHIND THIS PAGE.
KAIA POINTE, LLC

SECOND AMENDED AND RESTATED OPERATING AGREEMENT

Dated as of October 1, 2017
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KAIA POINTE, LLC
SECOND AMENDED AND RESTATED
OPERATING AGREEMENT

This SECOND AMENDED AND RESTATED OPERATING AGREEMENT dated as of October 1, 2017, is by and among O-SDA KAIA, LLC, a Texas limited liability company ("O-SDA" or the "Co-Managing Member"), SAIGEBROOK KAIA, LLC, a Florida limited liability company (the "Administrative Member"), RDEVKAIA, LLC, a California limited liability company (the "Class B Special Member"), BOSTON CAPITAL CORPORATE TAX CREDIT FUND XLIV, A LIMITED PARTNERSHIP, a Massachusetts limited partnership ("BCCTCF" or the "Investment Member"), BCCC, INC., a Massachusetts corporation ("BCCC" or the "Special Member" and together with BCCTCF, the "Non-Managing Members"), and BOSTON CAPITAL DIRECT PLACEMENT, A LIMITED PARTNERSHIP, a Massachusetts limited partnership (the "Original Investment Member").

Preliminary Statement

KAIA POINTE, LLC (the "Company") was formed as a limited liability company under the Act pursuant to an Operating Agreement dated August 25, 2016 (the "Original Agreement") by and between O-SDA and MEGAN D. LASCH, an individual resident of the State ("Lasch"), and Articles of Organization filed in the Filing Office on August 16, 2016 (the "Articles").

The Original Agreement was amended and restated pursuant to that certain First Amended and Restated Operating Agreement dated as of August 23, 2017, pursuant to which Lasch withdrew from the Company and the Original Investment Member was admitted as an investment member of the Company (the "Existing Operating Agreement").

The purposes of this amendment to and restatement of the Existing Operating Agreement are to (i) provide for the withdrawal of the Original Investment Member as a Member, (ii) admit the Investment Member as a Member, (iii) admit the Special Member, the Class B Special Member, and the Administrative Member as Members, (iv) designate O-SDA as the Co-Managing Member, and (v) set out more fully the rights, obligations and duties of the Members.

NOW, THEREFORE, it is agreed and certified, and the Existing Operating Agreement is hereby amended and restated in its entirety, as follows:

ARTICLE I
Defined Terms

The defined terms used in the Agreement shall have the meanings specified below:

"Act" means the Revised Uniform Limited Liability Company Act as in effect in the State.

"Actual Credit" means, with respect to a particular Fiscal Year, the total amount of Tax Credit properly allocable by the Company to the Investment Member for such Fiscal Year. The Actual Credit shall be retroactively revised if the amount of Tax Credit properly allocable to the Investment Member is revised as the result of an audit or is recaptured.
“Adjusted Capital Account Deficit” means, with respect to any Member, the deficit balance, if any, in such Member’s Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts which such Member is obligated to restore pursuant to any provisions of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), respectively; and


The foregoing definition of Adjusted Capital Account Deficit and the application of such term in the manner provided in Section 10.4(b)(x) is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations and shall be interpreted consistently therewith.

“Administrative Member” means Saigebrook Kaia, LLC, a Florida limited liability company.

“Admission Date” means the first date on which all parties hereto shall have executed this Agreement.

“Adverse Consequences” means all actions, suits, proceedings, hearings, investigations, charges, complaints, claims, demands, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, reasonable amounts paid in settlement, liabilities, obligations, taxes, liens, losses, expenses and fees, including court costs and reasonable attorneys’ fees and expenses.

“Affiliate” means as to a specified Person, (i) such Person; (ii) each member of the Immediate Family of such Person; (iii) each legal representative, successor or assignee of any Person referred to in the preceding clauses (i) or (ii); (iv) each trustee of a trust for the benefit of any Person referred to in the preceding clauses (i) or (ii); or (v) any other Person (a) who directly or indirectly controls, is controlled by, or is under common control with such Person, (b) who is an officer of, director of, partner in or trustee of, or serves in a similar capacity with respect to, such Person or of which such Person is an officer, director, partner or trustee, or with respect to which such Person serves in a similar capacity, (c) who, directly or indirectly, is the beneficial owner of ten percent (10%) or more of any class of equity securities of such Person or of which such Person is directly or indirectly the owner of ten percent (10%) or more of any class of equity securities, (d) who is an officer, director, general partner, trustee or holder of ten percent (10%) or more of the voting securities or beneficial interests of any Person referred to in the foregoing clauses (v) (b) or (v) (c), or (e) who, whatever such Person’s title, performs functions for such Person or any Affiliate of such Person similar to a Chairman or member of the Board of Directors, or executive officer such as the President, Executive Vice President or Senior Vice President, Corporate Secretary, or Treasurer, or any Person holding a five percent (5%) or more equity interest in such Person, or any Person having the power to direct or cause the direction of such Person whether through the ownership of voting securities, by contract or otherwise. An
Affiliate of any Investment Member or of any Investment General Partner does not include an employee of a Person or a Person who is a partner in a partnership or joint venture with any Investment Member or any other Affiliate of any Investment Member if such Person is not otherwise an Affiliate of any Investment Member or any Investment General Partner. For purposes of this definition, the term Affiliate shall not be deemed to include any law firm (or member or associate or employee thereof) providing legal services to any Investment Member, any Investment General Partner, the Managing Member, the Class B Special Member or any Affiliate of any of them.

“AFR” means the long-term “applicable federal rate” as defined and determined in the manner set forth in Section 1274 of the Code.

“After-Tax Basis” means with respect to any payment to be received by a Person (or, in the case of a pass-through entity, the partners or members of such Person), the amount of such payment supplemented by a further payment or payments so that, after deducting from such payments the amount of all Taxes (net of any current credits, deductions or other tax benefits arising from the payment by such Person (or its partners or members) of any amount, including Taxes, for which the payment to be received is made) imposed currently on such Person by the Internal Revenue Service or any other taxing authority with respect to such payments, the balance of such payments shall be equal to the original payment received. For the purposes of this definition, and for purposes of any payment to be made to a Person (or its partners or members) on an After-Tax Basis, it shall be assumed that federal, state and local taxes are payable at the highest combined marginal federal and state statutory income tax rate (taking into account the deductibility of state income taxes for federal income tax purposes) applicable to corporations from time to time.

“Agency” means the Credit Agency or any other Governmental Authority with jurisdiction over the Apartment Complex, or the business and operations of the Company.

“Agreed-Upon Set-Aside” means the set aside tests agreed upon by the Company whereby (i) eight (8) of the units in the Apartment Complex must be occupied by individuals with incomes equal to 30% or less of area median income, as adjusted for family size, (ii) thirty-two (32) of the units in the Apartment Complex must be occupied by individuals with incomes equal to 50% or less of area median income, as adjusted for family size, (iii) forty (40) of the units in the Apartment Complex must be occupied by individuals with incomes equal to 60% or less of area median income, as adjusted for family size, (iv) if requested by TDHCA, up to ten (10) of the units in the Apartment Complex will be Section 811 Units, or (v) such other set aside test agreed upon by the Company with the approval of the Special Member, the Lender and the Agency.

“Agreement” means this Second Amended and Restated Operating Agreement of the Company, including Schedule A, as amended from time to time.

“Allocation Regulations” means the Treasury Regulations issued under Sections 704(b) and 752 of the Code, as the same may be modified or amended from time to time. In the event that the Allocation Regulations are revised or amended subsequent to the date of this Agreement, references herein to sections or paragraphs of the Allocation Regulations shall be deemed to be
references to the applicable sections or paragraphs of the Allocation Regulations as then in effect.

“Apartment Complex” means the real property located in Georgetown, Williamson County, Texas, as more fully described in Exhibit A attached hereto, together with (i) all buildings and other improvements constructed or to be constructed thereon, including the Low Income Units and the Market Rate Units, and (ii) all furnishings, equipment and personal property located thereon or otherwise covered by the Mortgages.

“Applicable Percentage” has the meaning set forth in Section 42(b) of the Code.

“Applied Amounts” shall have the meaning set forth in Section 6.10.

“Articles” shall have the meaning set forth in the Preliminary Statement.

“Asset Management Fee” means the fee payable to BCCTCF or an Affiliate thereof pursuant to the provisions of Section 6.12(b).

“Assignee” shall have the meaning set forth in Section 4.1(c).

“Auditors” means Novogradac & Company, or such other firm of independent certified public accountants, which accountants must be registered with the Public Company Accounting Oversight Board, as may be engaged by the Managing Member with the Consent of the Special Member for the purposes of preparing the Company’s income tax returns, auditing the books and records of the Company and certifying financial reports of the Company.

“BCCC” means BCCC, Inc., a Massachusetts corporation, and its successors and assigns.

“BCCTCF” means Boston Capital Corporate Tax Credit Fund XLIV, A Limited Partnership, a Massachusetts limited partnership, and its successors and assigns.

“Best Knowledge” shall mean and include, in the case of a specified Person, (i) actual knowledge and (ii) that knowledge which a prudent businessperson (including, in the case of an Entity, the general or managing partners, officers, directors and key employees of such Entity) should have obtained in the management of his or her business affairs after making due inquiry and exercising due diligence with respect thereto. In connection therewith, the knowledge (both actual and constructive) of any general or managing partner, director, officer or key employee of an Entity shall be deemed to be the knowledge of the Entity.


“Capital Account” has the meaning set forth in Section 4.1(b).

“Capital Contribution” means the total value of cash or property contributed and agreed to be contributed to the Company by each Member, as set forth in Schedule A. Any reference in this Agreement to the Capital Contribution of a then Member shall include a Capital Contribution previously made by any prior Member for the Interest of such then Member.
“Capital Proceeds” means the proceeds of a Capital Transaction less (a) all reasonable costs and expenses incurred by the Company in connection with the applicable Capital Transaction giving rise to such proceeds, (b) all principal and interest payments and other sums paid on or with respect to any indebtedness of the Company, required to be paid in connection with such Capital Transaction (but not including any Subordinated Loans, Voluntary Loans, unpaid Development Fee or amounts under a Deferred Development Fee Note and other fees payable to the Members), and (c) any Operating Expenses then due and payable and for which there are insufficient Cash Receipts to pay. Capital Proceeds shall include all principal and interest payments with respect to any note or other obligation received by the Company in connection with the applicable Capital Transaction.

“Capital Transaction” means a refinancing of any Company indebtedness or a sale, exchange, eminent domain taking, damage or destruction (whether insured or uninsured), insured title defect or other disposition of all or any portion of the Apartment Complex (other than an event generating proceeds of any business or rental interruption insurance), but excluding the payment of Capital Contributions.

“Carryover Allocation” means a valid and enforceable carryover allocation for 2016 Tax Credits issued by the Credit Agency to the Company in the annual amount of not less than $1,373,400 in the aggregate of Tax Credits.

“Carryover Certification” means the issuance, in a form and in substance satisfactory to the Investment Member, of the certification of the Auditors and all supporting documentation that, with respect to the carryover allocation of 2016 Tax Credits, as of a date no later than the last to occur of December 31, 2017 or twelve (12) months after the date of such carryover allocation, the Company had incurred capitalizable costs with respect to the Apartment Complex of at least ten percent (10%) of the Company’s reasonably expected basis in the Apartment Complex as of December 31, 2017, so that each building in the Apartment Complex constitutes a “qualified building” for the purposes of Section 42(h)(1)(E)(ii) of the Code.

“Cash Available for Debt Service Requirements” for any period, means the excess of (i) all cash actually received by the Company on a cash basis from normal operations during such period, including but not limited to rental revenues and, to the extent applicable, government subsidy payments (although those portions of a subsidy payment(s) that are in excess of Section 42 maximum allowable rents or achievable rents as verified in writing by the Investment Limited Partner shall not be included), but specifically excluding the proceeds of insurance (other than business or rental interruption insurance), loans, Capital Transactions or Capital Contributions over (ii) the greater of (x) all cash requirements of the Company properly allocable to such period of time on an accrual basis (not including distributions to Members out of Cash Flow of the Company or fees payable from Cash Flow) and, on an annualized basis, all projected expenditures, including those of a seasonal nature, which might reasonably be expected to be incurred on an unequal basis during a full annual period of operation as determined by the Auditors but specifically excluding Debt Service Requirements or (y) the Investment Member’s underwriting expenses, as shown on Schedule B attached hereto and increased by 3% per annum (or any portion thereof) from and after the Admission Date. For purposes of this definition, (A) cash requirements of the Company shall include to the extent not otherwise covered above, full funding of reserves (including, without limitation, funding of the Replacement Reserve),
insurance, utilities, fees not payable pursuant to Section 10.2 hereof, normal repairs, real estate taxes at fully assessed levels assuming a fully improved property and necessary capital improvements and (B) if free rent or other rental concessions shall have been granted to tenants, the calculation of rental revenues under clause (i) of the preceding sentence shall be adjusted so that the effect of such concessions is amortized equally over the term of all leases (excluding renewal periods) to which it applies.

“Cash Expenditures” means all disbursements of cash during a specified Fiscal Year (other than distributions to Members), including, without limitation, payment of operating expenses, payment of principal and interest on any Company indebtedness (other than payments of principal and interest on any Subordinated Loans, Voluntary Loans or any Mortgage Loans made to the Company the debt service on which is payable solely from Cash Flow), the cost of repairs to the Apartment Complex, amounts allocated to reserves by the Managing Member and the payment of any fees other than the Asset Management Fee, the Company Management Fee, the Incentive Management Fee and the Development Fee. In addition, except for a net increase resulting from interest earnings, the net increase during such Fiscal Year in any escrow account or reserve maintained by or for the Company shall be considered a Cash Expenditure during such Fiscal Year. The term Cash Expenditures shall not include Development Costs. Cash Expenditures payable to Members or Affiliates of Members shall be paid after Cash Expenditures payable to third parties.

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

“Cash Receipts” means all cash receipts of the Company from whatever source derived other than from a Capital Transaction, including, without limitation, rental revenues and government subsidy payments. In addition, the net reduction in any Fiscal Year in the amounts of any escrow account or reserve maintained by or for the Company (including, without limitation, the Operating Reserve and the Replacement Reserve) shall be considered a cash receipt of the Company for such Fiscal Year. Notwithstanding the foregoing, at the election of the Managing Member, Cash Receipts received near the end of a Fiscal Year and intended for use in meeting the Company’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.

“City” means the City of Georgetown, Texas.

“Class B Special Member” means RDevKaia, LLC, a California limited liability company.

“Class Contribution” means the aggregate Capital Contributions of all members of a particular class of Members (i.e., the Managing Member, the Class B Special Member, the Administrative Member, the Investment Member, the Special Member or any Substituted Non-Managing Member).
“Code” means the Internal Revenue Code of 1986, as amended from time to time, and the regulations (permanent and temporary) issued thereunder. References herein to any Code section shall include any successor provisions.

“Commencement Date” means the first day of the month in which the Admission Date occurs.

“Company” means the limited liability company continued pursuant to this Agreement.

“Company Management Fee” shall have the meaning set forth in Section 6.12(c).

“Competitive Real Estate Commission” means that real estate or brokerage commission paid for the purchase or sale of the Apartment Complex or other Company property which is reasonable, customary and competitive in light of the size, type and location of the Apartment Complex or other property.

“Completion Date” means the later of: (i) the date the Investment Member shall have received copies of all requisite certificates or permits permitting occupancy of 100% of the apartments units in the Apartment Complex as issued by each Agency having jurisdiction; provided, however, that if such certificates or permits are of a temporary nature, the Completion Date shall not be deemed to have occurred unless the Managing Member certifies to the Investment Member that any work remaining to be completed is for so-called “punch list items” and the Managing Member knows of no reason why permanent certificates of occupancy will not be issued upon completion of such “punch list items”; and (ii) the date the Investment Member shall have received the Substantial Completion Certificate, Estoppel Letters and a Contractor Pay-Off letter and lien waivers in form acceptable to the Special Member. Any representation by the Managing Member under this Agreement that the Completion Date has occurred shall be subject to confirmation by the Special Member pursuant to a physical inspection of the Apartment Complex; provided, however, that in the event that the Special Member does not make such physical inspection of the Apartment Complex within ten (10) business days after having received a written representation of the Managing Member that the Completion Date has occurred, then the Special Member will be deemed to have waived the physical inspection requirement.

“Compliance Period” means the fifteen (15)-year period commencing with the first year of the Credit Period.

“Consent of the Investment Member” means the prior written consent or approval of the Investment Member which, unless otherwise specifically provided herein, may be given or withheld in its sole discretion. The Consent of the Investment Member shall be exercised by and through the Investment General Partner, acting in the name and on behalf of the Investment Member.

“Consent of the Special Member” means the prior written consent or approval of the Special Member which, unless otherwise specifically provided herein, may be given or withheld in its sole discretion.
“Construction Contract” means the construction contract dated as of August 18, 2017, by and between the Contractor and the Company, as amended.

“Construction Lender” means Citibank, N.A., a national banking association.

“Construction Loan” means the construction loan, in the aggregate amount of $11,200,000 to be provided by the Construction Lender to the Company pursuant to the terms of the Construction Loan Documents.

“Construction Loan Agreement” means the Loan Agreement to be entered into by and between the Construction Lender and the Company, as amended.

“Construction Loan Documents” means the Construction Note, the Construction Mortgage, the Construction Loan Agreement and all other documents executed and/or delivered in connection with the Construction Loan.

“Construction Mortgage” means the Mortgage securing the Company’s obligations under the Construction Note.

“Construction Note” means the promissory note executed by the Company to evidence its obligations with respect to the Construction Loan, which note is or shall be secured by the Construction Mortgage.

“Construction Permitting Date” means the first date upon which the Company shall have received the Requisite Approvals for the commencement of the construction and operation of the Apartment Complex in accordance with the Plans and Specifications therefor.

“Consumer Price Index” means the Consumer Price Index for All Urban Consumers, All Cities, for All Items (base 1982-84 = 100) published by the United States Bureau of Labor Statistics. In the event such index is not in existence when any determination relying on such index under this Agreement is to be made, the most comparable governmental index published in lieu thereof shall be substituted therefor.

“Contractor” means Maker Bros., LLC, a Texas limited liability company, and its successors.

“Contractor Pay-Off Letter” means a letter in form and substance reasonably satisfactory to the Special Member delivered by the Contractor to the Company which certifies that (i) all amounts due to the Contractor from the Company have been paid, (ii) the Company is not in default under the Construction Contract and (iii) the Contractor has paid in full each materialman and subcontractor who performed work on the Apartment Complex.

“Controlling Managing Member” shall have the meaning set forth in Section 6.4(a).

“Cost Certification” means the date upon which each Non-Managing Member shall have received the written certification of the Auditors, in a form and in substance satisfactory to the Special Member, as to the itemized amounts of the construction and development costs of the
Apartment Complex and the Actual Credit pertaining to each building in the Apartment Complex.

“Credit Agency” means the Texas Department of Housing and Community Affairs, and its successors.

“Credit Period” has the meaning set forth in Section 42(f)(1) of the Code and shall also include the first year after the end of the period described in Section 42(f)(1) of the Code with respect to Tax Credits that are available in such year pursuant to Section 42(f)(2)(B) of the Code.

“Debt Service Coverage Ratio” means, for any period with each month considered individually, a fraction, the numerator of which is the Cash Available for Debt Service Requirements with respect to such period and the denominator of which is the Debt Service Requirements for such period. The achievement by the Company of a specified Debt Service Coverage Ratio shall be confirmed by the Auditors and shall be subject to the approval of the Special Member, which shall not be unreasonably withheld, provided, however, that no objection by the Special Member to the determination of the Auditors shall be valid unless the Managing Member is notified of such objection, and the specific reasons therefor, within seven (7) business days following the receipt by the Special Member of the Auditor’s determination letter and in the event that the Special Member does not so notify the Managing Member within such seven (7) business day period, the Special Member will be deemed to have waived its right to object to such determination; provided, however, such deemed waiver shall not be presumed unless the Managing Member shall have first sent a second notice to the Special Member or otherwise confirmed that the first notice was timely received by the Special Member.

“Debt Service Requirements” means for any period, all debt service, reserve, mortgage insurance premium, tax and insurance escrows and/or other cash requirements imposed with respect to the Mortgage or any other indebtedness (except for the Subordinated Loans, any Mortgage Loans made to the Company the debt service on which is payable solely from Cash Flow and Voluntary Loans) properly allocable to such period of time on an annualized accrual basis as determined by the Auditors. To the extent the relevant period includes any period prior to Permanent Mortgage Commencement, Debt Service Requirements for such period shall be computed by adding to the foregoing amounts the amount (if any) by which the debt service on such Permanent Loan for such period beginning after principal amortization has commenced exceeds the actual debt service on such Permanent Loan (and any previous Mortgage Loan which may have then been in place) for the relevant period.

“Deferred Development Fee Note” shall have the meaning set forth in the Development Agreement.

“Deficit Restoration Obligation” shall have the meaning set forth in Section 10.3(c).

“Defined Mortgagee” shall have the meaning set forth in Section 3.6.

“Designated Net Worth Requirements” means as of the date of determination, such standards or criteria (relating to net worth or other characteristics) as may be approved by the Special Member, provided, however, that the conditions of this definition shall be deemed to be
fully satisfied if the Managing Member and the Guarantor maintains at all times an aggregate net
worth of not less than $5,000,000 and unrestricted liquid assets of not less than $1,000,000.

“Developer” means, together, O-SDA Industries, LLC, a Texas limited liability company,
and Saigebrook Development, LLC, a Florida limited liability company.

“Development Agreement” means the Amended and Restated Development Agreement,
dated as of October 1, 2007, by and between the Developer and the Company.

“Development Costs” means any and all costs and expenses necessary to (i) cause the
construction of the Apartment Complex to be completed, in a good and workmanlike manner,
free and clear of all mechanics’, materialmen’s or similar liens, in accordance with the Plans and
Specifications, (ii) equip the Apartment Complex with all necessary and appropriate fixtures,
equipment and articles of personal property (including, without limitation, refrigerators and
ranges), (iii) obtain all required certificates of occupancy for the apartment units and other space
in the Apartment Complex, (iv) pay the Development Fee (other than the portion thereof
evidenced by the Deferred Development Fee Note, if any), (v) finance the construction of the
Apartment Complex and achieve Rental Achievement in accordance with the provisions of the
Project Documents, (vi) discharge all Company liabilities and obligations arising out of any
casualty generating insurance proceeds for the Company prior to Rental Achievement, (vii) fund
any Company reserves required hereunder or under any of the Project Documents, (viii) repay
and discharge the Construction Loan (or pay such loan down to the permitted amount of the
Permanent Loan), and (ix) pay any other costs or expenses necessary to achieve the Completion
Date and Rental Achievement.

“Development Fee” means the fees and overhead payable by the Company to the
Developer pursuant to the terms of the Development Agreement for its services in connection
with the development and construction of the Apartment Complex.

“Disposition” (including the forms Dispose and Disposing) means, as to a specified
Member, the assignment, sale, transfer, exchange or other disposition of all or any part of its
Interest.

“Due Diligence Recommendations” means those developmental recommendations set
forth on Exhibit C hereto.

“Economic Risk of Loss” has the meaning set forth in Treasury Regulation
Section 1.752-2.

“Eligible Basis” has the meaning set forth in Section 42(d) of the Code.

“Entity” means any Person, general partnership, limited partnership, limited liability
company, corporation, joint venture, trust, business trust, cooperative or association.

“Environmental Law” means and includes any federal, state and local laws, statutes,
rules, regulations and ordinances pertaining to the protection of the environment or otherwise
pertaining to public health or employee health and safety, including but not limited to, CERCLA,
the Clean Air Act, the Clean Water Act, the Toxic Substance Control Act, the Safe Drinking
Water Act, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Emergency Planning and Community Right to Know Act and the Occupational Safety and Health Act of 1970.

“Estoppel Letter” means an estoppel letter in form and substance reasonably satisfactory to the Special Member delivered to the Company from each Lender which certifies as to each Mortgage Loan (i) that there is no default ongoing pursuant to the Mortgage Loan Documents, (ii) the amounts of interest and principal paid on such Mortgage Loan to date and (iii) the outstanding principal balance of such Mortgage Loan.

“Event of Bankruptcy” means with respect to any Person,

(i) the entry of a decree or order for relief by a court having jurisdiction in respect of such Person in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of his property, or ordering the winding-up or liquidation of his affairs and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(ii) the commencement by such Person of a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by him to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of such Person or for any substantial part of his property, or the making by him of any assignment for the benefit of creditors, or the taking of corporate action by the Person in furtherance of any of the foregoing;

(iii) the commencement against such Person of an involuntary case under the federal bankruptcy laws, as now constituted or hereafter amended, which has not been vacated, discharged or bonded within sixty (60) consecutive days;

(iv) the admission of such Person of his or its inability to pay his or its debts as they become due; or

(v) such Person becoming “insolvent” by the taking of any action or the making of any transfer or otherwise, as insolvency is or may be defined pursuant to the federal bankruptcy laws (as now or hereafter constituted) or any other applicable federal or state bankruptcy, insolvency or similar law.

“Extended Use Agreement” means the extended use housing commitment to be executed by the Company in accordance with the requirements of the Credit Agency and the provisions of Section 42(h)(6)(A) of the Code.

“50% Completion Date” means the date that fifty percent (50%) of the projected hard construction costs for the completion of the Apartment Complex have been incurred by the Company.
“Filing Office” means the Office of the Secretary of State of the State of Formation.

“Fiscal Year” means the twelve (12)-month period which begins on the first day of January and ends on the thirty-first day of December of each calendar year (or ends on the date of final dissolution for the year in which the Company is wound up or dissolved).

“Former Code” means Subchapter C of Chapter 63 of the Code as in effect immediately prior to the enactment of the Bipartisan Budget Act on November 2, 2015. Pursuant to Section 6241 of the Code (as revised by the Bipartisan Budget Act), the amendments to the Former Code apply to returns filed for partnership taxable years beginning after December 31, 2017. References to the Former Code contained herein are applicable to the extent that the Former Code provisions remain in effect for taxable years beginning before December 31, 2017.

“Governmental Authority” means the City, the Credit Agency or any other federal, state or local governmental authority having jurisdiction over the particular matter to which reference is being made.

“Gross Asset Value” means, with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

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

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

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

(iv) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Section 1.704-1(b)(2)(iv)(m) of the Allocation Regulations and Section 4.1 hereof; provided, however, that Gross Asset Values shall not be adjusted pursuant to this clause (iv) to the extent that the Managing Member determines (with the Consent of the Investment Member) that an adjustment pursuant to clause (ii) hereof is necessary or appropriate in
connection with a transaction that would otherwise result in an adjustment pursuant to this clause (iv).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to Section (i), (ii) or (iv) hereof, such Gross Asset Value shall thereafter be adjusted by the depreciation taken into account with respect to such asset for purposes of computing Profits or Losses.

“GSE” means Fannie Mae and/or Federal Home Loan Mortgage Corporation, and their successors.

“Guarantors” means, collectively, Lisa M. Stephens, Mark S. Ragsdale, and each of their successors.

“Guaranty” means the Guaranty, dated as of October 1, 2017, of the Guarantors of certain of the obligations of the Managing Member hereunder and of the Developer as set forth in the Development Agreement, as amended.

“Hazardous Material” has the collective meanings given to the terms “hazardous material”, “hazardous substances”, “hazardous wastes”, “toxic substances”, “toxic waste” and analogous terms, in (i) the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended, (ii) the Hazardous Materials Transportation Act, as amended, 39 U.S.C. Section 1801 et seq., (iii) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 et seq., (iv) any similar applicable state or local law, or (v) any regulation adopted or publication promulgated pursuant to any such law, and to the term “radioactive materials” in the context of the Atomic Energy Act, 28 U.S.C. Sec. 2344, and also includes any meanings given to such terms in any similar state or local statutes, ordinances, regulations or by-laws. The term Hazardous Material also includes oil and any other substance known to be hazardous.

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

“Immediate Family” means with respect to any Person, such Person’s spouse, parents, parents-in-law, descendants, nephews, nieces, brothers, sisters, brothers-in-law, sisters-in-law, children, children-in-law, grandchildren and grandchildren-in-law.

“In Balance” means, during the construction period, 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 the Construction Loan or other construction period financing and Cash Flow, 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 construction of the Apartment Complex in accordance with the Construction Contract or otherwise to be incurred in connection with completion of the Apartment Complex. After the Completion Date, “In Balance” means, the then undisbursed portion of the permanent sources contained in the financial forecasts prepared by the Investment Member as of the Admission Date equals or exceeds the remaining costs of the Apartment Complex, including repayment of any construction-period financing.
“Incentive Management Agreement” means the agreement by and between the Company, the Class B Special Member, and the Managing Member which provides for the payment of the Incentive Management Fee.

“Incentive Management Fee” means the fee payable under the Incentive Management Agreement to the Managing Member for supplemental services provided with respect to the Apartment Complex.

“Initial Adjustment Date” shall have the meaning set forth in Section 5.1(e).

“Initial Compliance Audit” shall have the meaning set forth in Section 12.7(n).

“Initial Full Occupancy Date” means the first date on which the Investment Member shall have received documentation evidencing that (i) not less than 100% of the Low Income Units in the Apartment Complex shall have been leased to and shall have been initially occupied by tenants on such date meeting the terms of the Minimum Set-Aside Test under executed leases at rentals meeting the requirements of the Rent Restriction Tests such that all such units qualify for the Tax Credit and (ii) not less than 93% of the apartment units in the Apartment Complex are then physically occupied by tenants.

“Initial Reserve Amount” shall have the meaning set forth in Section 6.5(e)(ii).

“Inspecting Consultant” means the consultant retained by any Lender (including, without limitation, the Construction Lender) or the Company with the Consent of the Special Member to monitor the progress of the construction of the Apartment Complex and to certify as to the completion of such construction.

“Installment” means an installment of the Investment Member’s Capital Contribution paid or payable to the Company pursuant to Section 5.1.

“Insurance Requirements” means the insurance which the Managing Member is required to cause the Company to maintain during the term of the Company as set forth on Exhibit D hereto.

“Interest” means the entire interest of a Member in the Company at any particular time, including the right of such Member to any and all benefits to which a Member may be entitled hereunder and the obligation of such Member to comply with the terms of this Agreement.

“Invested Amount” means (i) as to the Investment Member, an amount equal to the Capital Contribution divided by 0.85 and (ii) as to any other Member, an amount equal to its paid-in Capital Contribution.

“Investment General Partner” means BCCTC Associates XLIV, LLC, a Massachusetts limited liability company, in its capacity as the general partner of the Investment Member, and any other Person who may become a successor or additional general partner of the Investment Member.

“Investment Increased Basis Amount” has the meaning set forth in Section 5.1(g).
“Investment Member” means BCCTCF and any Person or Persons who replace it as Substituted Non-Managing Member.

“Investment Partnership Agreement” means the Agreement of Limited Partnership of the Investment Member, as amended from time to time.

“Lender” means any Person (other than the Managing Member or its Affiliates) who makes a loan to the Company, whether or not such loan is secured by a Mortgage, or the successors and assigns of such Person in such capacity.

“Liquidating Event” shall have the meaning set forth in Section 2.4.

“Low Income Unit” means any of the (eighty) 80 dwelling units in the Apartment Complex which are to be held for occupancy by the Company in such manner as to qualify such units as qualified low-income housing units under Section 42(i)(3) of the Code.

“Management Agent” means Accolade Property Management, Inc., a Texas corporation, in its capacity as the initial management and rental agent for the Apartment Complex, and any successor management and rental agent designated or appointed at any time.

“Management Agreement” means the agreement between the Company and the Management Agent providing for the management of the Apartment Complex.

“Management Fee” means the Management Fee to which reference is made in Section 11.1.

“Managing Member” means the Co-Managing Member, the Administrative Member, and any Person who becomes a Managing Member as provided herein, in its capacity as a managing member of the Company. At any and all times where there is more than one Managing Member, the term Managing Member shall mean such Managing Members.

“Market Rate Units” means any or all of the twenty-two (22) dwelling units in the Apartment Complex that are intended for rental at market rates and are not subject to affordability restrictions under the Regulatory Agreements.

“Material Agreement” means any agreement to which the Company is a party or to which the Apartment Complex is subject, the termination of which would have a material adverse impact on the Apartment Complex or the business and operations of the Company.

“Material Event” means the occurrence of any of the following events:

(i) a material breach by a Managing Member or Guarantor (or any of their Affiliates) in the performance of any of its obligations under this Agreement, or any of the Material Agreements;

(ii) a Terminating Event as to any Managing Member or an Event of Bankruptcy as to the Company or any Guarantor, or prior to the Completion Date, the Developer;
(iii) a material violation by any Managing Member of its fiduciary duties as a Managing Member of the Company;

(iv) a violation by any Managing Member of any law, regulation or order applicable to the Managing Member or the Company which has or may have a material adverse effect on the Company or the Apartment Complex;

(v) a material breach by the Company or any Managing Member (or any of their respective Affiliates) under any Project Document or other material agreement or document affecting the Company or the Apartment Complex;

(vi) the failure to achieve the Completion Date by March 1, 2019;

(vii) the failure to begin the Credit Period for all buildings in the Apartment Complex not later than calendar year 2018 unless the Investment Member permits the election under Section 42(f)(1)(B) of the Code to defer the commencement of the Credit Period for any building in the Apartment Complex;

(viii) the commencement of foreclosure proceedings with respect to any Mortgage, which have not been withdrawn or dismissed within thirty (30) days after the date of such commencement;

(ix) the failure of the Managing Member to make any payment required to be made to the Investment Member pursuant to the provisions of Section 5.1(e) or (f); or

(x) the fraud, bad faith, gross negligence, or willful misconduct by a Managing Member.

Notwithstanding anything to the contrary contained herein, a Material Event shall not be deemed to have occurred pursuant to clauses (i), (iv) or (v) of this definition unless the Managing Members are first provided with notice and not less than thirty (30) days’ opportunity to cure such event, provided however that, if such events cannot be cured within such thirty (30) day period but the Managing Members are diligently pursuing such cure and the event is of the type that can reasonably be cured with the granting of additional time, the Investment Member shall grant additional time for the Managing Members to cure such event, provided, however, that in no event will such additional time exceed an additional ninety (90) days. In addition, a Material Event shall not be deemed to have occurred pursuant to clause (ix) of this definition unless the Managing Members are first provided with notice and ten (10) days to cure such event.

“Member” means any Managing Member, Non-Managing Member, or Class B Special Member.

“Minimum Set-Aside Test” means the set aside test selected by the Company pursuant to Section 42(g) of the Code whereby at least 40% of the units in the Apartment Complex must be occupied by individuals with incomes equal to 60% or less of area median income, as adjusted for family size.
“Mortgage” means any mortgage indebtedness of the Company evidenced by any Note and secured by any mortgage on the Apartment Complex from the Company to any Lender; and, where the context admits, the term “Mortgage” shall mean and include any of the mortgages securing said indebtedness and any other documents pertaining to said indebtedness which were required by the Lender as a condition to making such Mortgage Loan. In case any Mortgage is replaced by any subsequent mortgage or mortgages, such term shall refer to any such subsequent mortgage or mortgages. The term “mortgage” means any mortgage, mortgage deed, deed of trust, deed to secure debt or any similar security instrument, and “foreclose” and words of like import include the exercise of a power of sale under a mortgage or comparable remedies.

“Mortgage Loan” means a loan to the Company made by any Lender and secured by a Mortgage.

“Mortgage Loan Documents” means the Construction Loan Documents and/or the Permanent Loan Documents, as the context may require.

“New Allocation” shall have the meaning set forth in Section 10.5(b).

“Non-Managing Members” means the Investment Member, the Special Member and any Substituted Non-Managing Member.

“Nonrecourse Debt” or “Nonrecourse Liability” means any indebtedness for which none of the Members has any Economic Risk of Loss other than through his or its interest in the Company property securing such indebtedness, as defined in Section 1.752-1(a)(2) of the Allocation Regulations.

“Nonrecourse Deductions” has the meaning set forth in Section 1.704-2(b)(1) of the Allocation Regulations.

“Note” means and includes any Note from the Company to a Lender evidencing a Mortgage Loan, and shall also mean and include any Note supplemental to said original Note issued to a Lender or any Note issued to a Lender in substitution for any such original Note.

“Operating Deficit” means, for any specified period of time, the amount by which the Cash Receipts of the Company are less than the amount necessary to pay all Cash Expenditures of the Company.

“Operating Profits or Losses” means, with respect to any Fiscal Year, the Profits or Losses of the Company for such Fiscal Year other than Profits or Losses from a Capital Transaction.

“Operating Reserve” shall have the meaning set forth in Section 6.5(e)(ii).

“Original Agreement” has the meaning set forth in the Preliminary Statement.

“Original Investment Member” has the meaning set forth in the Preliminary Statement.
“Partner Nonrecourse Debt” has the meaning set forth in Section 1.704-2(b)(4) of the Allocation Regulations.

“Partner Nonrecourse Debt Minimum Gain” has the meaning set forth in Sections 1.704-2(i)(2) and (3) of the Allocation Regulations.

“Partner Nonrecourse Deductions” has the meaning set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Allocation Regulations.

“Partnership Minimum Gain” has the meaning set forth in Section 1.704-2(d) of the Allocation Regulations.

“Payment Certificate” shall have the meaning set forth in Section 5.1(b).

“Percentage Interests” means the interests of the Members in Profits and Losses, tax-exempt income, non-deductible, non-capitalizable expenditures and Tax Credits, as set forth in Schedule A.

“Permanent Lender” means Citibank, N.A., a national banking association, or any other Lender providing permanent financing for the Apartment Complex who has been approved by the Special Member and the Managing Member, except as otherwise provided in Section 3.2.

“Permanent Loan” means the permanent-phase financing provided by Citibank, N.A. in accordance with the Permanent Loan Conditions or any other permanent loan provided by the Permanent Lender to the Company pursuant to the terms of the Permanent Loan Documents and approved by the Special Member.

“Permanent Loan Conditions” means, with respect to a proposed Permanent Loan, that (a) such Permanent Loan (i) has a term of not less than 15 years, (ii) has an amortization schedule not longer than thirty-five (35) years, (iii) is in a principal amount of not more than $6,000,000 and (b) when such Permanent Loan is in place, the Debt Service Coverage Ratio of the Company is projected to be not less than 1.15 to 1.00, assuming annual operating expenses of the greater of (x) actual expenses or (y) the Investment Member’s underwriting expenses, as shown on Schedule B attached hereto (adjusted for actual expenses for real estate taxes and insurance), per year; except that, for purposes of determining if the Debt Service Coverage Ratio requirement has been satisfied in accordance with the preceding clause, the amount of the Company’s income pursuant to clause (i) of the first sentence in the definition of Cash Available for Debt Service Requirements shall not exceed the amount of income that could be achieved with the greater of actual vacancy or a 7% vacancy rate. Satisfaction of the Permanent Loan Conditions shall be determined by the Special Member, in its sole discretion.

“Permanent Loan Documents” means the Permanent Note, the Permanent Mortgage and all other documents executed and/or delivered in connection with the Permanent Loan.

“Permanent Mortgage” means the Mortgage securing the Company’s obligations under the Permanent Note.
“Permanent Mortgage Commencement” means the payment and discharge of the Construction Loan (or the conversion of such loan to its permanent phase on the Permanent Loan Conditions, including the payment of any principal reduction amount required in connection therewith), the full disbursement of and commencement of the amortization of each Permanent Loan and the execution and delivery of the Permanent Loan Documents.

“Permanent Note” means the Note to be executed by the Company to evidence its obligations with respect to the Permanent Loan, which Note shall be secured by the Permanent Mortgage.

“Person” means any individual or Entity.

“Plans and Specifications” means the plans and specifications for the construction of the Apartment Complex, including, without limitation, specifications for materials, and all properly approved amendments and modifications thereof.

“Post-TEFRA Period” means each federal income tax period of the Company beginning after December 31, 2017 (or such other later effective date of Section 1101 of the Bipartisan Budget Act if the implementation of such provisions is delayed by legislation or regulation), and such earlier periods, if any, with respect to which the Company has made an election pursuant to Section 1101(g)(4) of the Bipartisan Budget Act with the Consent of the Investment Member.

“Predevelopment Loan” means that certain predevelopment loan made by the Original Investment Member of the Company in the original principal amount of $600,000.

“Prime Rate” means the rate of interest announced from time to time by The Wall Street Journal as its base rate.

“Profits or Losses” shall have the meaning set forth in Section 10.4(b)(v).

“Project Documents” means and includes the Mortgage Loan Documents, this Agreement, the Development Agreement, any Deferred Development Fee Note, the Extended Use Agreement, the Guaranty, the Incentive Management Agreement, the Management Agreement, the Purchase Option, the Section 811 Participation Agreement (and, if applicable, the Section 811 RAC and the Section 811 Use Agreement), the Regulatory Agreement, all other instruments delivered to (or required by) any Lender and all other documents relating to the Apartment Complex and by which the Company is bound, as amended or supplemented from time to time.

“Projected Credit” means with respect to a particular Fiscal Year, the total amount of Tax Credit projected to be allocable by the Company to the Investment Member for such Fiscal Year, and shall be as follows: $364,244 for 2018, $1,373,263 per annum for each of the Fiscal Years 2019 through 2027 (inclusive) and $1,009,019 for 2028, provided, however, that the Projected Credit for 2028 shall be reduced by the amount, if any, by which the Actual Credit for 2018 exceeds $364,244, and provided further that upon the occurrence of any of the events described in Section 5.1(e), the Projected Credit shall thereafter be the Revised Projected Credit.
“Projected Rents” means the rents described in Exhibit B attached hereto and made a part hereof.

“Purchase Option” means that certain Purchase Option Agreement dated as of October 1, 2017, by and among the Managing Members, the Class B Special Member, the Company, and the Non-Managing Members, as amended.

“Qualified Basis” has the meaning set forth in Section 42(c) of the Code.

“Qualified Income Offset Item” means (1) an allocation of loss or deduction that, as of the end of each year, reasonably is expected to be made (a) pursuant to Section 704(e)(2) of the Code to a donee of an interest in the Company, (b) pursuant to Section 706(d) of the Code as the result of a change in any Member’s Interest, or (c) pursuant to Treasury Regulation Section 1.751-1(b)(2)(ii) as the result of a distribution by the Company of unrealized receivables or inventory items and (2) a distribution that, as of the end of such year, reasonably is expected to be made to a Member to the extent it exceeds offsetting increases to such Member’s Capital Account which reasonably are expected to occur during or prior to the Company taxable year in which such distribution reasonably is expected to occur.

“Recapture Amount” shall have the meaning set forth in Section 10.6.

“Recapture Event” shall have the meaning set forth in Section 10.6(a).

“RECD” means the Rural Economic Community and Development office of the United States Department of Agriculture.

“Regulatory Agreements” means any regulatory agreements, affordability restrictions, restrictive covenants or other similar documents entered into between or by the Company and/or for the benefit of any Mortgage Lender or Governmental Agency with respect to the Apartment Complex, including, without limitation, the Extended Use Agreement and, if applicable, the Section 811 Use Agreement.

“Remaining Interest” shall have the meaning set forth in Section 7.4(d).
“Rent Restriction Test” means the test pursuant to Section 42 of the Code whereby the gross rent charged to tenants of the low-income units in the Apartment Complex may not exceed thirty percent (30%) of the qualifying income levels.

“Rental Achievement” means the first time following three (3) consecutive full calendar months of operations after Permanent Mortgage Commencement (with each month considered individually) that the Apartment Complex generates a 1.15 to 1.00 Debt Service Coverage Ratio; except that, for purposes of computing the Debt Service Coverage Ratio to determine if Rental Achievement has occurred, the Company’s income shall be determined using the greater of actual vacancy or a 7% vacancy rate and assuming that principal amortization has commenced on the Permanent Loan.

“Replacement Reserve” shall have the meaning set forth in Section 6.5(e).

“Repurchase Amount” shall have the meaning set forth in Section 5.2(a).

“Repurchase Event” shall have the meaning set forth in Section 5.2(a).

“Required Sale Notice” has the meaning set forth in Section 3.5(b).

“Requisite Approvals” means any required approvals of each Lender and Agency to an action proposed to be taken by the Company.

“Revised Projected Credit” has the meaning set forth in Section 5.1(e).

“Schedule A” means Schedule A to this Agreement, as amended from time to time.

“Section 811 Participation Agreement” means the Section 811 Project Rental Assistance Demonstration Program Owner Participation Agreement dated September 14, 2016 by and between the Company and TDHCA pursuant to which the Company has agreed that, if requested by TDHCA at any time during the term of the Section 811 Participation Agreement, the Company will enter into the Section 811 RAC and accept eligible referrals to the Section 811 Units (e.g., extremely low-income persons with disabilities linked with long-term services) pursuant to TDHCA’s “Section 811 Project Rental Assistance” program.

“Section 811 RAC” means the Rental Assistance Agreement that may be entered into by the Company and TDHCA, if requested by TDHCA, pursuant to which TDHCA will agree to provide project-based rental assistance to the Company under Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, with respect to ten (10) units at the Apartment Complex for a term of twenty (20) years, and which rents are subject to the Consent of the Investment Member.
“Section 811 Units” means any one or more of the 10 dwelling units in the Apartment Complex eligible to receive project-based rental assistance under TDHCA’s “Section 811 Project Rental Assistance” program and which will be reserved for occupancy in accordance with the terms of the Section 811 Participation Agreement and, if applicable, the Section 811 RAC and the Section 811 Use Agreement.

“Section 811 Use Agreement” means the Use Agreement that may be entered into by the Company, if requested by TDHCA, pursuant to which the Company will agree to accept the Section 811 RAC and eligible referrals to the Section 811 Units for a term of 30 years (subject to Congressional appropriations).

“Service” means the Internal Revenue Service.

“Share of Partner Nonrecourse Debt Minimum Gain” means, for each Member an amount equal to his or its “share of partner nonrecourse debt minimum gain” as determined in accordance with Section 1.704-2(i)(5) of the Allocation Regulations.

“Share of Partnership Minimum Gain” means for each Member, an amount equal to his or its “share of partnership minimum gain” as determined in accordance with Section 1.704-2(g) of the Allocation Regulations.

“Site” has the meaning given to it in the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended, and shall also include any meaning given to it in any similar state or local statutes, ordinances, regulations or by-laws.

“Special Member” means BCCC, and any Person who becomes a Special Member as provided herein, in its capacity as a special member of the Company.

“Specified Proceeds” means (i) the proceeds of all Mortgage Loans, (ii) the net rental income, if any, generated by the Apartment Complex prior to Rental Achievement which is permitted by the Lenders to be applied to the payment of Development Costs, (iii) the Capital Contributions of the Non-Managing Members, (iv) the Capital Contributions of the Managing Members and the Class B Special Member in the amounts set forth in Schedule A as of the date hereof, (v) any insurance proceeds arising out of casualties occurring prior to Rental Achievement, and (vi) all other sources of funds including net rental income available to the Company prior to Rental Achievement, not specifically earmarked for other purposes.

“State” means the State of Texas.

“State Designation” means the date on which the Company receives an allocation for the Apartment Complex in proper form pursuant to Section 42 of the Code from the Credit Agency of 2016 Tax Credits, as evidenced by the execution by or on behalf of the Credit Agency of one or more Form(s) 8609.

“State of Formation” means the State of Florida.
“Subordinated Loan” means any loan made by the Managing Member to the Company pursuant to Section 6.5(e)(i), Section 6.10 or any other provision of this Agreement which specifies advances to be made as a Subordinated Loan.

“Subordinated Loan Cap” shall have the meaning set forth in Section 6.10.

“Subordinated Loan Period” shall have the meaning set forth in Section 6.10.

“Substantial Completion Certificate” means the certificate to be issued by the project architect on or after the Completion Date in the form attached hereto as Exhibit E.

“Substituted Non-Managing Member” means any Person who is admitted to the Company as Non-Managing Member under Section 8.2 or acquires the Interest of a Non-Managing Member pursuant to Section 5.2.

“Syndication Expenses” means all expenditures classified as syndication expenses pursuant to Treasury Regulation Section 1.709-2(b). Syndication Expenses shall be taken into account under this Agreement at the time they would be taken into account under the Company’s method of accounting if they were deductible expenses.

“Tax” or “Taxes” means any and all liabilities, losses, expenses and costs that are, or are in the nature of, taxes, fees or other governmental charges, including interest, penalties, fines and additions to tax imposed by the Internal Revenue Service or any other taxing authority.

“Tax Accountants” means CohnReznick LLP of Bethesda, Maryland or such other firms of independent certified public accountants as may be engaged by the Special Member to review the Company income tax returns.

“Tax Credit” means the low-income housing tax credit described in Section 42 of the Code.

“Tax Credit Set-Aside” means the date on which the Company receives the Carryover Allocation.

“Tax Matters Partner” means the Managing Member or such other partner as determined under Section 6231(a)(7) of the Former Code.

“TDHCA” means the Texas Department of Housing and Community Affairs, in its capacity as the agency designated by the State to allocate Tax Credits.

“Terminating Event” means the death or permanent disability of, or a final determination by a court of competent jurisdiction of insanity or incompetence as to, an individual Managing Member (unless the Consent of the Special Member to a substitute Managing Member is received, and such substitute Managing Member is admitted to the Company by the first to occur of (i) the sixtieth (60th) day following such event or (ii) such earlier date as is necessary to prevent a dissolution of the Company under the Act), an Event of Bankruptcy or dissolution of a Managing Member, the transfer of all or any portion of its Company Interest by a Managing Member, or the voluntary or involuntary Withdrawal of the Managing Member from the
Company. For purposes of the foregoing, an individual Managing Member shall be deemed to be permanently disabled if he or she becomes disabled during the term of this Agreement through any illness, injury, accident or condition of either a physical or psychological nature and, as a result, is unable to perform substantially all of his or her duties and responsibilities hereunder for one hundred twenty (120) days during any period of three hundred sixty-five (365) consecutive calendar days. Involuntary withdrawal shall occur whenever a Managing Member may no longer continue as a Managing Member by law or pursuant to any terms of this Agreement. In the case of a Managing Member which is an Entity, a transfer of a majority of the voting stock (or other beneficial interest) of the Managing Member to a Person who is not an Affiliate of the Managing Member or any Entity constituting the Managing Member shall be deemed to be a Terminating Event.

“Title Policy” means the owner’s title insurance policy, or at the option of the Special Member an endorsement thereto, with an effective date on or after the date hereof, in the amount of not less than $19,777,448, issued by First American Title Insurance Company to the Company, evidencing the Company’s ownership of the Apartment Complex subject only to such exclusions, exceptions, conditions and stipulations as may be approved by the Special Member in its sole discretion and endorsed at a minimum with a non-imputation endorsement, an access endorsement for Bettie May Way (to be obtained after the Completion Date), and a comprehensive endorsement.

“Treasury Regulations” means the Income Tax Regulations, including temporary regulations, promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

“Upward Timing Amount” has the meaning set forth in Section 5.1(g).

“Vessel” has the meaning given to it in the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended, and shall also include any meaning given to it in any similar state or local statutes, ordinances, regulations or by-laws.

“Voluntary Loans” shall have the meaning set forth in Article IX.

“Withdrawal” (including the forms Withdraw, Withdrawing and Withdrawn) means, as to a Managing Member, the occurrence of death, adjudication of insanity or incompetence, Event of Bankruptcy, dissolution, liquidation, or voluntary or involuntary withdrawal or retirement from the Company for any reason, including whenever a Managing Member may no longer continue as a Managing Member by law or pursuant to any terms of this Agreement. Withdrawal also shall mean the sale, assignment, transfer or encumbrance by a Managing Member of its interest as a Managing Member other than a pledge or assignment by a Managing Member of its Interest required pursuant to the terms of the Construction Loan Documents and as approved in writing by the Special Member. A Managing Member which is a corporation, limited liability company or partnership shall be deemed to have sold, assigned, transferred or encumbered its interest as a Managing Member in the event (as a result of one or more transactions) of any sale, assignment or other transfer (but specifically excluding any transfer occurring pursuant to the laws of descent and distribution) or encumbrance of a controlling interest in a corporate or limited
liability company Managing Member or of a general partner or member interest in a Managing Member which is a partnership or limited liability company to a Person who is not an Affiliate of the Managing Member. For purposes of this definition of Withdrawal, the term “controlling interest” shall mean the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.
ARTICLE II
Name and Business

2.1 Name; Continuation

The name of the Company is “Kaia Pointe, LLC.” The Members agree to continue the Company which was formed pursuant to the provisions of the Act.

2.2 Office and Registered Agent

(a) The principal office of the Company is c/o 200 South Biscayne Boulevard, Suite 4100 (GJC), Miami, Florida, at which office there shall be maintained those records required by the Act to be kept by the Company. The Company may have such other or additional offices as the Managing Member shall deem desirable. The Managing Member may at any time change the location of the principal office and shall give due notice thereof to the Non-Managing Members, provided that doing so shall not adversely affect the Investment Member for tax purposes.

(b) The registered agent for the Company in the State of Formation for service of process is as follows:

Corporation Company for Miami
200 South Biscayne Boulevard
Suite 4100 (GJC)
Miami, Florida 33131

2.3 Purpose

The purpose of the Company is to acquire, hold, invest in, secure financing for, construct, rehabilitate, develop, improve, maintain, operate, lease and otherwise deal with the Apartment Complex. The Company shall operate the Apartment Complex in accordance with any applicable Regulations. The Company shall not engage in any other business or activity.

2.4 Term and Dissolution

(a) The Company shall continue in full force and effect in perpetuity, except that the Company shall be dissolved and its assets liquidated prior to such date upon the first to occur of the following events (“Liquidating Events”):

(i) The sale or other disposition of all or substantially all of the assets of the Company;

(ii) The Withdrawal of a Managing Member, unless the Company is continued as provided in Section 7.2;

(iii) The election to dissolve the Company made in writing by the Managing Member with the Consent of the Investment Member and any Requisite Approvals;
(iv) The entry of a final decree of dissolution of the Company by a court of competent jurisdiction; or

(v) Any other event which causes the dissolution of the Company under the Act if the Company is not reconstituted pursuant to the provisions of Section 7.2 or Section 7.3.

(b) Upon the dissolution of the Company, the Managing Member (or for purposes of this paragraph, its trustees, receivers or successors) shall cause the cancellation of the Articles and shall liquidate the Company assets and apply and distribute the proceeds thereof in accordance with the provisions of Section 10.3, unless the Investment Member elects to reconstitute the Company and continue its business as provided in Section 7.2 or 7.3, in which case the Company assets shall be transferred to the new Company as provided in such Section. Notwithstanding the foregoing, if, during liquidation, the Managing Member shall determine that an immediate sale of part or all of the Company’s assets would be impermissible, impractical or cause undue loss to the Members, the Managing Member may defer liquidation of, and withhold from distribution for a reasonable time, any assets of the Company except those necessary to satisfy Company debts and obligations (other than Subordinated Loans).

2.5 Nature of Company Interests

No Company Interest hereunder shall be represented by any certificate or be considered a “security” or “investment property” for purposes of Article 8 and Article 9 of the Uniform Commercial Code of any jurisdiction.
ARTICLE III
Mortgage, Refinancing and Disposition of Property

3.1 Personal Liability

Subject to compliance with the Permanent Loan Conditions, the Company shall be authorized to obtain the Construction Loan to finance the acquisition, development and construction of the Apartment Complex and shall secure the Construction Loan by the Construction Mortgage. The Managing Member and its Affiliates, jointly and severally, are hereby authorized to incur personal liability for the repayment of funds advanced by the Construction Lender (and interest thereon) pursuant to the Construction Loan Documents. However, from and after the date of Permanent Mortgage Commencement, neither the Managing Member nor any Related Person shall at any time bear, nor shall the Managing Member permit any other Member or any Related Person to bear, the Economic Risk of Loss for the payment of any portion of any Mortgage Loan unless, prior to the effectiveness of the transaction in which such Economic Risk of Loss is created or assumed, the Managing Member shall have obtained, at the expense of the Company, an opinion from reputable tax counsel, in form and substance reasonably satisfactory to the Special Member, to the effect that such Economic Risk of Loss will not result in the reallocation of Tax Credits or Losses from any Non-Managing Member to the Managing Member. The Managing Member shall cause the Company to elect promptly, to the extent permitted and in the manner prescribed by any Agency or Lender having jurisdiction, that all debt service payments made by the Company to the holder of the Permanent Mortgage shall be applied first to interest determined at the stated rate set forth in the Permanent Note, and then to principal due with respect to the Permanent Note.

3.2 Refinancings; Permanent Loan Documents

The Company may decrease, increase or refinance any Mortgage Loan and may make any required transfer or conveyance of Company assets for security or mortgage purposes, provided, however, any such decrease, increase or refinancing of any Mortgage Loan may be made by the Managing Member only with the Consent of the Special Member. To the extent not executed as of the date hereof, the form and content of the Permanent Loan Documents shall be subject to the reasonable Consent of the Special Member.

3.3 Sale of Assets

Except pursuant to Section 3.5 or the Purchase Option, the Company may sell, lease, exchange or otherwise transfer or convey all or substantially all the assets of the Company only with the Consent of the Special Member. Notwithstanding the foregoing and except as set forth in Section 6.2(a)(vi), no Consent of the Special Member shall be required for the execution and delivery of the Construction Loan Documents, the leasing of apartments to tenants in the normal course of operations or the leasing of all or substantially all the apartments to a public housing authority at rents satisfactory to any Agency or Lender as expressed in writing, provided (subject to the Rent Restriction Test) that such rents are not less than the Projected Rents.

3.4 Real Estate Commissions
The total compensation to all Persons for the sale of the Apartment Complex shall be limited to a Competitive Real Estate Commission, which in no event shall exceed three percent (3%) of the contract price for the sale of the Apartment Complex.

3.5 Sale of the Apartment Complex

(a) [Intentionally Deleted].

(b) Notwithstanding any provision of this Agreement to the contrary subject to any Requisite Approvals, at any time after the later of: (i) the end of the Compliance Period, or (ii) the termination of the term of the Purchase Option, the Special Member shall have the right to require, by notice to the Managing Member (the “Required Sale Notice”), that the Managing Member promptly use commercially reasonable efforts to obtain a buyer for the Apartment Complex on the most favorable terms then available. The Managing Member shall submit the terms of any proposed sale to the Special Member and the Investment Member for their approval. If the Managing Member shall fail to so obtain a buyer for the Apartment Complex within twelve (12) months of the Required Sale Notice or if the Special Member and/or the Investment Member in its/their sole discretion shall withhold its/their consent to any proposed sale to such buyer, then the Special Member shall have the right at any time thereafter to obtain a buyer for the Apartment Complex on terms most favorable then available and otherwise acceptable to the Special Member. In the event that such sale is not consummated because of actions taken or not taken by the Managing Member, the Managing Member shall upon receipt of notice from the Investment Member promptly purchase the Interests of the Non-Managing Members for a price equal to the amount each such Member would have received (giving effect to reasonable estimates of closing costs which would have been incurred) in liquidation of the Company had such sale been consummated. In the event that the Special Member so obtains a buyer, it shall notify the Managing Member and the Investment Member in writing with respect to the terms and conditions of the proposed sale and, provided the Investment Member approves, in its sole discretion, the terms of such sale, the Managing Member shall cause the Company promptly to sell the Apartment Complex to such buyer or purchase the Interests of the Non-Managing Members for a price equal to the amount the Non-Managing Members would have received in liquidation of the Company.

(c) The Managing Member is hereby required, within five (5) days after its receipt of any offer to purchase the Apartment Complex or all of the Interests in the Company, to send a copy of such offer (or a written description of any such oral offer) to each of the Non-Managing Members. In connection with any proposed sale of the Apartment Complex, the Special Member (or its designee) shall have the right to (i) receive and review copies of all documents relating to the proposed sale, (ii) participate in the negotiations of the terms and conditions of the proposed sale, (iii) meet with the proposed purchaser, (iv) solicit proposals for alternative offers for the Apartment Complex, and (v) provide such other services in connection with the proposed sale as it deems to be appropriate.

(d) In any instance in which the fair market value of the Apartment Complex is required to be determined by appraisal, the following provisions shall apply. Any such appraisal shall be conducted by one or more Independent Appraisers (as defined below), to be selected as follows: As soon as practicable and in any event within thirty (30) days following the Managing
Member’s determination that the Investment Member has failed to approve a sale proposed by the Managing Member for a purchase price of equal to or greater than the fair market value of the Apartment Complex, the Managing Member and the Non-Managing Members shall select an Independent Appraiser. In the event the parties are unable to agree upon an Independent Appraiser within such thirty (30) day period, the Managing Member on the one hand and the Non-Managing Members on the other shall each select an Independent Appraiser. If the difference between the two appraisals is within ten percent (10%) of the lower of the two appraisals, the fair market value shall be the average of the two (2) appraisals. If the difference between the two (2) appraisals is greater than ten percent (10%) of the lower of the two (2) appraisals, then the two appraisers shall jointly select a third appraiser whose determination of fair market value shall be deemed to be binding on all parties. If the two (2) appraisers are unable jointly to select a third appraiser, either the Managing Member or the Non-Managing Members may, upon written notice to the other, apply to the presiding judge of a court of competent jurisdiction in Williamson County, Texas for the selection of the third appraiser who shall then participate in such appraisal proceeding, and who shall be selected from a list of names of Independent Appraisers submitted by the Managing Member and the Non-Managing Members. Each list of names of Independent Appraisers shall be submitted within ten (10) written days after the date on which the appraisal proceeding is invoked, or will be disregarded and the appraiser shall be selected from the list provided. The appraisals shall take into account the Extended Use Agreement and any other restriction recorded as of record against the Apartment Complex. Each of the Managing Member and the Non-Managing Members shall pay the cost of any appraiser(s) selected by it pursuant to this Section 3.5(d). If the parties agree on the selection of a single Independent Appraiser then the costs of such appraiser shall be paid by the Managing Member; if the parties are required to use a third appraiser, then the costs of such third appraiser shall be split between Managing Member and Non-Managing Members. For purposes of this Section 3.5(d), the term “Independent Appraiser” means a firm that is generally qualified to render opinions as to the fair market value of assets such as the Apartment Complex, which satisfies the following criteria: (i) such firm is not a Member or an Affiliate of the Company or any Member; (ii) such firm (or a predecessor in interest to the assets and business of such firm) has been in business for at least five (5) years, and at least one of the principals of such firm has been in the active business of appraising substantially similar assets for at least ten (10) years; (iii) such firm has regularly rendered appraisals of substantially similar assets for at least five (5) years on behalf of a reasonable number of unrelated clients, so as to demonstrate reasonable market acceptance of the valuation opinions of such firm; (iv) one or more of the principals or appraisers of such firm are members in good standing of an appropriate professional association or group that establishes and maintains professional standards for its members; and (v) such firm renders an appraisal only after entering into a contract that specifies the compensation payable for such appraisal.

3.6 Investor Provisions

(a) Subject to provisions of this Agreement with respect to related party loans, any GSE that is a limited partner or member in any entity that is a Non-Managing Member (a “Defined Mortgagee”) at any time may make, guarantee, own, acquire, or otherwise credit enhance, in whole or in part, a Mortgage Loan. Under no circumstances will such a Defined Mortgagee be considered to be acting on behalf or as an agent or the alter ego of the Non-Managing Member of which it is a limited partner or member. A Defined Mortgagee may take
any actions that such Defined Mortgagee, in its discretion, determines to be advisable in connection with the applicable Mortgage Loan (including in connection with the enforcement of such Mortgage Loan). By acquiring an interest in the Company, each Member acknowledges that no Defined Mortgagee owes the Company or any Member any fiduciary duty or other duty or obligation whatsoever by virtue of such Defined Mortgagee being a limited partner or member in a Non-Managing Member. Neither the Company nor any Member will make any claim against a Defined Mortgagee, or against the Non-Managing Member in which the Defined Mortgagee is a limited partner or member, relating to a Mortgage Loan and alleging any breach of any fiduciary duty, duty of care, or other duty whatsoever to the Company or to any Member based in any way upon the Defined Mortgagee’s status as a limited partner or member of a Non-Managing Member.
ARTICLE IV
Members; Capital

4.1 Capital and Capital Accounts

(a) The capital of the Company shall be the aggregate amount of the cash and the Gross Asset Value of property contributed by the Managing Member and by the Non-Managing Members as set forth in Schedule A. No interest shall be paid by the Company on any Capital Contribution to the Company. Schedule A shall be amended from time to time to reflect the withdrawal or admission of Members, any changes in the Company Interests held by a Member arising from the transfer of an Interest to or by such Member and any change in the amounts to be contributed or agreed to be contributed by any Member. No Member shall have the right to withdraw or receive a return of any of its Capital Contributions except as set forth in this Agreement.

(b) An individual Capital Account shall be established and maintained for each Member, including any additional or substituted Member who shall hereafter receive an interest in the Company. The Capital Account of each Member shall be maintained in accordance with the following provisions:

(i) To each Member’s Capital Account there shall be credited such Member’s Capital Contributions, such Member’s distributive share of Profits, and any items in the nature of income or gain that are specially allocated pursuant to Section 10.4 hereof, and the amount of any Company liabilities that are assumed by such Member or that are secured by any Company Property distributed to such Member;

(ii) To each Member’s Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Company Property distributed to such Member pursuant to any provision of this Agreement, such Member’s distributive share of Losses, and any items in the nature of expenses or losses that are specially allocated pursuant to Section 10.4 hereof, and the amount of any liabilities of such Member that are assumed by the Company or that are secured by any property contributed by such Member to the Company.

In the event that the Gross Asset Values of Company assets are adjusted pursuant to this Agreement, the Capital Accounts of all Members shall be adjusted simultaneously to reflect the aggregate net adjustment as if the Company recognized gain or loss equal to the amount of such aggregate net adjustment.

(c) The original Capital Account established for any Assignee (as hereinafter defined) shall be in the same amount as, and shall replace, the adjusted Capital Account of the Member which such Assignee succeeds, and, for the purpose of the Agreement, such Assignee shall be deemed to have made the Capital Contribution, to the extent actually paid in, of the Member which such Assignee succeeds. The term “Assignee,” as used in this paragraph, shall mean a Person who shall become entitled to receive a share of the Profits, Losses, Tax Credits and distributions of the Company by reason of such Person succeeding to the Interest of a Member by assignment of all or any part of an Interest. To the extent an Assignee receives less than
100% of the Interest of a Member, such Assignee’s Capital Account and Capital Contribution shall be in proportion to the Company Interest such Assignee receives, and the Capital Account and Capital Contribution of the Member who retains a partial interest in the Company shall continue, and not be replaced, in proportion to the Company Interest such Member retains.

(d) The foregoing provisions and other provisions of this Agreement relating to the maintenance of the Capital Accounts are intended to comply with the Allocation Regulations, and shall be interpreted and applied in a manner consistent with such Allocation Regulations.

4.2 Managing Members and Class B Special Member

(a) O-SDA is hereby designated as the Co-Managing Member and the name, address and Capital Contribution of the Co-Managing Member is as set forth on Schedule A. The Administrative Member is hereby admitted to the Company and the name, address and Capital Contribution of the Administrative Member is as set forth on Schedule A. The Class B Special Member is hereby admitted to the Company and the name, address and Capital Contribution of the Class B Special Member is as set forth on Schedule A.

(b) The Co-Managing Member has contributed or will contribute contemporaneously with the execution hereof $100 to the capital of the Company. The Administrative Member has contributed or will contribute contemporaneously with the execution hereof $100 to the capital of the Company. The Class B Special Member has contributed or will contribute contemporaneously with the execution hereof $100 to the capital of the Company.

(c) Notwithstanding anything contained herein to the contrary, in the event that the Developer is an Affiliate of any Managing Member, at the election of the Special Member in its sole and absolute discretion, upon the removal of such Managing Member in accordance with the terms hereof, to the extent all or any portion of the Development Fee or the Deferred Development Fee Note, if any, remains unpaid as of the effective date of such removal of such Managing Member, such Managing Member shall immediately prior to such removal make a capital contribution to the Company in an amount sufficient to pay any unpaid balance of the Development Fee and the Deferred Development Fee Note, if any, and all accrued but unpaid interest thereon, and the Company shall thereafter promptly pay to the Developer such remaining balance of the Development Fee and the Deferred Development Fee Note, if any, and all accrued but unpaid interest thereon.

4.3 Non-Managing Members

(a) The Original Investment Member hereby withdraws as a member of the Company and acknowledges that it no longer has any Interest in, or rights or claims against, the Company as a Member as of the Admission Date.

(b) Each of the Special Member and the Investment Member is hereby admitted to the Company as a Non-Managing Member as of the Admission Date in accordance with the terms and conditions of this Agreement. The name and address of the Investment Member and the Special Member are as set forth on Schedule A.
(c) Except as otherwise specifically set forth in Sections 4.5 or 7.4, the Managing Member shall have no authority to admit additional Non-Managing Members without the Consent of the Investment Member.

4.4 Liability of the Non-Managing Members

No Non-Managing Member or any Person who becomes a Substituted Non-Managing Member shall be liable for any debts, liabilities, contracts or obligations of the Company; such Persons shall be liable only to pay their respective Capital Contributions as and when the same are due hereunder and under the Act. After its Capital Contribution shall be fully paid, no Non-Managing Member shall, except as otherwise required by the Act, be required to make any further capital contributions or payments or lend any funds to the Company.

4.5 Special Rights of the Special Member

(a) Notwithstanding any other provisions herein (other than Section 13.8), to the extent the law of the State is not inconsistent, the Special Member shall have the right, subject to any Requisite Approvals, to:

(i) [Intentionally Deleted];

(ii) dissolve the Company, provided, however, that such dissolution shall not be caused by the Special Member unless the Managing Member has violated a material provision of any Project Document, which violation has not been cured within any applicable cure period specified;

(iii) remove any Managing Member and elect a new Managing Member (A) on the basis of the performance and discharge of such Managing Member’s obligations constituting fraud, bad faith, gross negligence, willful misconduct or breach of fiduciary duty, or (B) upon the occurrence of a Material Event.

(iv) continue the business of the Company with a substitute Managing Member, provided that the Managing Member has been removed pursuant to Section 4.5(a)(iii) above; and

(v) approve or disapprove the sale of all or substantially all of the assets of the Company.

(b) Upon the removal of a Managing Member for cause pursuant to Section 4.5(a)(iii),

(i) without any further action by any Member, the Special Member shall cause an Affiliate automatically to become a Managing Member (the “Substitute Managing Member”) and acquire in consideration of a cash payment of $100 such portion of the Interest of the removed Managing Member as counsel to the Special Member shall determine is the minimum appropriate interest in order to assure the continued status of the Company as a partnership under the Code and under the Act;
(ii) the remaining portion of the economic Interest of the removed Managing Member shall automatically be transferred to the Company, not as a penalty but as liquidated damages to compensate the Company for the action or omission of such Managing Member leading to its removal, or for the fact of its violation of the terms of this Agreement and to allow the Company to adequately compensate any replacement Managing Member; and

(iii) the Substitute Managing Member shall automatically be irrevocably delegated all of the powers and duties of the Managing Members pursuant to Section 6.13. A Managing Member so removed will not be liable as a managing member for any obligations of the Company incurred after the effective date of its removal, except to the extent that such obligations arise due to the action or inaction of the Managing Member prior to its removal. Each Managing Member hereby grants to the Special Member an irrevocable (to the extent permitted by applicable law) power of attorney coupled with an interest to execute and deliver any and all documents and instruments on behalf of such Managing Member and the Company as the Special Member may deem to be necessary or appropriate in order to effect the provisions of this Section 4.5 and to enable the new Managing Member to manage the business of the Company.

4.6 Meetings

The Managing Member or Non-Managing Members holding more than ten percent (10%) of the then outstanding Non-Managing Member Interests may call meetings of the Company for any matters for which the Non-Managing Members may vote as set forth in this Agreement. A list of the names and addresses of all Non-Managing Members shall be maintained as part of the books and records of the Company and shall be made available upon request to any Non-Managing Member or his representative at his cost. Upon receipt of a written request either in person or by certified mail stating the purpose(s) of the meeting, the Managing Member shall provide all Non-Managing Members within ten (10) days after receipt of said request, written notice of a meeting and the purpose of such meeting to be held on a date not less than fifteen (15) nor more than sixty (60) days after receipt of said request, at a time and place convenient to the Non-Managing Members.
ARTICLE V  
Capital Contributions of the Investment Member  
and the Special Member

5.1 Payments

(a) The Special Member’s Capital Contribution of $10 shall be paid in full in cash on the Admission Date. The Investment Member’s Capital Contribution in the aggregate amount of $12,771,343 shall be paid in cash installments (the “Installments”), as follows:

(i) $1,915,701 (the “First Installment”) on the latest of (A) the Admission Date and (B) the closing of the Construction Loan; for administrative purposes the Investment Member will withhold from the proceeds of the First Installment, and apply such amounts to the payment of, the amount needed to pay in full the outstanding principal balance of the Predevelopment Loan and all accrued interest thereon;

Concurrent with payment of the First Installment, the Company will also pay an amount equal to $50,000 to the Investment Member, which represents the due diligence costs and professional, third-party fees incurred by the Investment Member in connection with the Investment Member’s investment in the Company. Such expense reimbursement may be netted from the First Installment but the entire amount of the First Installment shall be deemed for all purposes to have been paid first, by the Investment Member to the Company as payment of the First Installment and, then, by the Company to the Investment Member as reimbursement for such costs and expenses.

(ii) $3,959,116 (the “Second Installment”) on the latest of (A) the 50% Completion Date, (B) receipt of a final Title Policy with all endorsements in form and substance satisfactory to the Investment Member, (C) receipt of an updated title report in form and substance satisfactory to the Special Member, (D) receipt by the Investment Member of an Estoppel Letter from each Lender and evidence of satisfaction of the Insurance Requirements, and (E) April 1, 2018;

(iii) $3,065,122 (the “Third Installment”), on the latest of (A) the Completion Date, (B) receipt of an updated title report in form and substance satisfactory to the Special Member, and an access endorsement to the Title Policy, (C) receipt by the Investment Member of evidence of satisfaction of the Insurance Requirements and the Due Diligence Recommendations, (D) delivery of an “As Built” survey by a professional engineer licensed in the State reflecting all improvements to the property, (E) receipt by the Investment Member of the Substantial Completion Certificate, and (F) October 1, 2018;

(iv) $2,873,552 (the “Fourth Installment”) on the latest of (A) the Initial Full Occupancy Date, (B) Permanent Mortgage Commencement (which may occur contemporaneously with the payment of this Fourth Installment), (C) Cost Certification, (D) the Initial Compliance Audit which shows no material noncompliance (as set forth in Section 12.7(n)), (E) receipt by the Investment Member of a copy of the Extended Use Agreement and (F) July 1, 2019; and
(v) $957,852 (the “Fifth Installment”) upon (A) State Designation, (B) Rental Achievement, (C) delivery to the Investment Member of a copy of the executed Deferred Development Fee Note, and (D) October 1, 2019;

provided, however, that (x) the Managing Member shall give the Investment Member not less than fourteen (14) days’ written notice prior to the due date of each Installment subsequent to the First Installment, (y) no Installment shall be due unless and until all conditions to the payment of all prior Installments have been satisfied, and (z) the full amount of the First Installment, the Second Installment, the Third Installment and the Fourth Installment of the Investment Member’s Capital Contribution (less all amounts approved as reimbursement for Development Costs on the Admission Date) shall be deposited into an escrow account in the name of the Company with the Construction Lender (the “Equity Installment Escrow”). Funds may be withdrawn from such Equity Installment Escrow to pay Development Costs in monthly draws only (1) after the delivery to the Investment Member by the Managing Member of a monthly draw request and all supporting back-up invoices and documentation therefor, including without limitation, the applicable construction inspection report of the Inspecting Consultant, (2) the countersignature of the Special Member of such draw request and (3) the subsequent submission to and approval by the Construction Lender of such draw request, if such approval is required by the Construction Loan Documents. All interest earned on the funds deposited in the Equity Installment Escrow shall be calculated and reported monthly by the Managing Member to the Investment Member and all such accrued interest shall be disbursed by the Managing Member to the Investment Member upon the payment of the Investment Member’s Fourth Installment.

Prior to conversion of the Construction Loan to the Permanent Loan, pursuant to that certain Assignment of Equity Investor Capital Contributions, Pledge and Security Agreement between the Company and the Construction Lender dated as of the date of the Investment Closing, the Managing Member hereby irrevocably authorizes and directs the Investment Member to pay each installment of its Capital Contribution when due pursuant to the terms hereof by making a payment of such amount on behalf of the Company directly to the Construction Lender in accordance with the Construction Loan Documents.

(b) The obligation of the Investment Member to pay each Installment is conditioned upon delivery by the Managing Member to the Investment Member of a written certificate (the “Payment Certificate”) stating that as of the date of such certificate (i) all the conditions to the payment of such Installment and each prior Installment have been satisfied, (ii) all representations and warranties of the Managing Member contained in this Agreement are true and correct and the Managing Member is not in default of any of its duties and obligations set forth in this Agreement, (iii) the Apartment Complex is In Balance, (iii) no event has occurred which suspends or terminates the obligations of the Investment Member to pay Installments under this Agreement which has not been cured as herein provided, and (iv) no event has occurred which, with the giving of notice, would oblige the Managing Member to repurchase the Interests of the Investment Member pursuant to Section 5.2(a). Except as provided in the final sentence of this Section 5.1(b), acceptance by the Company of any Installment shall constitute a confirmation that, as of the date of payment, all such conditions are satisfied and all such representations and warranties are true and correct. The obligation of the Investment Member to pay the First Installment is also conditioned upon delivery by the Managing Member to the Investment Member of (x) a legal opinion of independent counsel to the Company, the Managing
Member, the Developer and the Guarantors, which opinion(s) must be satisfactory to the Investment Member as to form, content and identity of counsel and (y) a photocopy of a binding commitment, in form and substance satisfactory to the Special Member, to issue the Title Policy and any endorsements thereto in form and substance reasonably satisfactory to the Special Member. In no event shall any Installment become due until all of the conditions for all of the Installments listed prior to the Installment in question in Section 5.1(a) shall have been satisfied and all of such prior Installments shall have become due. Notwithstanding the foregoing, however, if at any time prior to the date when an Installment becomes due and payable, the Company has an Operating Deficit which the Managing Member would be required to fund pursuant to Section 6.10 as a result of which the Payment Certificate cannot be delivered, then, provided that all other conditions to the Installment in question are met, the Investment Member may, at its option, waive the requirement of the delivery of the Payment Certificate or any other condition with respect to part or all of such Installment and pay such part or all of such Installment, provided that the proceeds of the amount so paid are used by the Company to fully fund such Operating Deficit; provided, however, that if the proceeds of such amount so paid are designated in Section 6.12 to be used to pay fee(s), then such proceeds shall be utilized to pay such fee(s) and the recipient(s) thereof shall be required to, and hereby agree to, utilize the proceeds of such fee(s) to fund such Operating Deficit, in which case the Investment Member is hereby authorized to directly fund such Operating Deficit, with the funds so applied being deemed to have been paid as aforesaid.

(c) The Payment Certificate for each Installment shall be dated and delivered not less than ten (10) nor more than thirty (30) days prior to the due date for such Installment.

(d) If, as of the date when an Installment would otherwise be due, any statement required to be made in the Payment Certificate for such Installment cannot be truthfully made, the Managing Member shall notify the Investment Member of the reason why such statement would be untrue if made, and the Investment Member shall not be required to pay such Installment; provided, however, that if (i) any such statement can subsequently be truthfully made and (ii) the Investment Member shall not have irrevocably lost, in the good faith judgment of the Investment General Partner, any material tax or other benefits hereunder (other than tax benefits for which the Investment Member has been fully compensated pursuant to the provisions of paragraphs (e) and (f) of this Section 5.1), then the Investment Member shall pay such Installment to the Company thirty (30) days after delivery by the Managing Member to the Investment Member of the Payment Certificate together with an explanation of the manner in which each such statement had become true.

(e) In the event that as of or any time prior to State Designation (the “Initial Adjustment Date”) or as a result of a subsequent audit, the Investment Member shall receive a written certification of the Auditors indicating that the aggregate Actual Credit during the Credit Period will be less than the aggregate Projected Credit during the Credit Period, then (i) the next succeeding Installments of the Capital Contributions of the Investment Member shall be reduced by an amount equal to the product of (X) the difference between (1) the aggregate Projected Credit during the Credit Period and (2) the aggregate Actual Credit during the Credit Period and (Y) $0.93 as to each dollar of Tax Credit, and (ii) the Projected Credit for each Fiscal Year shall thereafter be redefined to mean the Actual Credit, as so determined (the “Revised Projected Credit”). Any such reduction pursuant to this Section 5.1(e) shall be made first to the
Installment, if any, next due to be paid by the Investment Member, and any balance of such amount payable by the Managing Member in excess of the amount of such Installment shall be applied to succeeding Installments, if any, provided that if the amount of any such reductions exceeds the sum of the remaining Installments, if any, then an amount equal to the amount of such excess shall be paid by the Managing Member to the Company as a Capital Contribution and immediately distributed to the Investment Member promptly after demand is made therefor (or, to the extent such Managing Member Capital Contribution would in the opinion of counsel to the Investment Member cause tax benefits intended for the Investment Member to be lost or reallocated to another Member, then payments due from the Managing Member shall be made, on an After-Tax Basis, directly to the Investment Member, as a payment of damages for breach of warranty), regardless of the reason for the occurrence of such event (unless such reduction was caused by an act or omission of the Investment Member or its Affiliates, in which event no such reduction or payment shall be required). No reduction of any Installment pursuant to this Section 5.1(e) shall be deemed to be a Capital Contribution by the Managing Member to the Company. No adjustment pursuant to this Section 5.1(e) shall be due if solely attributable to the inability of the Investment Member or its constituent partners to be capable of utilizing the full amount of the Actual Credit.

(f) If for any reason, including without limitation, a Recapture Event, with respect to any Fiscal Year (except to the extent already accounted for in Section 5.1(e) above) all or a portion of which occurs before or during the Compliance Period, the Actual Credit is or was less than the Projected Credit (or the Revised Projected Credit, if applicable) for such Fiscal Year (a “Reduction Year”), then the Managing Member shall pay to the Investment Member the Reduction Amount. The Reduction Amount shall be equal to the sum of (A) the excess of the Projected Credit (or the Revised Projected Credit, if applicable) for such Fiscal Year over the Actual Credit for such Fiscal Year multiplied by $0.93 (provided that in the event a Reduction Amount is due for 2018 and any of the Projected Credit for such year will be allocable to the Investment Member in 2028, then for such Reduction Year only 0.60 shall be substituted for 0.93 and $85,000 shall be substituted for the Projected Credit) as to each dollar of Tax Credit, plus (B) the Recapture Amount as determined pursuant to Section 10.6 and, to the extent not already accounted for, any interest or penalties payable by the limited partners of the Investment Member as a result of such shortfall or Recapture Event, assuming that each limited partner of the Investment Member used all of the Tax Credits allocated to it in the Fiscal Year of allocation. The Auditors shall make their determination of the amount of the Actual Credit with respect to each Reduction Year within thirty (30) days following the end of such Fiscal Year, provided that, if it is known at the time of an event or circumstance causing a Reduction Year that any or all of the remaining years in the Credit Period also will be Reduction Years as a result of such event or circumstance, then any Reduction Amount calculable for such future year(s) shall be paid at the time of the first such Reduction Year. The Investment Member shall be eligible to be paid a Reduction Amount as hereinabove described with respect to each Reduction Year. Any Reduction Amount shall first be applied to the Installment next due to be paid by the Investment Member, with any portion of such Reduction Amount in excess of the amount of such Installment then being applied to succeeding Installments, provided that if no further Installments remain to be paid or if the Reduction Amount shall exceed the sum of the amounts of the remaining Installments, then the entire Reduction Amount or the balance of the Reduction Amount, as the case may be, shall be paid by the Managing Member to the Company as a Capital Contribution and immediately distributed to the Investment Member promptly after demand is made therefor (or, to the extent such Managing Member Capital Contribution would in the opinion of counsel to the Investment Member cause tax benefits intended for the Investment Member to be lost or reallocated to another Member, then payments due from the Managing Member shall be made, on an After-Tax Basis, directly to the Investment Member, as a payment of damages for breach of warranty), regardless of the reason for the occurrence of such event (unless such reduction was caused by an act or omission of the Investment Member or its Affiliates, in which event no such reduction or payment shall be required).
made therefor (or, to the extent such Managing Member Capital Contribution would in the opinion of counsel to the Investment Member cause tax benefits intended for the Investment Member to be lost or reallocated to another Member, then payments due from the Managing Member shall be made, on an After-Tax Basis, directly to the Investment Member, as a payment of damages for breach of warranty), regardless of the reason for the occurrence of such event (unless such reduction was caused by an act or omission of the Investment Member or its Affiliates, in which event no Reduction Amount shall be payable). No reduction of any Installment pursuant to this Section 5.1(f) shall be deemed to be a Capital Contribution to the Company. No adjustment pursuant to this Section 5.1(f) shall be due if solely attributable to the inability of the Investment Member or its constituent partners to be capable of utilizing the full amount of the Actual Credit.

(g) In the event that the Investment Member shall receive a written certification of the Auditors indicating that the aggregate Actual Credit during the Credit Period will be greater than the aggregate Projected Credit during the Credit Period (an “Upward Basis Adjuster”), then the final Installment of the Capital Contributions of the Investment Member shall be increased by an amount (up to a maximum amount of $1,277,134 inclusive of any Upward Timing Amount) (the “Investment Increased Basis Amount”) equal to the product of (X) the difference between (1) the aggregate Actual Credit during the Credit Period as certified by the Auditors and (2) the aggregate Projected Credit during the Credit Period and (Y) equal to the then prevailing market price for Tax Credits determined by the Investment Member in its sole and absolute discretion, and the Projected Credit for each Fiscal Year shall thereafter be redefined to mean the Revised Projected Credit, provided, however, that the provisions of this Section 5.1(g) shall not apply in the event that the Investment Member does not have sufficient funds to make the additional Capital Contribution and, after a diligent good faith effort, the Investment Member cannot cause any of its Affiliates to make such additional Capital Contribution. Additional Capital Contributions made pursuant to this Section 5.1(g) shall be applied first to the payment of the Development Fee if so required by the Special Member in its reasonable discretion. If the Investment Member elects not to increase the amount of its Capital Contribution by the full amount of the Investment Increased Basis Amount, in such event, the Managing Member’s share of the Profits and Loss (and, correspondingly, depreciation and Tax Credits) will be increased, and the Investment Member’s share decreased, such that the Investment Member will be entitled to receive allocations of Tax Credits equal to the Projected Tax Credits plus the Tax Credits used in the calculation of the actual Investment Increased Basis Amount. The Members agree to amend this Agreement to reflect any increase in the Investment Member’s Capital Contribution or increase in the Managing Member’s share of Profits and Losses (and, correspondingly, depreciation and Tax Credits), as the case may be.

(h) In the event that, as a result of accelerated lease-up, the Actual Credit for 2018 is greater than $364,244 (an “Upward Timing Adjuster”), provided that as a result of such Upward Timing Adjuster, no Tax Credits are caused to be allocated to the Investment Member over the 15-year Compliance Period instead of the 10-year Credit Period, then the Capital Contribution of the Investment Member shall be increased by an amount (the “Upward Timing Amount”) equal to the product of (A) the Actual Credit for 2018 as certified by the Auditors and (B) 0.25, payable on the later of (i) the due date of the Investment Member’s Fifth Installment and (ii) receipt by the Investment Member of the Company’s filed federal tax return for 2018, provided, however, that in no event will the Investment Member be obligated to pay greater than $50,000.
for the Upward Timing Amount. Notwithstanding the foregoing, the Investment Member may in its sole discretion contribute an Upward Timing Amount in excess of $50,000 in the event that the Investment Member or its partners have sufficient funds to make the additional Capital Contribution. Additional Capital Contributions made pursuant to this Section 5.1(h) shall be applied first to the payment of the Development Fee if so required by the Special Member in its reasonable discretion.

5.2 Return of Capital Contributions

(a) Failure to Achieve Development and/or Tax Credit Benchmarks and Standards. Upon the occurrence of any of the events (a “Repurchase Event”) listed below in this Section 5.2(a), within five (5) days of the occurrence thereof, the Managing Member shall send to the Investment Member notice of such event and of the Managing Member’s obligation to repurchase the Interests of the Investment Member by paying to the Investment Member an amount in cash (the “Repurchase Amount”) equal to each such Member’s Invested Amount minus (i) the portion, if any, of such Member’s Capital Contribution which shall not yet have been paid (or deemed to have been paid) to the Company and (ii) an amount equal to the amount of Tax Credits previously received by the Investment Member and not subject to recapture (provided, however, that, unless the Investment Member receives a written notice from the IRS prior to the date the Repurchase Amount is due as to whether any of the Tax Credits are to be recaptured, then the determination of whether such previously received Tax Credits are subject to recapture shall be made in the reasonable discretion of the Investment Member based on its assessment of whether there is a reasonable likelihood that the Apartment Complex will be continued as affordable housing for the remainder of the Compliance Period), plus the outstanding principal and accrued interest in respect of any loans made by the Non-Managing Members to the Company and the amount of any third-party costs, including, without limitation, attorney’s fees incurred by or on behalf of such Member in implementing this Section 5.2(a) in the event the Investment Member requires such a repurchase plus interest thereon at the AFR, annually compounding, commencing on the fifth (5th) day after delivery of the notice referred to in the next sentence. If the Investment Member elects to require a repurchase of its Interest and the payment to it of an amount equal to its Repurchase Amount, it shall send notice thereof to the Company within thirty (30) days after the mailing date of the Managing Member’s notice, or at any time after the occurrence of any of the foregoing if the Managing Member shall not have sent a notice thereof, and the Managing Member shall within ten (10) days after the Company receives any such notice from a Member requesting the purchase of its Interest repurchase the Interest of such Member by paying to such Member an amount equal to its Repurchase Amount. If funds are insufficient, the Interest of the Investment Member shall be purchased first, then the Special Member Interest shall be purchased. Upon the payment of the Repurchase Amount to the Investment Member and the Special Member such Member shall withdraw as members of the Company. If, following receipt of the Managing Member’s notice, any Member fails to send notice to the Managing Member by the end of such thirty (30)-day period requesting the Managing Member to purchase its Interest, such Member, as the case may be, shall be deemed to have waived its right to cause the Managing Member to purchase its Interest as a result of the event described in the Managing Member’s notice; provided, however, such deemed waiver shall not be presumed unless the Managing Member shall have first sent a second notice to such Member or otherwise confirmed that the first notice was timely received by such Member. No such waiver, however, shall affect the right of the Investment Member to cause the Managing
Member to purchase its Interest upon the occurrence of any other event described in this Section 5.2(a), or upon any subsequent occurrence of the event described in the Managing Member’s notice. The Repurchase Events are as follows:

(i) each of the buildings in the Apartment Complex shall not have been placed in service by December 31, 2018 (for purposes of satisfying the requirements of Section 42(h)(1)(E)(i) of the Code); or

(ii) by March 1, 2019, the Completion Date shall not have occurred; or

(iii) construction of the Apartment Complex or, prior to Rental Achievement, operation thereof shall have been enjoined by a final order (from which no further appeals are possible) of a court having jurisdiction and such injunction shall continue for a period of ninety (90) days; or

(iv) Permanent Mortgage Commencement shall not have been achieved prior to the date that causes a default under the Construction Loan Documents; or

(v) if at any time it shall be determined by the Service or by the Tax Accountants that a Carryover Certification could not be issued or was issued in error; or

(vi) State Designation shall not have occurred by September 30, 2019 (or any later date fixed by the Managing Member with the Consent of the Investment Member) and by said date the Managing Member shall not have made any payment as described in the second sentence of Section 5.1(e) or, if the Investment Member shall have elected to have all or a portion of any payment under Section 5.1(e) applied toward future Installment obligations of the Investment Member, amendments to this Agreement shall not have been adopted and filed in the Filing Office, if required, reflecting such event; or

(vii) if by the date which is twelve (12) months following the Completion Date, Rental Achievement shall not have been achieved; or

(viii) the Company shall fail to meet the Minimum Set-Aside Test or the Rent Restriction Test by the close of the first year of the Credit Period and/or fails to continue to meet either of such tests or any other tenant set-asides required by the Credit Agency at any time during the sixty (60)-month period commencing on such date; or

(ix) (A) foreclosure proceedings shall have commenced under any Mortgage and such proceedings shall not have been dismissed within thirty (30) days, provided however that, after Rental Achievement, this clause (A) shall continue to be effective only if the Managing Member is in default of its obligations under Section 5.1(e), 5.1(f) or 6.10, (B) any of the commitments of a Lender to provide a Mortgage Loan and/or any subsidy financing shall be terminated or withdrawn and not reinstated or replaced within sixty (60) days with terms at least as favorable to the Company or terms for which the Consent of the Investment Member and any Requisite Approvals shall have been obtained, or (C) the Construction Lender, acting in good faith and in accordance with the provisions of the Construction Loan Documents, shall have irrevocably refused to make
any further advances under the Construction Loan Documents and such decision shall not have been reversed or the Construction Lender replaced within thirty (30) days; or

(x) at any time the Managing Member fails to advance Subordinated Loans and such failure continues for ten (10) days; or

(xi) prior to Rental Achievement, any action is commenced to foreclose any mechanics, or any other lien (other than the lien of a Mortgage) against the Apartment Complex and such action has not within thirty (30) days been either bonded against or such a manner as to preclude the holder of such lien from having any recourse to the Apartment Complex or to the Company for payment of any debt secured thereby, or affirmatively insured against by the title insurance policy or an endorsement thereto issued to the Company by a reputable title insurance company (which insurance company will not have indemnity from or recourse against Company assets by reason of any loss it may suffer by reason of such insurance) in an amount satisfactory to the Investment Member; or

(xii) a casualty occurs resulting in substantial destruction of all or a portion of the Apartment Complex, and the insurance proceeds (if any) are insufficient to restore the Apartment Complex or the Apartment Complex is not so restored within twenty-four (24) months following such casualty; or

(xiii) at any time prior to Rental Achievement, an action is commenced to abandon or permanently enjoin the construction of the Apartment Complex; or

(xiv) a final determination by the Tax Accountants that the Investment Member shall be allocated less than 70% of the Projected Credit during the Credit Period; provided however that, after Rental Achievement, this subsection (xiv) shall continue to be effective only if the Managing Member is in default of its obligations under Section 5.1 or 6.10.

(b) Lender/Agency Disapproval. If any Agency or Lender shall disapprove, or fail to give any required approval of, the Investment Member and/or the Special Member as a Non-Managing Member hereunder within one hundred eighty (180) days of the Admission Date, then the Member being disapproved or not approved shall, effective as of such time or such later time as may be elected by the Member being disapproved or not approved as may be specified by such Agency or Lender in its disapproval, at the option of the Member being disapproved or not approved (if not directed by such Agency or Lender to withdraw), cease to be a Non-Managing Member. The Managing Member shall, within ten (10) days of the effective date of such cessation, pay to the Member being disapproved or not approved an amount equal to its paid-in Capital Contributions and the outstanding balance of any loans made by the Non-Managing Members to the Company plus the amount of any third party costs, including, but not limited to attorney’s fees, incurred by or on behalf of such Member in implementing this Section 5.2(b).

(c) Substitution and Indemnification. Upon the receipt by the Investment Member and/or the Special Member of the amount due to it pursuant to either Section 5.2(a) or Section 5.2(b), the Interest of such Member shall terminate, and the Managing Member shall indemnify
and hold harmless such Member from and against any Adverse Consequences to which such Member (as a result of its participation hereunder) may be subject, provided that such Adverse Consequences do not result from such Member’s acts or omissions.

(d) Waiver of Repurchase Right. Each of the Investment Member and the Special Member shall have the right to irrevocably waive its right to have its Interest repurchased pursuant to any clause or clauses of Section 5.2(a), or any portion thereof, at any time during which any of such rights shall be in effect. Such a waiver shall be exercised by delivery to the Managing Member of a written notice stating that the rights being waived pursuant to any specified clause or clauses of Section 5.2(a), or any specified portion thereof, are thereby waived for a specified period of time.

(e) Additional Managing Member. If the Managing Member shall fail to make on the due date therefor any payment required under Section 5.2(a) or Section 5.2(b), time being of the essence, at any time thereafter the Special Member shall have the option, exercisable in its sole discretion, to cause itself or its designee to be admitted as an additional Managing Member, receiving from the existing Managing Member, in consideration of the payment of ten dollars ($10.00), an interest in the Profits, Losses, Tax Credits and distributions of the Company sufficient in the opinion of counsel to the Special Member to cause the Special Member to become a Managing Member of the Company, with the Special Member retaining its status as such and its economic interest in the Company as the Special Member (or its designee as an additional Managing Member). If the Special Member exercises the option described in this Section 5.2(e), each of the other Managing Members hereby agrees that all of its rights and powers hereunder as a Managing Member shall automatically be irrevocably delegated to the Special Member pursuant to Section 6.13 without the necessity of any further action by any Member. Each Member hereby grants to the Special Member an irrevocable (to the extent permitted by applicable law) power of attorney coupled with an interest to take any action and to execute, deliver and file or record any and all documents and instruments on behalf of such Member and the Company as the Special Member may deem necessary or appropriate in order to effectuate the provisions of this Section 5.2(e) and to allow the additional Managing Member to manage the business of the Company. The admission of the Special Member or its designee as an additional Managing Member shall not relieve any other Managing Member of any of its economic obligations hereunder, and each other Managing Member shall fully indemnify and hold harmless the additional Managing Member on an After-Tax Basis from and against any and all Adverse Consequences sustained by such additional Managing Member in connection with its status as a Managing Member (other than Adverse Consequences arising solely from the gross negligence or willful misconduct of such additional Managing Member) for so long as such additional Managing Member remains a Managing Member of the Company. Any such additional Managing Member shall withdraw (notwithstanding the provisions of Article VII), as such and remain only as the Special Member upon the payment of all amounts due under Sections 5.2(a) and 5.2(b).
ARTICLE VI
Rights, Powers and Duties of Managing Member

6.1 Authorized Acts

Subject to the provisions of Section 6.2, Section 6.3, Section 6.15 and all other provisions of this Agreement, the Managing Member for, in the name and on behalf of the Company, is hereby authorized, in furtherance of the purposes of the Company:

(i) to acquire by purchase, lease, exchange or otherwise any real or personal property;

(ii) to construct, rehabilitate, operate, maintain, finance and improve, and to own, sell, convey, assign, mortgage or lease any real estate and any personal property;

(iii) to borrow money and issue evidences of indebtedness and to secure the same by mortgage, pledge or other lien on the Apartment Complex or any other assets of the Company;

(iv) to execute the Mortgage Loan Documents and the other Project Documents and all such other documents as the Managing Member deems to be necessary or appropriate in connection with the acquisition, development, construction and financing of the Apartment Complex;

(v) subject to Section 3.2, to prepay in whole or in part, refinance or modify any Mortgage Loan or other financing affecting the Apartment Complex;

(vi) to employ the Management Agent (which may be an Affiliate of the Managing Member) and, subject to the provisions of Article XI, to pay reasonable compensation for its services;

(vii) to employ its Affiliates to perform services for, or sell goods to, the Company provided that (except with respect to any contract specifically authorized by this Agreement) the terms of any such transaction with an Affiliate shall not be less favorable to the Company than would be arrived at by unaffiliated parties dealing at arms’ length;

(viii) to execute contracts with any Agency, the State or any subdivision or agency thereof or any other Governmental Authority to make apartments or tenants in the Apartment Complex eligible for any public-subsidy program;

(ix) to execute leases of some or all of the apartment units of the Apartment Complex to individuals and/or to a public housing authority and/or to a non-profit corporation, cooperative or other non-profit Entity;

(x) to employ or engage such engineers, architects, technicians, accountants, attorneys and other Persons, as may be necessary, convenient or incidental to the accomplishment of the purposes of the Company;
(xi) to become qualified as a foreign limited liability company duly registered and authorized to transact business in the State; and

(xii) to enter into any kind of activity and to perform and carry out contracts of any kind which may be lawfully carried on or performed by a limited liability company and to file all certificates and documents which may be required under the laws of the State.

6.2 Restrictions on Authority

(a) Notwithstanding any other Section of this Agreement, the Managing Member shall have no authority to perform any act in violation of the Act, any other applicable law, Agency or other government regulations, the requirements of any Lender, or the Project Documents. In the event of any conflict between the terms of this Article VI and any applicable Regulations or requirements of any Lender, the terms of such Regulations or the requirements of such Lender, as the case may be, shall govern. Subject to the provisions of Section 6.2(b), the Managing Member, acting in its capacity as Managing Member, either on its own behalf or on behalf of the Company, shall not have the authority, without the Consent of the Special Member (which consent shall not be unreasonably withheld or delayed as to clauses (viii), (x), and (xiii)):

(i) to have unsecured borrowings in excess of ten thousand dollars ($10,000.00) in the aggregate at any one time outstanding, except borrowings constituting Subordinated Loans;

(ii) to borrow from the Company or commingle Company funds with the funds of any other Person;

(iii) following the Completion Date, to construct any new or replacement capital improvements on the Apartment Complex which substantially alter the character or use of the Apartment Complex or which cost in excess of ten thousand dollars ($10,000.00) in a single Fiscal Year, except (x) replacements and remodeling in the ordinary course of business or under emergency conditions or (y) construction paid for from insurance proceeds;

(iv) to acquire any real property in addition to the Apartment Complex;

(v) to borrow the Permanent Loan on terms other than the Permanent Loan Conditions or to increase, decrease or modify the terms of or refinance any Mortgage Loan;

(vi) to rent apartments in the Apartment Complex such that the Apartment Complex would not meet the requirements of the Minimum Set-Aside Test or the Rent Restriction Test;

(vii) to sell, exchange or otherwise convey or transfer the Apartment Complex or substantially all the assets of the Company;

(viii) to terminate any Material Agreement;
(ix) to permit an Event of Bankruptcy with respect to the Company;

(x) to execute contracts with any Agency, the State or any subdivision or agency thereof or any other Governmental Authority to make apartments or tenants in the Apartment Complex eligible for any public-subsidy program (other than with respect to the 811 Units);

(xi) to amend any construction or rehabilitation contract except as expressly provided in subsection (xiv) below;

(xii) to pledge or assign any of the Capital Contributions of the Investment Member or the proceeds thereof (except to the extent required by the terms of the Construction Loan Documents and agreed to in writing by the Special Member);

(xiii) to amend or terminate any Project Document;

(xiv) to approve any material changes to the Plans and Specifications for the Apartment Complex or make any changes which would result, either individually or in the aggregate, in an overall development cost increase or decrease in excess of $100,000;

(xv) to permit the merger, consolidation, acquisition, termination or dissolution of the Company;

(xvi) to do any act required to be approved or ratified by all Non-Managing Members under the Act;

(xvii) to admit any additional Member to the Company;

(xviii) to make any discretionary capital calls;

(xix) to confess any judgment on behalf of the Company;

(xx) to cause the Company to institute, settle, compromise, mediate or otherwise relinquish any claim (actual or prospective), or to release, waive or diminish any material Company rights in any litigation or arbitration matter involving a claim in excess of $15,000;

(xxi) to change the nature of the Company’s business;

(xxii) to grant any approval or consent on behalf of the Company under the Project Documents that would have a material adverse effect on the Company or the Non-Managing Members;

(xxiii) to make any decision not to repair or rebuild in the case of material damage to or condemnation of the Apartment Complex;

(xxiv) to do any act which is in contravention or inconsistent with this Agreement, the Extended Use Agreement or the Project Documents;
(xxv) to make, amend or revoke any tax election required of or permitted to be made by the Company under the Code, including, without limitation, any election under Section 42 or Section 754 of the Code. In this regard, the Managing Member shall make any elections required or permitted under Section 42 of the Code requested in writing by the Investment Member;

(xxvi) to change any accounting method or practice of the Company or terminate or replace the Auditors;

(xxvii) to take any action (or fail to take any action) which would cause or result in a breach of any of the representations, warranties or covenants of the Managing Member set forth in this Agreement, including, without limitation, those set forth in Section 6.6;

(xxviii) to deposit any Company funds in any bank, savings and loan or other financial institution whose accounts are not fully insured by the Federal Deposit Insurance Corporation;

(xxix) to make any single expenditure of more than $10,000 or any total annual expenditures greater than $25,000 which are not consistent with operating budget provided to the Special Member pursuant to Article XII of this Agreement, or make any material modification to such development budget or any operating budget;

( xxx) to hire any employees for any purpose;

( xxxi) to receive or allow any rebate or give-up or participate in any reciprocal business arrangements which would circumvent the provisions hereof; or

( xxxii) execute any Deferred Development Fee Note.

(b) In the event that any Managing Member violates any provision of Section 6.2(a), the Special Member in its sole discretion and without prejudice to its rights under Sections 4.5(b) and 7.6(a), may cause itself or its designee to be admitted as an additional Managing Member without any further action by any other Member. Upon any such admission of an additional Managing Member, each existing Managing Member shall be deemed to have assigned proportionally to the additional Managing Member, automatically and without further action, such portion of its Company Interest so that the additional Managing Member shall receive an interest in the Profits, Losses, Tax Credits and distributions of the Company sufficient in the opinion of counsel to the Special Member to cause such additional Managing Member to be a Member of the Company, in consideration of one dollar ($1.00) and any other consideration which may be agreed upon. An additional Managing Member so admitted shall automatically become the Controlling Managing Member and shall be irrevocably delegated all of the power and authority of all of the Managing Member pursuant to Section 6.13. Any such additional Managing Member shall have the right to withdraw as a Managing Member at any time, leaving the prior Managing Member once again as the only Managing Member, the provisions of Article VII notwithstanding. Each Member hereby grants to the Special Member a special power of attorney, irrevocable to the extent permitted by law and coupled with an interest, to amend this Agreement and to do anything else which, in view of the Special Member, may be necessary or
appropriate to accomplish the purposes of this Section 6.2(b) or to enable any additional Managing Member admitted pursuant to this Section 6.2(b) to manage the business of the Company. The admission of an additional Managing Member shall not relieve any other Managing Member of any of its economic obligations hereunder, and each other Managing Member on an After-Tax Basis shall fully indemnify and hold harmless the additional Managing Member from and against any and all Adverse Consequences sustained by the additional Managing Member in connection with its status as a Managing Member (other than Adverse Consequences arising solely from the gross negligence or willful misconduct of such additional Managing Member).

6.3 Personal Services; Other Business Ventures

No Managing Member or Affiliate thereof shall receive any salary or other direct or indirect compensation for any services or goods provided in connection with the Company or the Apartment Complex, except as may be specifically provided in Section 6.12, Section 6.15 and Article XI or as to which the Consent of the Special Member shall have been obtained to the precise terms thereof prior to the commencement of such services or the provision of such goods. Any Member may engage independently or with others in other business ventures of every nature and description, including the ownership, operation, management, syndication and development of real estate; neither the Company nor any other Member shall have any rights in and to such independent ventures or the income or profits derived therefrom.

6.4 Business Management and Control

(a) Subject to the provisions of this Agreement, the Managing Member shall have the exclusive right to control the business of the Company. If at any time there is more than one Managing Member, the powers and duties of the Managing Members hereunder shall be exercised in the first instance by a Managing Member who, subject to the terms and provisions of this Agreement, shall manage the business and affairs of the Company (the “Controlling Managing Member”). The initial Controlling Managing Member shall be Saigebrook Kaia, LLC; if it is unwilling or unable to serve in such capacity or shall cease to be a Managing Member, the remaining Managing Members may from time to time designate a new Controlling Managing Member. The Controlling Managing Member may bind the Company by executing and delivering, in the name and on behalf of the Company, any documents which this Agreement authorizes the Managing Members to execute hereunder without the requirement that any other Managing Member execute such documents. If for any reason no designation is in effect, the powers of the Managing Member shall be exercised by a majority in interest of the Managing Members. Any action required or permitted to be taken by a corporate Managing Member hereunder may be taken by such of its proper officers or agents as it shall validly designate for such purpose.

(b) Subject to Section 6.2 and the other provisions of this Agreement, the Managing Member shall have control over the business of the Company and shall have all rights, powers and authority conferred by law as necessary, advisable or consistent in connection therewith. Without limiting the generality of the foregoing, the Managing Member shall have the right, power and authority to execute any documents relating to the acquisition, financing, construction, operation and sale of all or any portion of the Apartment Complex with the prior
approval of the other Managing Members, if any. The Managing Member shall be responsible for administering any construction loan draw requests for the development of the Apartment Complex.

(c) Neither the Investment Member nor the Special Member shall have any right to take part in the management or control of the business of the Company or to transact any business in the name of the Company. No provision of this Agreement which makes the Consent of the Investment Member or the Consent of the Special Member a condition for the effectiveness of an action taken by the Managing Member is intended, and no such provisions shall be construed, to give the Investment Member or the Special Member, as the case may be, any participation in the control of the Company business. Each of the Special Member and the Investment Member hereby consents to the exercise by the Managing Member of the powers conferred on it by law and this Agreement, and the Managing Member agrees to exercise control of the business of the Company only in accordance with the provisions of this Agreement. Notwithstanding the foregoing, in no event may the provisions of this Section 6.4 be invoked by any Managing Member or by any other Person as a defense against or as an impediment to the ability of either the Investment Member or the Special Member to take any action hereunder.

6.5 Duties and Obligations

(a) The Managing Member shall manage the affairs of the Company to the best of its ability, shall use its best efforts to carry out the purpose of the Company, and shall devote to the Company such time as may be necessary for the proper performance of its duties and the business of the Company. The Managing Member shall promptly take all action which may be necessary or appropriate for the proper development, construction, maintenance and operation of the Apartment Complex in accordance with the provisions of this Agreement, the Project Documents and any applicable laws and Regulations. The Managing Member is responsible for the management and operation of the Company, including the oversight of the rent-up and operational stages of the Apartment Complex.

(b) Subject to the provisions of Section 6.5(g), the Managing Member shall use its diligent good faith efforts to cause the Company to generate Cash Flow for distribution to the Members at the maximum realizable level in view of (i) any applicable Regulations, (ii) the Minimum Set-Aside Test, (iii) the Rent Restriction Test and (iv) the Projected Rents, and, if necessary, the Managing Member also shall use its best efforts to obtain approvals and implementation of appropriate adjustments in the rental schedule of the Apartment Complex.

(c) The Managing Member shall cause the Company to obtain and keep in force, during the term of the Company, insurance policies in accordance with the Insurance Requirements set forth on Exhibit D hereto. Throughout the term of the Company, the Managing Member shall provide copies of all such policies (or binders) to the Investment Member within thirty (30) days after their receipt thereof. The Managing Member shall cause the applicable insurer to name the Investment Member as an “additional insured” on each Company insurance policy. Each Company insurance policy shall include a provision requiring the insurance company to notify the Investment Member in writing no less than thirty (30) days prior to any cancellation, non-renewal or material change in the terms and conditions of coverage. The Managing Member shall review regularly all of the Company and Apartment
Complex insurance coverage to insure that it is adequate and continuing. In particular, the Managing Member shall review at least annually the insurance coverage required by this Section 6.5(c) to insure that it is in an amount at least equal to the then current full replacement value of the Apartment Complex.

Without limitation of the foregoing, the Managing Member shall deliver to the Investment Member on or before the Admission Date one or more certificates or memoranda of insurance, in form reasonably acceptable to the Investment Member, evidencing, (i) the existence of the insurance policies and coverages specified on Exhibit D, (ii) that the Company and its Members (including the Investment Member) are named insured on such policies, and (iii) that such insurance policies will not be cancelled by the insurers except within thirty (30) days’ written notice to the Investment Member. From time to time following the Admission Date, the Managing Member shall deliver to the Investment Member such further certificates or memoranda of insurance as the Investment Member may reasonably require to confirm that such insurance and notice provisions with respect to insurance under this Agreement have been complied with.

(d) If at any time there is more than one Managing Member, the obligations of the Managing Members hereunder shall be the joint and several obligations of each Managing Member. Except as otherwise provided in Sections 4.5(b) and 7.1, such obligations shall survive any Withdrawal of a Managing Member from the Company.

(e) (i) The Managing Member shall on the Completion Date establish and thereafter maintain reasonable reserves (the “Replacement Reserve”) to provide for working capital needs, improvements, replacements and any other contingencies of the Company. At a minimum, the Managing Member shall cause the Company to annually deposit $25,500 from Cash Flow into the Replacement Reserve (which requirement shall be offset against and not be in addition to any similar capital replacement reserve requirement of any Lender); to the extent that Cash Flow (as determined before deduction of such reserve deposit) for any Fiscal Year shall be insufficient to make such deposit in full, the Managing Member shall fund such shortfall from its own funds as a Subordinated Loan. The Managing Member’s obligation to make Subordinated Loans pursuant to this Section 6.5(e)(i) shall be ongoing and shall not be restricted to the Subordinated Loan Period and the Subordinated Loan Cap.

(ii) In addition to the requirements of Section 6.5(e)(i), in order to fund Operating Deficits, the Managing Member (or its designee), shall upon the satisfaction of the conditions to the payment of the Fifth Installment (or earlier upon the satisfaction of the conditions to the payment of the Fifth Installment if funds are available) deposit $308,751 (the “Initial Reserve Amount”) (or such larger amount as required by a Lender) into a segregated reserve account for the benefit of the Company (the “Operating Reserve”) to secure the Managing Member’s obligation to fund Operating Deficits. Funds held in the Operating Reserve may be released to pay operating expenses only after Rental Achievement, subject to Section 6.10, and with the reasonable approval of the Special Member and, if required, any Lender. The Operating Reserve may be terminated by the Managing Member only after the end of the Compliance Period, and upon such termination, the funds remaining in the Operating Reserve shall be released and distributed as Cash Flow in the order and priority set forth in Section 10.2(a). Any funds utilized from the Operating Reserve to pay Company operating expenses
shall not constitute Subordinated Loans. Upon the utilization of any amount of such funds from the Operating Reserve, the Managing Member shall deposit Cash Flow into the Operating Reserve in the order and priority set forth in Section 10.2(a) in an amount sufficient to restore the balance of the Operating Reserve to the Initial Reserve Amount.

(f) Each Managing Member shall be bound by the provisions of the Project Documents, and no additional Managing Member shall be admitted if he, she or it has not first agreed to be bound by this Agreement (and assume the obligations of a Managing Member hereunder) and by the Project Documents to the same extent and under the same terms as each of the other Managing Members.

(g) The Managing Member shall take all actions appropriate to ensure that the Investment Member receives the full amount of the Projected Credit, including, without limitation, the rental of apartments to appropriate tenants and the filing of annual certifications as may be required. In this regard, the Managing Member shall, inter alia, cause (i) the Company to satisfy the Minimum Set-Aside Test, the Rent Restriction Test and all other requirements imposed from time to time under the Code, the Carryover Allocation or otherwise by the Credit Agency with respect to rental levels and occupancy by qualified tenants by the close of the first year of the Credit Period and throughout the Compliance Period so as to permit the Company to be entitled to the maximum available Tax Credit (ii) the Company to comply with all Tax Credit monitoring procedures of the State, (iii) all dwelling units in the Apartment Complex to be leased for initial periods of not less than six months to individuals, as to the Low Income Units, satisfying the Rent Restriction Test, (iv) the Company to make all appropriate Tax Credit elections in a timely fashion, and (v) all rental units in the Apartment Complex to be of equal quality with comparable amenities available to low-income tenants on a comparable basis without separate fees.

(h) On or before the Admission Date, the Managing Member shall provide to the Special Member either (i) an appraisal of the Apartment Complex prepared by a competent independent appraiser or (ii) completed RECD Forms 1924-13 (estimate and certificate of actual cost) and 1930-7 (statement of budget, income and expense) or HUD project cost and budget analysis on Form 2264, or any successor RECD or HUD form, any comparable form of a state or other Governmental Authority, including any applicable Credit Agency, setting forth estimates with respect to construction, rehabilitation and mortgage financing costs and initial rental income and operating expense figures for the Apartment Complex.

(i) The Managing Member shall (i) not store or dispose of (except in compliance with all laws, ordinances, and regulations pertaining thereto) any Hazardous Material at the Apartment Complex; (ii) neither directly nor indirectly transport or arrange for the transport of any Hazardous Material to, at or from the Apartment Complex (except in compliance with all laws, ordinances, and regulations pertaining thereto); (iii) provide the Investment Member with written notice (x) upon any Managing Member’s obtaining knowledge of any potential or known release, or threat of release, of any Hazardous Material at or from the Apartment Complex; (y) upon any Managing Member’s receipt of any notice to such effect from any federal, state, or other Governmental Authority; and (z) upon any Managing Member’s obtaining knowledge of any incurrence of any expense or loss by any such government authority in connection with the assessment, containment, or removal of any Hazardous Material for which expense or loss any
Managing Member may be liable or for which expense or loss a lien may be imposed on the Apartment Complex.

(j) The Managing Member shall promptly request in writing of the Permanent Lender that the Permanent Lender cause the Special Member to be named as an “interested party” in the Permanent Loan Documents, so that the Permanent Lender will notify the Special Member of any default under the Permanent Mortgage or the Managing Member shall itself notify the Special Member of any such default.

(k) The Managing Member shall provide the Special Member with a true and accurate copy of each Construction Loan requisition and any supporting documents and information which has been submitted for approval by the Construction Lender (whether submitted before or after the Admission Date).

(l) The Managing Member shall have a fiduciary responsibility for the safekeeping and use of all funds and assets of the Company, whether or not in its immediate possession or control. The Managing Member shall not employ, or permit another to employ, such funds or assets in any manner except for the exclusive benefit of the Company. No Managing Member shall contract away the fiduciary duty owed at common law to the Non-Managing Members.

(m) The Managing Member shall cause the Company to comply with all of the duties and obligations of the Apartment Complex owner under the Mortgage Loan Documents and shall provide any funds required in excess of available Cash Receipts or Specified Proceeds necessary to comply with such duties and obligations.

(n) The Managing Member shall cause the Company to provide all social services which the Company is obligated to provide in connection with the Apartment Complex, including, without limitation, any such social services described in the Company’s Tax Credit application. In addition to the foregoing, the Managing Member shall take all action necessary to cause the Company to pay all amounts incurred by the Company in connection with the provisions of any such social services.

(o) The Managing Member will cause the payment for the construction of the Apartment Complex to be made in conformity with the requirement of any so-called “Davis-Bacon” or other prevailing wage statutes, if required by any Lender of a Mortgage Loan or any Project Document.

(p) The Managing Member will cause the Company to rent all units so as to maintain at all times the Agreed-Upon Set-Aside and the Minimum Set-Aside.

(q) [Intentionally Deleted].

(r) Unless the Special Member consents in writing otherwise, the Managing Member shall cause the Company to depreciate the residential portion of the Apartment Complex over 27.5 years, other site improvements over 15 years and all personal property of the Company over 5 years.
(s) The Managing Member shall cause the Company to comply with all requirements under the Section 811 Participation Agreement to ensure that the Section 811 Units, if any, will be available and suitable for occupancy by eligible referrals following the Completion Date.

(i) The Managing Member shall cause the Company to maintain the Section 811 RAC, if entered into by the Company and TDHCA, throughout the Compliance Period.

(u) The Managing Member shall cause the Company to comply with the Regulatory Agreements.

6.6 Representations and Warranties

The Managing Member jointly and generally represents and warrants to the Investment Member and the Special Member as follows:

(a) The Company is a duly organized limited liability company validly existing and in good standing under the laws of the State and has complied with all filing requirements necessary for its existence and to preserve the limited liability of the Investment Member and the Special Member and is duly qualified as a foreign limited liability company to do business in the State.

(b) No event or proceeding has occurred or is pending or, is to the Best Knowledge of the Managing Member, threatened which would (i) materially adversely affect the Company or its properties, or (ii) materially adversely affect the ability of the Managing Member or any of its Affiliates to perform their respective obligations hereunder or under any other agreement with respect to the Apartment Complex, other than legal proceedings which have been bonded against without recourse to Company assets in such manner as to stay the effect of the proceedings or otherwise have been adequately provided for. This subparagraph shall be deemed to include, without limitation, the following: (w) the occurrence and continuation of a Material Event; (x) legal actions or proceedings before any court, commission, administrative body or other Governmental Authority having jurisdiction over the zoning applicable to the Apartment Complex; (y) labor disputes; and (z) acts of any Governmental Authority.

(c) No default (or event which, with the giving of notice or the passage of time or both, would constitute a default) has occurred and is continuing under this Agreement or under any material provision of the Project Documents, and the Project Documents are in full force and effect.

(d) Except as specifically permitted under Section 3.1, no Member or Related Person bears (or will bear) the Economic Risk of Loss with respect to the Permanent Mortgage Loan. No Managing Member has, either on its own behalf or on behalf of the Company, incurred any financial obligation with respect to the Company prior to the Admission Date, other than as disclosed in writing to the Special Member prior to the Admission Date.

(e) The Apartment Complex will be, is being, or has been constructed in a timely manner in conformity with the Project Documents. There is no violation by the Company or the Managing Member of any zoning, environmental or similar regulation applicable to the Apartment Complex which could have a material adverse effect thereon, and the Company has
complied and will comply with all applicable municipal and other laws, ordinances and regulations relating to such construction and use of the Apartment Complex. All appropriate public utilities, including, but not limited to, water, electricity, gas (if called for in the Plans and Specifications), and sanitary and storm sewers, are or will be available and operating properly for each unit in the Apartment Complex at the time of the initial occupancy of such unit.

(f) The Company owns good and marketable fee simple title to the Apartment Complex and will at all times be considered to be the owner of the Apartment Complex for federal income tax purposes, subject to no material liens, charges or encumbrances other than those which (i) are both permitted by the Project Documents and are noted or excepted in the Title Policy, (ii) do not materially interfere with use of the Apartment Complex (or any part thereof) for its intended purpose or, other than the permitted Mortgages, have a material adverse effect on the value of the Apartment Complex, or (iii) have been bonded or insured against in such a manner as to preclude the holder of such lien or such surety or insurer from having any recourse to the Apartment Complex or the Company for payment of any debt secured thereby, which bond(s) or insurance have been approved by the Lenders.

(g) The Managing Member has provided the Non-Managing Members with true, complete and correct copies of all material correspondence and contracts with, applications to, and allocation certifications, if any, from the Mortgage Lenders concerning the Mortgage Loans. The Mortgage Loan Documents are binding and in full force and effect in accordance with their respective terms.

(h) The Managing Member has provided the Non-Managing Members with true, complete and correct copies of all material correspondence and contracts with, applications to, and allocation certifications, if any, from any Credit Agency concerning the Tax Credits allocated or otherwise available to the Apartment Complex. The Carryover Allocation is binding and in full force and effect in accordance with its terms.

(i) The execution and delivery of all instruments and the performance of all acts heretofore or hereafter made or taken pertaining to the Company or the Apartment Complex by each Affiliate of a Managing Member which is a corporation or limited liability company have been or will be duly authorized by all necessary corporate or other actions, and the consummation of any such transactions with or on behalf of the Company will not constitute a breach or violation of, or a default under, the charter or by-laws of such Affiliate or any agreement by which such Affiliate or any of its properties is bound, nor constitute a violation of any law, administrative regulation or court decree.

(j) Any Managing Member (or partner or member of a Managing Member) which is a corporation or limited liability company (a “Corporation/LLC”) has been duly organized, is validly existing and in good standing under the laws of its state of organization and has all requisite corporate and other power to be a Managing Member and to perform its duties and obligations as contemplated by this Agreement and the Project Documents. Neither the execution and delivery by any Corporation/LLC of this Agreement nor the performance of any of the actions of any Corporation/LLC contemplated hereby has constituted or will constitute a violation of (a) the articles of incorporation, operating agreement, by-laws and any other organizational documents of such Corporation/LLC, (b) any agreement by which such
Corporation/LLC is bound or to which any of its property or assets is subject, or (c) any law, administrative regulation or court decree.

(k) No Event of Bankruptcy has occurred with respect to the Company, any Managing Member, the Developer or any Guarantor.

(l) All accounts of the Company required to be maintained under the terms of the Project Documents, including, but not necessarily limited to, any account for replacement reserves, are currently funded to the levels required by any Agency or Lender.

(m) The Managing Member and Guarantors have and shall at all times maintain a combined net worth which satisfies the Designated Net Worth Requirements.

(n) All anticipated payments and expenses required to be made or incurred in order to complete the construction of the Apartment Complex in conformity with the Project Documents, to fund any reserves hereunder or under any other Project Document required to be funded at or prior to the later of the Admission Date or Rental Achievement, to satisfy all requirements under the Project Documents and to pay the Development Fee and all other fees, have been or will be paid or provided for utilizing only (i) the funds available from the Construction Loan, (ii) the Capital Contributions of the Investment Member, (iii) the Capital Contributions of the Managing Member in the amounts set forth on Schedule A as of the Admission Date, (iv) the available net rental income, if any, earned by the Company prior to Rental Achievement (to the extent that it is permitted to be used for such purposes by any Agency or Lender), (v) any Cash Flow generated subsequent to Rental Achievement (to the extent provided in Section 10.2(a)), (vi) any insurance proceeds and (vii) any funds furnished by the Managing Member pursuant to Sections 6.5(e) and 6.11(a).

(o) The aggregate amount of Tax Credit which is expected to be allocated by the Company to the Investment Member is as set forth in the definition of Projected Credit, provided, however, that the Managing Member shall have no liability to the Investment Member or the Special Member for any breach of the representation contained in this paragraph (m) if (but only to the extent that) the adjuster provisions set forth in Sections 5.1(e), (f) and (g) have become operative and all required payments or adjustments have been made thereunder in accordance with the terms thereof.

(p) The Apartment Complex will be, is being or has been constructed and operated in a manner which satisfies Section 42 of the Code and shall continue to satisfy all existing and anticipated restrictions applicable to projects generating Tax Credits.

(q) No Managing Member, Affiliate of a Managing Member or Person for whose conduct any Managing Member is or was responsible has ever: (i) stored or disposed of (except in compliance with all laws, ordinances and regulations pertaining thereto) any Hazardous Material at the Apartment Complex; (ii) directly or indirectly transported, or arranged for the transport of any Hazardous Material to, at or from the Apartment Complex (except in compliance with all laws, ordinances, and regulations pertaining thereto); (iii) caused or was legally responsible for any release or threat of release of any Hazardous Material at the Apartment Complex; (iv) received notification from any federal, state or other Governmental
Authority of (x) any potential, known, or threat of release of any Hazardous Material from the Apartment Complex; or (y) the incurrence of any expense or loss by any such Governmental Authority or by any other Person in connection with the assessment, containment, or removal of any release or threat of release of any Hazardous Material from the Apartment Complex.

(r) To the Best Knowledge of the Managing Member, no Hazardous Material was ever or is now stored on, transported, or disposed of on the land comprising the Apartment Complex, except to the extent any such storage, transport or disposition was at all times in compliance with all laws, ordinances, and regulations pertaining thereto. The Managing Member has provided to the Investment Member a complete copy of a “Phase I” hazardous waste site assessment report for the Apartment Complex, prepared in accordance with ASTM standards.

(s) The Managing Member has fulfilled and will continue to fulfill all of its duties and obligations under Section 6.5.

(t) The Managing Member has completed or will complete on a timely basis all of the Due Diligence Recommendations.

(u) The Company’s basis in the Apartment Complex as of December 31, 2017 (or such later date as allowed by the Credit Agency and Section 42) will be greater than 10% of the Company’s reasonably expected basis in the Apartment Complex as of December 31, 2017 and all conditions set forth in Section 42 of the Code, the Treasury Regulations, Service notices, rulings or releases and any other authorities to the validity of the allocation of tax credit have been or will be satisfied in a timely manner.

(v) To the Managing Member’s Best Knowledge, all consents or approvals of any governmental authority, or any other Person, necessary in connection with the transactions contemplated by this Agreement or necessary to admit the Investment Member to the Company as a Non-Managing Member have been obtained by the Managing Member and as of the Admission Date, the Investment Member is duly admitted as a Non-Managing Member of the Company owning a 99.99% membership interest in the Company free and clear of any and all claims, liens, charges and encumbrances.

(w) The Managing Member and the Company are under no obligation under any federal or state law, rule, or regulation to register the Interests or to take any action in order to comply with any exemption available for the sale of Interests without registration.

(x) None of the loans evidenced by the Mortgages constitutes a “federal grant” within the meaning of Section 42(d)(5)(A) of the Code.

(y) Neither the Apartment Complex nor its operation has been or will be financed at any time during the Compliance Period with an obligation the interest on which is exempt from tax under Section 103 of the Code.

(z) The Company and the Credit Agency have entered or, prior to the end of the first year of the Credit Period, will enter, into the “extended low-income housing commitment” within the meaning of Section 42(h)(6)(B) of the Code and such commitment shall remain in full
force and effect throughout the entire extended use period as defined in Section 42(h)(6)(D) of the Code.

(aa) No portion of the Apartment Complex is or will be treated as “tax exempt use property” as defined in Section 168(h) of the Code.

(bb) The Managing Member shall not act in any manner which will cause (i) the Company to be treated for federal income tax purposes as an association taxable as a corporation, (ii) the Company to fail to qualify as a limited liability company under the Act, or (iii) the Non-Managing Member to be liable for Company obligations, including, without limitation, the obligations set forth in the Mortgage documents.

(cc) The Managing Member shall not employ any person as an employee of the Company.

(dd) The Managing Member is not presently under any commitment to any real estate broker, rental agent, finder, syndicator or other intermediary with respect to the Apartment Complex or any portion thereof, except for the Management Agreement and other arrangements described in the Project Documents.

(ee) No fact necessary to make the information and statements contained in this Section 6.6 not misleading has been omitted therefrom, and to the Best Knowledge of the Managing Member, no material fact concerning the Apartment Complex, the Tax Credits, the Managing Member, the Company, the Guarantor, or the Developer has been withheld from the Non-Managing Members and no material document has not been delivered to the Non-Managing Members.

(ff) The Managing Member shall cause the 50% Completion Date to occur by July 1, 2018.

6.7 Liability on Mortgages

Neither any Managing Member nor any Related Person shall at any time bear the Economic Risk of Loss for the payment of any portion of any Mortgage Loan, and the Managing Member shall not permit any other Member or any Related Person to bear the Economic Risk of Loss for the payment of any portion of any Mortgage Loan, except as may be expressly permitted pursuant to the provisions of Article III or with the Consent of the Special Member.

6.8 Indemnification of the Managing Member

(a) Except as provided by Article V, no Managing Member or any Affiliate thereof shall have liability to the Company or to any Non-Managing Member for any loss suffered by the Company which arises out of any action or inaction of any Managing Member or Affiliate thereof if such Managing Member or Affiliate thereof in good faith determined that such course of conduct was in the best interest of the Company and such course of conduct did not constitute gross negligence or willful misconduct of such Managing Member or Affiliate thereof.
(b) A Managing Member or any Affiliate thereof shall be indemnified by the Company from and against any Adverse Consequences sustained in connection with the business and operations of the Company, provided that all of the following conditions are met: (i) such Managing Member has determined, in good faith, that the course of conduct which caused the loss, judgment, liability, expense or amount paid in settlement was in the best interests of the Company; and (ii) such Adverse Consequences were not the result of gross negligence or willful misconduct on the part of such Managing Member or Affiliate thereof; and (iii) such indemnification or agreement to hold harmless is recoverable only out of the assets of the Company, and not from the Non-Managing Members.

(c) Notwithstanding the above, no Member or any Affiliate thereof performing services for the Company or any broker-dealer shall be indemnified for any Adverse Consequences arising from or out of an alleged violation of federal or state securities laws unless there has been a successful adjudication on the merits of each count involving securities laws violations as to the particular indemnitee and the court finds that indemnification of the settlement and related costs should be made. In any claim for indemnification for federal or state securities law violations, the party seeking indemnification shall, prior to seeking court approval for such indemnification, place before the court the positions of the Securities and Exchange Commission, the Massachusetts Securities Division and any other applicable state securities administrator with respect to the issue of indemnification for securities law violations.

(d) The Company shall not incur the cost of the portion of any insurance, other than public liability insurance or course of construction insurance, which insures any party against any liability as to which such party is herein prohibited from being indemnified.

(e) The Company may indemnify Affiliates of a Managing Member under this Section 6.8 only if the loss involves an activity in which such Affiliates acted in the capacity of a Managing Member or Developer.

(f) For purposes of this Section 6.8 only, the term “Affiliate” shall mean (i) any Person performing services on behalf of the Company who (x) directly or indirectly controls, is controlled by or is under common control with a Managing Member; (y) owns or controls ten percent (10%) or more of the outstanding voting securities of a Managing Member or (z) is an officer, director, partner, member, manager or trustee of a Managing Member; and (ii) any Person for whom the Managing Member acts as an officer, director, partner or trustee. For purposes of this Section 6.8 only, the term “controls” and any form of such term shall mean the power to direct the management and policies of a Person, directly or indirectly, whether through ownership of voting securities, by contract or otherwise.

6.9 Indemnification of the Company and the Non-Managing Members

(a) The Managing Member jointly and severally will indemnify and hold the Company and the Non-Managing Members harmless from and against any and all Adverse Consequences which the Company or any Non-Managing Member may incur by reason of the past, present or future actions or omissions of the Managing Member or any of its Affiliates constituting gross negligence or willful misconduct; provided, however, that the foregoing indemnification shall not be construed to (x) affect the non-recourse nature of any Mortgage or
(y) limit the Company’s primary liability for contractual obligations incurred pursuant to the requirements of any Agency or Lender in connection with the operation of the Apartment Complex in the ordinary course of business.

(b) Notwithstanding the foregoing, no Managing Member shall be liable to a Non-Managing Member or the Company for any act or omission for which the Company is required to indemnify such Managing Member under Section 6.8, except as provided by Article V.

(c) The Managing Member shall jointly and severally indemnify, defend, and hold the Non-Managing Members harmless on an After-Tax Basis from and against any Adverse Consequences related to or arising directly or indirectly out of the presence on, under or about the Apartment Complex of any Hazardous Material at the Apartment Complex, the use, generation, manufacture, migration, storage or disposal of any Hazardous Material on, under or about the Apartment Complex, or the violation of any Environmental Laws by the Managing Member or its representatives (other than any Adverse Consequences resulting from the acts or omissions of the Non-Managing Members). Any claim or loss described in the immediately preceding sentence may be defended, compromised, settled, or pursued by the Non-Managing Members with counsel of the Non-Managing Members’ selection, but at the expense of the Managing Member. Notwithstanding anything else set forth herein, this indemnification shall survive the withdrawal of any Managing Member and/or the termination of this Agreement.

6.10 Operating Deficits

Subject to any Requisite Approvals, the Managing Member jointly and severally shall be obligated during the period from Rental Achievement until the later of (A) the fifth (5th) anniversary of Rental Achievement and (B) the achievement of an average Debt Service Coverage Ratio of 1.15 to 1.00 for the six consecutive months occurring immediately prior to such date (the “Subordinated Loan Period”), to promptly advance funds to eliminate any Operating Deficit, provided however, that the Managing Member shall not be obligated to have Subordinated Loans outstanding at any one time in excess of $685,000 (the “Subordinated Loan Cap”). Notwithstanding anything to the contrary contained herein, if at the end of the Subordinated Loan Period there are insufficient funds in the Operating Reserve to meet the Initial Reserve Amount, the Subordinated Loan Period will be extended until such time the Operating Reserve is restored to the Initial Reserve Amount. In any case in which the Managing Member otherwise would be required to advance funds under this Section 6.10, any amounts then held in the Operating Reserve may be released and disbursed for the purpose of eliminating the Operating Deficit before the Managing Member shall be required to advance their own funds. In the event that the Managing Member shall fail to make any such advance as aforesaid, (a) the Company shall utilize amounts (the “Applied Amounts”) otherwise payable to the Managing Member or its Affiliates under Section 6.12 and/or Article X to meet the obligations of the Managing Member pursuant to this Section 6.10, with such utilization of Applied Amounts constituting payment and satisfaction of the corresponding amounts payable to the Managing Member or its Affiliates under Section 6.12 and/or Article X, with the proceeds thereof being applied to such obligations, and with the obligation of the Company to make such payments to the Managing Member or its Affiliates pursuant to Section 6.12 and/or Article X being deemed to have been satisfied to the extent thereof and (b) the Special Member shall have the option, exercisable in its sole discretion, to cause it or one or more of its designees to be admitted to the
Company as additional Managing Member(s). An additional Managing Member so admitted shall automatically, without the need for any further action by any Member, become the Managing Member and shall be delegated all of the powers and authority of all of the Managing Members pursuant to Section 6.13. Each Member hereby grants to any such additional Managing Member a power of attorney, coupled with an interest and irrevocable to the extent permitted by law, to execute and deliver any and all instruments and documents which it believes to be necessary or appropriate in order to accomplish the purposes of this Section 6.10 and to manage the business of the Company. The admission of an additional Managing Member shall not relieve any other Managing Member of any of its economic obligations hereunder, and each other Managing Member shall indemnify and hold harmless the additional Managing Member from and against any and all Adverse Consequences sustained in connection with the additional Managing Member’s status as a Managing Member (other than Adverse Consequences arising solely out of the negligence or misconduct of such additional Managing Member). Any additional Managing Member admitted under this paragraph shall withdraw (notwithstanding the provisions of Article VII) as such and remain only as the Special Member upon payment by the Managing Member of all amounts due under this paragraph. For the purpose of this Section 6.10, all expenses shall be paid on a thirty (30)-day current basis. Moreover, the Managing Member may in its sole discretion at any time advance funds to the Company to pay operating expenses and/or debt service of the Company in order to facilitate the Company’s compliance with the Rent Restriction Test. All advances pursuant to Section 6.5(e) and this Section 6.10 (including any Applied Amounts), except advances from the Operating Reserve, shall constitute non-interest-bearing Subordinated Loans. Subordinated Loans shall be repaid in accordance with the provisions of Article X. The form and provisions of all Subordinated Loans shall conform to any applicable Regulations.

6.11 Obligation to Complete the Construction of the Apartment Complex

(a) To the extent the Developer fails to do so under the Development Agreement, the Managing Member shall be obligated to complete the construction of the Apartment Complex and pay all costs necessary to achieve Rental Achievement in the manner set forth in this Agreement and the Development Agreement.

(b) The Managing Member shall be obligated to pay all costs necessary to achieve Permanent Mortgage Commencement and Rental Achievement in the manner set forth in this Agreement, and may be reimbursed for such payments only out of Specified Proceeds.

(c) The completion of the Apartment Complex shall be secured by a completion bond in an amount at least equal to the full amount of the Construction Contract for the Apartment Complex and by the Guaranty.

6.12 Certain Payments to the Managing Member and Others

(a) As reimbursement for certain advances and as compensation for the Developer’s services in connection with the development and construction of the Apartment Complex, the Company shall pay to the Developer a development fee (the “Development Fee”) in the amount and at the times set forth in the Development Agreement. If Specified Proceeds are insufficient to pay the Development Fee, such unpaid amounts shall be evidenced by a Deferred
Development Fee Note as set forth in the Development Agreement, provided however that the maximum amount of the Deferred Development Fee Note shall be $651,729 (or such larger amount as in the opinion of tax counsel to the Investment Member would not cause tax benefits to be projected to be reallocated from the Investment Member to another Member during the Compliance Period). Any unpaid portion of the Development Fee not evidenced by the Deferred Development Fee Note must be paid as a Development Cost as set forth in Section 6.11. The Managing Member, with the Consent of the Special Member, shall cause the Deferred Development Fee Note, if any, to be executed by the Company at the time set forth in and in accordance with the terms of the Development Agreement. If the Development Fee, including without limitation, any portion evidenced by a Deferred Development Fee Note and all accrued but unpaid interest thereon, has not been fully paid by the thirteenth (13th) anniversary of the Completion Date, the Managing Member shall make a Capital Contribution to the Company in an amount sufficient to enable the Company to pay any unpaid portion of the Development Fee, including without limitation, any portion evidenced by a Deferred Development Fee Note and all accrued but unpaid interest thereon.

(b) The Company shall pay to the Special Member or an Affiliate thereof a fee (the “Asset Management Fee”) commencing in 2019 for its services in connection with the Company’s accounting matters relating to the Investment Member and assisting with the preparation of tax returns and the reports required by Section 12.7 in the annual amount of $7,600, increased each year by a factor equal to the percentage increase in the Consumer Price Index for such year. The Asset Management Fee shall be payable from Cash Flow in the manner and priority set forth in Section 10.2(a); provided however, that if in any Fiscal Year, Cash Flow is insufficient to pay the full amount of the Asset Management Fee, the Managing Member shall advance the amount of such deficiency to the Company as a Subordinated Loan, provided further that the Managing Member’s obligation to make Subordinated Loans under this Section 6.12(b) shall be ongoing and shall not terminate upon the expiration of the Subordinated Loan Period or be subject to the Subordinated Loan Cap. If for any reason the Asset Management Fee is not paid in any Fiscal Year, the unpaid portion thereof shall accrue and be payable on a cumulative basis in the first Fiscal Year in which there is sufficient Cash Flow or Capital Proceeds as provided in Article X.

(c) In consideration of the services of the Managing Member in managing the day-to-day business and affairs of the Company, the Company shall pay to the Managing Member an annual fee (the “Company Management Fee”) commencing in 2019 in the amount of $10,000, payable from Cash Flow in the manner set forth in Section 10.2(a). The Company Management Fee shall be noncumulative so that if there is not sufficient Cash Flow in any Fiscal Year to pay the amount of the Company Management Fee specified for such use in Section 10.2(a), the Company shall have no obligation to pay such shortfall in any future Fiscal Year.

(d) The Company also shall pay to the Managing Member the Incentive Management Fee as set forth in the Incentive Management Agreement.
6.13 **Delegation of Managing Member Authority**

(a) If there shall be more than one Managing Member serving hereunder, each Managing Member may from time to time, by an instrument in writing, delegate all or any of his powers or duties hereunder to another Managing Member or Managing Members.

(b) Each contract, deed, mortgage, lease and other instrument executed by any Managing Member shall be conclusive evidence in favor of every Person relying thereon or claiming thereunder that at the time of the delivery thereof (i) the Company was in existence, (ii) this Agreement had not been amended in any manner so as to restrict the delegation of authority among Managing Members (except as shown in certificates or other instruments duly filed in the Filing Office) and (iii) the execution and delivery of such instrument was duly authorized by the Managing Members. Any Person may always rely on a certificate addressed to him and signed by any Managing Member hereunder:

1. as to who are the Managing Members or Non-Managing Members hereunder;
2. as to the existence or nonexistence of any fact which constitutes a condition precedent to acts by the Managing Members or in any other manner germane to the affairs of the Company;
3. as to who is authorized to execute and deliver any instrument or document of the Company;
4. as to the authenticity of any copy of this Agreement and any amendments thereto; or
5. as to any act or failure to act by the Company or as to any other matter whatsoever involving the Company or any Member.

6.14 **Assignment to Company**

The Developer and the Managing Member hereby transfer and assign to the Company all of their right, title and interest in and to the Apartment Complex and in and to all of the Project Documents, including, but not limited to, the following: (i) all contracts with architects, supervising architects, engineers and contractors with respect to the development of the Apartment Complex; (ii) all plans, specifications and working drawings heretofore prepared or obtained in connection with the Apartment Complex; (iii) all governmental commitments and approvals obtained, and applications therefore, including, but not limited to those relating to planning, zoning, building permits and Tax Credits; (iv) any and all commitments with respect to any Mortgages; and (v) any and all contracts or rights with respect to any agreements with any Agency or Lender.

6.15 **Contracts with Affiliates**

(a) The Managing Member or any Affiliate thereof may act as Management Agent upon the terms and conditions set forth in Article XI.
(b) The Managing Member or any Affiliates thereof shall have the right to contract or otherwise deal with the Company for the sale of goods or services to the Company in addition to those set forth herein, if (i) compensation paid or promised for such goods or services is reasonable (i.e., at fair market value) and is paid only for goods or services actually furnished to the Company, (ii) the goods or services to be furnished shall be reasonable for and necessary to the Company, (iii) the fees, terms and conditions of such transaction are at least as favorable to the Company as would be obtainable in an arm’s-length transaction, (iv) the Consent of the Special Member is obtained for any such contract where the compensation to be paid by the Company to the Managing Member or its Affiliates is $50,000 or more, and (v) no agent, attorney, accountant or other independent consultant or contractor who also is employed on a full-time basis by the Managing Member or any Affiliate shall be compensated by the Company for his services. Any contract covering such transactions shall be in writing and shall be terminable without penalty on sixty (60) days written notice. Any payment made to the Managing Member or any Affiliate for such goods or services shall be fully disclosed to all Non-Managing Members in the reports required under Article XII. Neither the Managing Member nor any Affiliate shall, by the making of lump-sum payments to any other Person for disbursement by such other Person, circumvent the provisions of this Section 6.15(b).

6.16 Tax Matters Partner

(a) The Controlling Managing Member hereby is designated as Tax Matters Partner of the Company, and shall engage in such undertakings as are required of the Tax Matters Partner of the Company as provided in treasury regulations pursuant to Section 6231 of the Code. Each Member, by the execution of this Agreement, consents to such designation of the Tax Matters Partner and agrees to execute, certify, acknowledge, deliver, swear to, file and record at the appropriate public offices such documents as may be necessary or appropriate to evidence such consent.

(b) With the Consent of the Investment Member, the Tax Matters Partner hereby is authorized, but not required:

(i) to enter into any settlement agreement with the Service with respect to any tax audit or judicial review, in which agreement the Tax Matters Partner may expressly state that such agreement shall bind the other Members, except that such settlement agreement shall not bind any Member who (within the time prescribed pursuant to the Code and treasury regulations thereunder) files a statement with the Service providing that the Tax Matters Partner shall not have the authority to enter into a settlement agreement on the behalf of such Member;

(ii) in the event that a notice of final administrative adjustment at the Company level of any item required to be taken into account by a Member for tax purposes (a “Final Adjustment”) is mailed to the Tax Matters Partner, to seek judicial review of such Final Adjustment, including the filing of a petition for readjustment with the Tax Court, the District Court of the United States for the district in which the Company’s principal place of business is located, or the United States Claims Court;
(iii) to intervene in any action brought by any other Member for judicial review of a Final Adjustment;

(iv) to file a request for an administrative adjustment with the Service at any time and, if any part of such request is not allowed by the Service, to file an appropriate pleading (petition or complaint) for judicial review with respect to such request;

(v) to enter into an agreement with the Service to extend the period for assessing any tax which is attributable to any item required to be taken into account by a Member for tax purposes, or an item affected by such item; and

(vi) to take any other action on behalf of the Members or the Company in connection with any administrative or judicial tax proceeding to the extent permitted by applicable law or Regulations.

(c) The Company shall indemnify and reimburse the Tax Matters Partner for all expenses, including legal and accounting fees, claims, liabilities, losses and damages incurred in connection with any administrative or judicial proceeding with respect to the tax liability of the Members. The payment of all such expenses shall be made before any distributions are made from Cash Flow or any discretionary reserves are set aside by the Managing Member. The Managing Member shall have the obligation to provide Company funds for such purpose, but only to the extent of available Company resources. The taking of any action and the incurring of any expense by the Tax Matters Partner in connection with any such proceeding, except to the extent required by law, is a matter in the sole discretion of the Tax Matters Partner and the provisions on limitations of liability of the Managing Member and indemnification set forth in Section 6.8 of this Agreement shall be fully applicable to the Tax Matters Partner in its capacity as such.

(d) Following the beginning of the Post-TEFRA Period:

(i) (1) the Managing Member shall constitute the “partnership representative” under Section 6223 of Chapter 63 of the Code (as in effect pursuant to the Bipartisan Budget Act), (2) the Managing Member shall take any and all action required under the Code or Treasury Regulations, as in effect from time to time, to designate itself the “partnership representative,” and (3) the Tax Matters Partner (in its capacity as such) shall have no authority under this Agreement. The designation of someone other than the Managing Member as the partnership representative will require the Consent of the Investment Member. To the extent permitted by the Code and Treasury Regulations, the Managing Member, in its capacity as “partnership representative” shall be bound by the obligations and restrictions imposed on the Tax Matters Partner pursuant to this Section 6.16. Upon the promulgation of Treasury Regulations implementing subchapter C of Chapter 63 of the Code (as revised by the Bipartisan Budget Act), the Managing Member will evaluate and consider options available with respect to preserving the allocation of responsibility and authority described in this Section 6.16, while conforming with the applicable provisions of the revised partnership audit procedures. Any action taken by the Managing Member pursuant to this Section 6.16(d), including any election permitted under the Bipartisan Budget Act, shall be made only with the Consent of the Investment
Member. The Managing Member and the Members agree to work together in good faith to amend this Agreement if either party determines that an amendment is required to maintain the intent of the parties with respect to the obligations and limitations of the Tax Matters Partner.

(ii) If the Company receives a notice of final partnership adjustment from the IRS, the “partnership representative” shall promptly forward a copy of such notice to the Investment Member and its legal counsel. The “partnership representative” shall, unless otherwise directed in writing by the Investment Member, timely file an election described in Section 6226(a) of the Code with respect to any notice of final partnership adjustment received by the Company with respect to any Post-TEFRA Period and take such other actions as are required so that Section 6225 of the Code shall not apply with respect to any imputed underpayment with respect to any adjustment of an item of the Company or any Member’s distributive share thereof. Each Member shall take any and all actions necessary to effect such election, including but not limited to making any payments required under Section 6226(b) of the Code. In the event that an election described in Section 6226(a) of the Code is not made with respect to any notice of final partnership adjustment, each Member shall be obligated to make a Capital Contribution in an amount equal to such Member’s share of the imputed underpayment (and any associated interest and penalties) owed by the Company under Section 6225 of the Code. For purposes of the preceding sentence, each Member’s share of such imputed underpayment (and associated interest and penalties) shall be determined by taking into account (i) such Member’s share of the Profits, Losses and Credits to which such adjustment and imputed underpayment relate, as determined by the Accountants; (ii) such Member’s obligation (if any) to indemnify, defend, or hold harmless the Company or any other Member for such imputed underpayment (and any associated interest and penalties) under this Agreement; (iii) such Member’s obligations and liabilities arising from or related to such Member’s representations, warranties and covenants in this Agreement; and (iv) the obligations of the Managing Member under Section 5.1. For example, if an imputed underpayment were to relate to an adjustment or disallowance of Tax Credits previously allocated to the Investment Member and such adjustment or disallowance would give rise to an obligation of the Managing Member to make a Capital Contribution under Section 5.1, then such Managing Member, rather than the Investment Member, would be required to make the Capital Contribution described in this Section 6.16(d).

(iii) If for any Post-TEFRA Period the Company meets the requirements of Section 6221(b) of the Code to elect not to have Section 6221(a) of the Code apply with respect to any adjustment to Company tax items, the “partnership representative” may, with the written consent of the Investment Member (which consent may be withheld in the Investment Member’s sole discretion), make such election described in Section 6221(b) of the Code for each tax year, as applicable.

(iv) Notwithstanding anything to the contrary in this Section 6.16(d), none of the Company, the Managing Member or the “partnership representative” shall, without the prior written consent of the Investment Member (which consent may be withheld in the Investment Member’s sole discretion), take any action or make any election (or omit to take any action or make any election) under the Partnership Tax Audit Rules which
would or could reasonably be expected to have a materially adverse effect on the Investment Member (or its direct or indirect owners). The rights of the Investment Member under this Section 6.16(d) shall survive any sale, exchange, liquidation, retirement or other disposition of the Investment Member’s Interest.

6.17 Single Purpose Entity

(a) The Managing Member shall not engage, has not engaged and does not engage, in any business other than the business of making housing available to persons of low and moderate income.

(b) The Managing Member shall not enter into and has not entered into any contract or agreement with any Affiliate of the Managing Member, any constituent party of the Managing Member, or any Affiliate of any constituent party, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm’s length basis with third parties other than any such party.

(c) The Managing Member has and shall continue to pay its debts and liabilities from its own assets as the same shall become due. No Affiliate has paid any debts or liabilities on behalf of the Managing Member.

(d) The Managing Member has and shall continue to maintain books, financial records and bank accounts that are separate and distinct from the books, financial records and bank accounts of any other Person including any Affiliate.

(e) The Managing Member has and shall continue to maintain separate annual financial statements prepared in accordance with generally accepted accounting principles, consistently applied, showing its assets and liabilities separate and distinct from those of any other entity; in the event the financial statements of the Managing Member are consolidated with the financial statements of any other entity, the Managing Member has and shall continue to cause to be included in such consolidated financial statements: (i) a narrative description of the separate assets, liabilities, business functions, operations and existence of the Managing Member to ensure that such separate assets, liabilities, business functions, operations and existence are readily distinguishable by any entity receiving or relying upon a copy of such consolidated financial statements; and (ii) a statement that the Managing Member’s assets and credit are not available to satisfy the debts of such other entity or any other person.

(f) The Managing Member has and shall continue to file its own tax returns and pay its own taxes required to be paid under applicable law.

(g) The Managing Member has and shall continue to (i) hold itself out as an entity separate and distinct from any other Person; (ii) not identify itself or any of its affiliates as a division or part of the other; (iii) correct any known misunderstanding regarding its separate status; and (iv) use separate stationery, invoices, checks, and the like bearing its own name.

(h) The Managing Member has and shall continue to conduct its business in its own name so as to avoid or correct any misunderstanding on the part of any creditor concerning the fact that any invoices and other statements of account from creditors of the Managing Member
are to be addressed and mailed directly to the Managing Member, though this provision shall not
prohibit such mail to be delivered to the Managing Member c/o any other entity.

(i) The Managing Member has and intends to 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.

(j) The Managing Member has not and shall not commingle any of its assets, funds
or liabilities with the assets, funds or liabilities of any other Person or Affiliate.

(k) The Managing Member has and shall continue to maintain its assets in such a
manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets
from those of any party.

(l) The Managing Member has not and shall not (i) assume or guaranty the debts of
any other Person in a manner that includes a pledge, encumbrance, transfer or hypothecation
(whether by operation of law or otherwise) of any assets or interests of the Company or, (ii) hold
itself out to be responsible for the debts of another Person in a manner that includes the pledge,
encumbrance, transfer or hypothecation of any assets or interests of the Company (whether by
operation of law or otherwise), or (iii) otherwise pledge, encumber, transfer or hypothecate the
assets of the Company for the benefit of another Person or permit the same to occur, or (iv) hold
the Company’s credit as being available to satisfy the obligations of any other Person.

(m) All transactions carried out by the Managing Member have been and will be, in
all instances, made in good faith and without intent to hinder, delay or defraud creditors of the
Managing Member.
ARTICLE VII
Withdrawal of a Managing Member; New Managing Members

7.1 Voluntary Withdrawal

No Managing Member shall have the right to Withdraw voluntarily from the Company or to sell, assign or encumber its Interest without the Consent of the Investment Member and each of the other Managing Members (if any) and, if required, any Requisite Approvals.

7.2 Reconstitution

In the event of the Withdrawal of a Managing Member, the Company shall not be dissolved or required to be wound up if (i) at the time of such Withdrawal there is at least one remaining Managing Member and that Managing Member carries on the business of the Company (any such remaining Managing Member being hereby authorized to carry on the business of the Company), or (ii) within ninety (90) days after such Withdrawal all remaining Members agree in writing to continue the business of the Company and to the appointment, effective as of the date of such Withdrawal, of one or more additional Managing Members.

Within ten (10) days after the occurrence of such Withdrawal, the remaining Managing Members, if any, shall notify the Investment Member thereof:

(i) The reconstituted limited liability company shall continue until the occurrence of a Liquidating Event as provided in Section 2.4;

(ii) If the successor Managing Member is not a former Managing Member, then the provisions of Section 7.4(d) shall apply; and

(iii) If required by the Investment Member, all necessary steps shall be taken to cancel this Agreement and the Articles and to enter into a new operating agreement and articles of organization, and the successor Managing Member shall be obligated to take such steps.

7.3 Successor Managing Member

(a) Upon the occurrence of any Withdrawal, the remaining Managing Members may designate a Person to become a successor Managing Member to the Withdrawing Managing Member. Any Person so designated, subject to any Requisite Approvals, the Consent of the Investment Member and, if required by the Act or any other applicable law, the consent of any other Member so required, shall become a successor Managing Member upon his written agreement to be bound by the Project Documents and by the provisions of this Agreement.

(b) If any Withdrawal shall occur at a time when there is no remaining Managing Member and the Members do not unanimously elect to continue the business of the Company in accordance with the provisions of clause (ii) of Section 7.2(a) above, then the Investment Member shall have the right, subject to any Requisite Approvals, to designate a Person to become a successor Managing Member upon his written agreement to be bound by the Project Documents and by the provisions of this Agreement.
7.4 Interest of Predecessor Managing Member

(a) No assignee or transferee of all or any part of the Interest as a Managing Member of a Managing Member shall have any automatic right to become a Managing Member. Until the acquisition of the Interest of a Withdrawing Managing Member pursuant to Section 7.4(d) or 7.6, such Interest shall be deemed to be that of an assignee and the holder thereof shall be entitled only to such rights as an assignee may have as such under the laws of the State.

(b) Anything herein contained to the contrary notwithstanding, any Managing Member who Withdraws voluntarily in violation of Section 7.1 shall remain liable for all of its obligations under this Agreement, for all its other obligations and liabilities hereunder incurred or accrued prior to the date of its Withdrawal and for any loss or damage which the Company or any of its Members may incur as a result of such Withdrawal (except as provided in Section 6.8(a)).

(c) The estate (which term, for purposes of this Section 7.4(c), shall include the heirs, distributees, estate, executors, administrators, guardian, committee, trustee or other personal representative) of a Withdrawn Managing Member shall be liable for all his liabilities and obligations hereunder, except as provided in this Section 7.4(c). In the event of the death, insanity or incompetency of a Managing Member, his estate shall remain liable for all of his obligations and liabilities hereunder incurred or accrued prior to the date of such event, and for any damages arising out of any breach of this Agreement by him, but his estate shall not have any obligation or liability on account of the business of the Company or the activities of the other Managing Members after his death, insanity or incompetency unless it becomes a Managing Member pursuant to Section 7.3(a).

(d) The Disposition of the Managing Member Interest of a Managing Member who or which Withdraws voluntarily in compliance with this Agreement shall be accomplished in such manner as shall be acceptable to the remaining Managing Members and shall be approved by Consent of the Investment Member. Except as provided in the preceding sentence, upon the Withdrawal of a Managing Member (other than a Managing Member who or which is removed as such pursuant to Section 4.5), such Withdrawn Managing Member shall be deemed to have automatically transferred to the remaining Managing Members, in proportion to their respective Managing Member Interests, or, if there shall be no remaining Managing Member, then to the Company for the benefit of the remaining Members, all or such portion of the Managing Member Interest of such Withdrawn Managing Member which, when aggregated with the existing Managing Member Interests of all such remaining Managing Members, will be sufficient in the opinion of the Tax Accountants to assure such remaining Managing Members a sufficient interest in all Profits, Losses, Tax Credits and distributions of the Company under Article X so as to be deemed to be a Member of the Company for federal income tax purposes. No documentation shall be necessary to effectuate such transfer, which shall be automatic, and no consideration shall be payable therefor. For the purposes of Article X, the effective date of the transfer pursuant to the provisions of this Section 7.4(d) of the Managing Member Interest of a
Withdrawn Managing Member shall be deemed to be the date on which such Withdrawal occurs. That portion of the Managing Member Interest (the “Remaining Interest”) of the Withdrawing Managing Member which shall not have been transferred pursuant to this Section 7.4(d) (except in respect of a removed Managing Member), shall be retained by such Withdrawing Managing Member (or pass to legal representatives thereof) who or which shall have the status of a special member (an Article VII Special Member), but with the right to receive only that share of the Profits, Losses, Tax Credits and distributions of the Company to which the Withdrawing Managing Member, as such, would have been entitled had he or it remained, reduced to the extent of the Managing Member Interest transferred hereunder, but such Withdrawing Member (or his or its legal representatives, as the case may be) shall not be considered to be a Special Member for the purpose of exercising any rights reserved to the Special Member under this Agreement or sharing the benefits allocated to the Special Member under Article X hereof and shall not participate in the votes or consents of the Non-Managing Members hereunder; provided, however, that in the case of a Managing Member who or which Withdraws involuntarily without violation of this Agreement, the Company shall have the option (but not the obligation), exercisable by notice to the holder of such Interest within six (6) months following the date of such Withdrawal, to acquire the Remaining Interest of such Withdrawing Managing Member (or the Article VII Special Member Interest deriving therefrom) in accordance with the valuation and payment provisions of Section 7.6.

7.5 Amendment of Articles; Approval of Certain Events

(a) Upon the admission of a new Managing Member pursuant to the preceding provisions of this Article VII, Schedule A shall be amended to reflect such admission and any amendment to the Articles, also reflecting such admission, shall be filed as required by the Act.

(b) Each Member hereby consents to and authorizes any admission or substitution of a Managing Member or any other transaction, including, without limitation, the continuation of the Company business, which has been authorized under the provisions of this Agreement, and hereby ratifies and confirms each amendment of this Agreement necessary or appropriate to give effect to any such transaction.

7.6 Valuation and Sale of Interest of Former Managing Member

(a) Subject to the provisions of Section 7.4(d), if the business of the Company is continued after the Withdrawal of a Managing Member, or if, following such event, the Company is reconstituted and continued, in each case as contemplated by this Agreement, the Company shall purchase such Managing Member’s Interest if such removal is without cause or if such Withdrawal is not in violation of this Agreement (which term, and words of like import, as used in this Section 7.6 shall refer only to the “Remaining Interest” of such Withdrawing Managing Member as defined in Section 7.4(d) in all cases where applicable) each for a price equal to the fair market value thereof. Such fair market value shall be determined by two independent appraisers, one selected by the former Managing Member or its representative and one by the Company. If such appraisers are unable to agree on the value of the former Managing Member’s Interest, they shall jointly appoint a third independent appraiser whose determination shall be final and binding. The appraisers may act with or without a hearing, and the cost of the appraisal will be shared equally between such former Managing Member and the Company. If a
Managing Member is removed by the Investment Member for cause, or if a Managing Member has voluntarily withdrawn from the Company in contravention of the terms of this Agreement, the Managing Member shall forfeit its Interest to the Company, not as a penalty but as liquidated damages to compensate the Company for the action of such Managing Member leading to its removal, or for the fact of its violation of the terms of this Agreement.

(b) Promptly after the determination of the purchase price of a former Managing Member’s Interest pursuant to Section 7.6(a), the Company shall deliver to such former Managing Member a promissory note of the Company for such purchase price, payable in five equal consecutive annual installments commencing on the first anniversary of the date of such note. Such promissory note shall bear simple interest at the rate per annum which is at all times the AFR, annually compounding, payable on the last day of each calendar quarter during which such note is outstanding. Within one hundred twenty (120) days after the determination of the purchase price of the former Managing Member’s Interest, the Company may, with the consent of all remaining Managing Members and the Consent of the Investment Member, sell such Interests to one or more Persons, who may be Affiliates of the remaining Managing Member or Managing Members, and admit such Person or Persons to the Company as substitute Managing Members; provided, however, that the purchase price to be paid to the Company for the Interest of the former Managing Member shall not be less than its purchase price as determined by the appraisal and, if applicable, arbitration described above. Such substitute Managing Members may pay said purchase price in installments in the manner set forth above in this Section 7.6(b).

7.7 Designation of New Managing Members

The Managing Member may, with the written consent of all Non-Managing Members, at any time designate new Managing Members, each with such Interest as a Managing Member in the Company as the Managing Member may specify, subject to any Requisite Approvals.

Any new Managing Member shall, as a condition of receiving any interest in the Company property, agree to be bound by the Project Documents and any other documents required in connection therewith and by the provisions of this Agreement, to the same extent and on the same terms as any other Managing Member.
ARTICLE VIII
Transferability of a Non-Managing Member’s Company Interests

8.1 Assignments

(a) Each of the Non-Managing Members may each assign all or any part of its Company Interest without the consent of any other Member.

(b) An assignee of a Non-Managing Member who does not become a Substituted Non-Managing Member shall have, and shall only have, the right to receive the share of allocations and distributions of the Company to which the assigning Non-Managing Member would have been entitled with respect to the Company Interest (or portion thereof) so assigned if no such assignment had been made by such Non-Managing Member. Any assigning Non-Managing Member whose assignee becomes a Substituted Non-Managing Member shall thereupon cease to be a Non-Managing Member and shall no longer have any of the rights or privileges of a Non-Managing Member. Where the assignee does not become a Substituted Non-Managing Member, the Company shall recognize such assignment not later than the last day of the calendar month following receipt of notice of assignment and all documentation required in connection therewith. The Managing Member shall cooperate with the Non-Managing Members in facilitating such assignment by promptly furnishing complete and accurate financial and other relevant data regarding the Company, the Apartment Complex, the Managing Member and Affiliates of the Managing Member and any other matters reasonably necessary in the judgment of the Special Member to facilitate such Assignment, but only to the extent such information is readily available to the Managing Member either (a) at no or at nominal cost, or (b) the Non-Managing Members shall reimburse the Managing Member for the reasonable cost thereof.

(c) Every assignee of a Non-Managing Member’s Company Interest (or any portion thereof) who desires to make a further assignment of its Company Interest shall be subject to all the provisions of this Article VIII.

8.2 Substituted Non-Managing Member

Each Non-Managing Member shall have the right to substitute an assignee as Non-Managing Member in its place without the consent of any other Member; provided that any Substituted Non-Managing Member shall execute such instrument or instruments as shall be reasonably required by the Managing Members to signify the agreement of such Substituted Non-Managing Member to be bound by all the provisions of this Agreement.

8.3 Restrictions

(a) No Disposition of a Non-Managing Member Interest may be made if such Disposition would violate the provisions of Sections 8.1, 8.2 or 13.1.

(b) In no event shall all or any part of a Non-Managing Member Interest be Disposed of to a minor (other than to a descendant by reason of death) or to an incompetent.

(c) The Managing Member may, in addition to any other requirement it may impose, require as a condition of any Disposition of a Non-Managing Member Interest that the transferor
or transferee (i) assume all costs incurred by the Company or the Non-Managing Member in connection therewith and (ii) furnish the Company and the other Members with an opinion of counsel satisfactory to counsel to the Company that such Disposition complies with applicable federal and state securities laws.

(d) Any sale, exchange, transfer or other Disposition of a Non-Managing Member Interest in contravention of any of the provisions of this Section 8.3 shall be void and ineffectual and shall not bind or be recognized by the Company.
ARTICLE IX
Borrowings

All Company borrowings shall be subject to the terms of this Agreement and the Project Documents and may be made from any source, including Members and their Affiliates. Any Company borrowings from any Member, other than the Subordinated Loans shall be subject to any Requisite Approvals and the Consent of the Special Member. If any Member shall lend any monies to the Company, the amount of any such loan shall not increase such Member’s Capital Contribution. If any Member shall so lend monies, each such loan (a “Voluntary Loan”) shall be an obligation of the Company and (except for Subordinated Loans) shall be repayable to such Member on the same basis and with the same rate of interest as would be applicable to a comparable loan to the Company from a third party. Funds advanced by the Managing Member to the Company as Subordinated Loans shall not constitute borrowings for the purposes of this Article IX or for any other purposes.
ARTICLE X
Profits, Losses, Tax Credits, Distributions and Capital Accounts

10.1 Profits, Losses and Tax Credits

(a) Subject to the provisions of Section 10.1(b) and Section 10.4, for each Company Fiscal Year or portion thereof, all Operating Profits and Losses, tax-exempt income, losses, non-deductible non-capitalizable expenditures and Tax Credits incurred or accrued on or after the Commencement Date shall be allocated 99.99% to the Investment Member, 0.001% to the Class B Special Member, 0.0041% to the Administrative Member and 0.0049% to the Co-Managing Member.

(b) Except as otherwise specifically provided in this Article, all Profits and Losses arising from a Capital Transaction shall be allocated to the Members as follows:

As to Profits:

First, that portion of Profits (including any Profits treated as ordinary income for federal income tax purposes) shall be allocated to the Members who have negative Capital Account balances in proportion to the amounts of such balances, provided that no Profits shall be allocated to a Member under this Clause First to increase any such Member’s Capital Account above zero; and

Second, Profits in excess of the amounts allocated under Clause First above shall be allocated to and among the Members in the same percentages as cash is distributed under Clause Fifth of Section 10.2(b);

As to Losses:

First, an amount of Losses shall be allocated to the Members to the extent and in such proportions as shall be necessary such that, after giving effect thereto, the respective balances in all Members’ Capital Accounts shall be in the ratio of 99.99% for the Investment Member, 0.001% for the Class B Special Member, 0.0041% for the Administrative Member, and 0.0049% for the Co-Managing Member;

Second, an amount of Losses shall be allocated to the Members until the balance in each Member Capital Account equals the amount of such Member’s Capital Contribution (after the allocation under Clause First above);

Third, an amount of Losses shall be allocated to the Members to the extent of and in proportion to such Members’ Capital Account balances (after the allocations under Clauses First and Second above); and

Fourth, any remaining amount of Losses after the allocation under Clauses First, Second and Third above shall be allocated to the Members in accordance with the manner in which they bear the Economic Risk of Loss associated with such Loss; provided, however, that in the event that no Member bears an Economic Risk of Loss then any remaining Losses shall be allocated 99.99% to the Investment Member, 0.001% to the
Class B Special Member, 0.0041% to the Administrative Member and 0.0049% to the Co-Managing Member.

10.2 Cash Distributions Prior to Dissolution

(a) Cash Flow

Subject to any Requisite Approvals, Cash Flow for each Fiscal Year or portion thereof shall be applied as follows:

First, to the payment to the Investment Member of the full amount (including interest) of any amounts due and owing to the Investment Member, including without limitation, adjusters under Section 5.1, any Recapture Amount pursuant to Section 10.6, guaranty payments and/or indemnity payments which the Investment Member is entitled to receive pursuant to this Agreement, the Guaranty or the Development Agreement and to repay any Voluntary Loan made by the Investment Member pursuant to Article IX;

Second, to the payment of the Asset Management Fee for such Fiscal Year and for any previous Fiscal Year(s) as to which the Asset Management Fee shall not yet have been paid in full;

Third, to the payment of any unpaid portion of the Development Fee, including without limitation, any amounts evidenced by a Deferred Development Fee Note and all accrued but unpaid interest thereon;

Fourth, to the replenishment of the Operating Reserve until the balance in the Operating Reserve is equal to the Initial Reserve Amount;

Fifth, to the repayment of any Subordinated Loans;

Sixth, to the payment of the Company Management Fee for such Fiscal Year; and

Seventh, the balance thereof, if any, shall be distributed annually, seventy-five (75) days after the end of the Fiscal Year, 10% to the Investment Member and 90% to the Managing Member (of such 90%, 30% to the Co-Managing Member, 45% to the Administrative Member, and 25% to the Class B Special Member), first as payment of the Incentive Management Fee and then as a distribution.

(b) Distributions of Capital Proceeds

Prior to dissolution, if Capital Proceeds are available for distribution from a Capital Transaction, such Capital Proceeds shall be applied or distributed as follows:

First, to the payment to the Investment Member of the full amount (including interest) of any amounts due and owing to the Investment Member, including without limitation, adjusters under Section 5.1, any Recapture Amount pursuant to Section 10.6, guaranty payments and/or indemnity payments which the Investment Member is entitled
to receive pursuant to this Agreement, the Guaranty or the Development Agreement and to repay any Voluntary Loan made by the Investment Member pursuant to Article IX;

Second, to the payment of any accrued and unpaid Asset Management Fees;

Third, to the repayment of any remaining unpaid debts and liabilities owed to Members or Affiliates thereof by the Company for Company obligations (exclusive of Subordinated Loans) to any of them, including, but not limited to, accrued and unpaid amounts due in respect of any and all fees (including but not limited to the Development Fee and any Deferred Development Fee Note) due and payable to the Managing Member or its Affiliates as set forth in Section 6.12; provided, however, that any debts or obligations to be repaid to any Non-Managing Member or Affiliate thereof pursuant to this Clause Third shall be repaid prior to the repayment of any such debts or obligations to any Managing Member or Affiliate thereof;

Fourth, to the repayment of any Subordinated Loans;

Fifth, subject to the provisions of Section 10.3(a), any balance 9.999% to the Investment Member, 0.001% to the Special Member, 22.5% to the Class B Special Member, 27% to the Co-Managing Member, and 40.5% to the Administrative Member.

10.3 Distributions Upon Dissolution

(a) Upon dissolution and termination, after payment of, or adequate provision for, the debts and obligations of the Company, the remaining assets of the Company shall be distributed to the Members in accordance with the positive balances in their Capital Accounts after taking into account all Capital Account adjustments for the Company Fiscal Year, including adjustments to Capital Accounts pursuant to Sections 10.1(b) and 10.3(b). In the event that a Managing Member has a negative balance in its Capital Account following the liquidation of the Company or such Member’s Interest, after taking into account all Capital Account adjustments for the Company Fiscal Year in which such liquidation occurs, such Member may pay to the Company in cash an amount equal to the negative balance in such Member’s Capital Account. Such payment shall be made by the end of such Fiscal Year (or, if later, within ninety (90) days after the date of such liquidation) and shall, upon liquidation of the Company, be paid to recourse creditors of the Company or distributed to other Members in accordance with the positive balances in their Capital Accounts.

(b) With respect to assets distributed in kind to the Members in liquidation or otherwise, (i) any unrealized appreciation or unrealized depreciation in the values of such assets shall be deemed to be Profits and Losses realized by the Company immediately prior to the liquidation or other distribution event; and (ii) such Profits and Losses shall be allocated to the Members in accordance with the provisions of Section 10.1(b), and any property so distributed shall be treated as a distribution of an amount in cash equal to the excess of such fair market value over the outstanding principal balance of and accrued interest on any debt by which the property is encumbered. For the purposes of this Section 10.3(b), the terms “unrealized appreciation” or “unrealized depreciation” shall mean the difference between the fair market value of such assets, taking into account the fair market value of the associated financing (but
subject to the provisions of Section 7701(g) of the Code), and the Company’s adjusted basis for such assets as determined under the applicable provisions of the Allocation Regulations. This Section 10.3(b) is merely intended to provide a rule for allocating unrealized gains and losses upon liquidation or other distribution event, and nothing contained in this Section 10.3(b) or elsewhere herein is intended to treat or cause such distributions to be treated as sales for value. The fair market value of such assets shall be determined by an appraiser to be selected by the Managing Member with the Consent of the Special Member.

(c) The Investment Member may, prior to the time prescribed by law for filing of the Company’s federal income tax return for any Fiscal Year (not including extensions), elect to be unconditionally obligated to restore all or a portion of any deficit in the Investment Member’s Capital Account upon liquidation of its Interest in the Company. Any such election shall be evidenced by written notice to the Managing Member, delivered prior to such time, specifying the amount of any deficit for which the Investment Member elects a deficit restoration obligation. Any amount owing pursuant to a deficit restoration obligation shall be payable upon the later of (a) the end of the Fiscal Year in which Investment Member’s Interest is liquidated or (b) ninety (90) days after the date of such liquidation. The amount of any such election shall automatically be reduced to the extent the deficit in the Investment Member’s Capital Account (after reduction for the items described in (4), (5) and (6) of Treasury Regulations Section 1.704-1(b)(2)(ii)(d)) is subsequently reduced or eliminated as of the end of the Company’s taxable year without affecting the validity of prior allocations. If an allocation or distribution thereafter increases the deficit in the Investment Member’s Capital Account, unless the Investment Member elects otherwise under (i) below, the Investment Member will be obligated to restore the deficit only to the extent of the lesser of (i) the deficit amount the Investment Member has previously elected to restore or (ii) the smallest deficit balance in the Investment Member’s Capital Account (after reduction for the items described in (4), (5) and (6) of Treasury Regulations Section 1.704-1(b)(2)(ii)(d)) as of the end of the Company’s taxable year subsequent to the taxable year for which the election above was made. For purposes of determining the amount referred to in (ii), the income, gain, losses and deductions of the Company shall be allocated under an interim closing of the books method.

10.4 Special Provisions

(a) Except as otherwise provided in this Agreement, all Profits, tax-exempt income, Losses, non-deductible non-capitalizable expenditures, Tax Credits and cash distributions shared by a class of Members shall be shared by each Member in such class in the ratio of such Member’s paid-in Capital Contribution to the paid-in Class Contribution of the class of Members of which such Member is a member.

(b) Notwithstanding the foregoing provisions of this Article X:

(i) If (a) the Company incurs recourse obligations or Partner Nonrecourse Debt (including, without limitation, Voluntary Loans or Subordinated Loans) or (b) the Company incurs Losses from extraordinary events which are not recovered from insurance or otherwise (collectively “Recourse Obligations”) in respect of any Company Fiscal Year, then the calculation and allocation of Profits and Losses shall be adjusted as follows: first, an amount of deductions attributable to the Recourse Obligations shall be
allocated to the Member who bears the Economic Risk of Loss therefor; and second, the balance of such deductions shall be allocated as provided in Section 10.1(a).

(ii) If any Profits arise from the sale or other disposition of any Company asset which shall be treated as ordinary income under the depreciation recapture provisions of the Code, then the full amount of such ordinary income shall be allocated among the Members in the proportions that the Company deductions from the depreciation giving rise to such recapture were actually allocated. In the event that subsequently-enacted provisions of the Code result in other recapture income, no allocation of such recapture income shall be made to any Member who has not received the benefit of those items giving rise to such other recapture income.

(iii) If the Company shall receive any purchase money indebtedness in partial payment of the purchase price of the Apartment Complex and such indebtedness is distributed to the Members pursuant to the provisions of Section 10.2(b) or Section 10.3, the distributions of the cash portion of such purchase price and the principal amount of such purchase money indebtedness hereunder shall be allocated among the Members in the following manner: On the basis of the sum of the principal amount of the purchase money indebtedness and cash payments received on the sale (net of amounts required to pay Company obligations and fund reasonable reserves), there shall be calculated the percentage of the total net proceeds distributable to each class of Members based on Section 10.2(b) or Section 10.3, as applicable, treating cash payments and purchase money indebtedness principal interchangeably for this purpose, and the respective classes shall receive such respective percentages of the net cash purchase price and purchase money principal. Payments on such purchase money indebtedness retained by the Company shall be distributed in accordance with the respective portions of principal allocated to the respective classes of Members in accordance with the preceding sentence, and if any such purchase money indebtedness shall be sold, the sale proceeds shall be allocated in the same proportion.

(iv) Income, gain, loss and deduction with respect to any asset which has a variation between its basis computed in accordance with the applicable provisions of the Allocation Regulations and its basis computed for federal income tax purposes shall be shared among the Members so as to take account of such variation in a manner consistent with the principles of Section 704(c) of the Code and Section 1.704-1(b)(2)(iv)(g) of the Allocation Regulations.

(v) The terms “Profits” and “Losses” used in this Agreement shall mean income and losses, and each item of income, gain, loss, deduction or credit entering into the computation thereof, as determined in accordance with the accounting methods followed by the Company and computed in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv). Profits and Losses for federal income tax purposes shall be allocated in the same manner as set forth in this Article X, except as provided in Section 10.4(b)(iv).
(vi) Nonrecourse Deductions shall be allocated 99.99% to the Investment Member, 0.001% to the Class B Special Member, 0.0041% to the Administrative Member and 0.0049% to the Co-Managing Member.

(vii) Partner Nonrecourse Deductions shall be allocated to and among the Members in the manner provided in the Allocation Regulations.

(viii) Subject to the provisions of Section 10.4(b)(xix), if there is a net decrease in Partnership Minimum Gain for a Company Fiscal Year, the Members shall be allocated items of Company income and gain in accordance with the provisions of Section 1.704-(2)(f) of the Allocation Regulations.

(ix) Subject to the provisions of Section 10.4(b)(xix), if there is a net decrease in Partner Nonrecourse Debt Minimum Gain for a Company Fiscal Year then any Member with a Share of such Partner Nonrecourse Debt Minimum Gain shall be allocated items of Company income and gain in accordance with the provisions of Section 1.704-2(i)(4) of the Allocation Regulations.

(x) Subject to the provisions of 10.4(b)(vi) through 10.4(b)(ix) above, in the event that any Member unexpectedly receives any adjustments, allocations or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Allocation Regulations, items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Allocation Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible. This Section 10.4(b)(x) is intended to constitute a “qualified income offset” provision within the meaning of the Allocation Regulations and shall be interpreted consistently therewith. For purposes of this Section 10.4(b)(x), a Member’s Capital Account shall be treated as reduced by Qualified Income Offset Items.

(xi) Subject to the provisions of Sections 10.4(b)(vi) through 10.4(b)(x) above, in no event shall any Non-Managing Member be allocated Losses that would cause it to have an Adjusted Capital Account Deficit as of the end of any Company Fiscal Year. Any Losses that are not allocated to a Non-Managing Member by reason of the application of the provisions of this Section 10.4(b)(xi) shall be allocated to the Managing Member.

(xii) Subject to the provisions of Sections 10.4(b)(vi) through 10.4(b)(xi) above, in the event that any Member has an Adjusted Capital Account Deficit at the end of any Company Fiscal Year, items of Company income and gain shall be specially allocated to each such Member in the amount of such Adjusted Capital Account Deficit as quickly as possible.

(xiii) Syndication Expenses for any Fiscal Year or other period shall be specially allocated to the Investment Member.

(xiv) For purposes of determining the Profits, Losses, Tax Credits or any other items allocable to any period, Profits, Losses, Tax Credits and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Managing
Member using any permissible method under Code Section 706 and the Treasury Regulations thereunder.

(xv) To the extent that interest on loans (or other advances which are deemed to be loans) made by a Managing Member to the Company is determined to be deductible by the Company in excess of the amount of interest actually paid by the Company, such additional interest deduction(s) shall be allocated solely to such Managing Member.

(xvi) To the extent the Company earns interest income on the deposit or investment of Mortgage Loan proceeds, an equal amount of gross income shall be specially allocated to the Managing Member if required by the Investment Member. Any taxable income of the Company resulting from its receipt of donations, contributions, grants or subsidies (whether in the form of property, cash, or forgivable debt) shall be specially allocated to the Managing Member.

(xvii) For purposes of determining each Member’s proportionate share of the excess Nonrecourse Liabilities of the Company pursuant to Section 1.752-3(a)(3) of the Allocation Regulations, the Members’ interests in Profits shall be determined by reference to the Members’ allocable share of Capital Proceeds from a Capital Transaction under Clause Fifth of Section 10.2(b); provided, however, that the Members agree that, upon giving written notice to the Administrative Member, the Investment Member shall have the right at any time to cause the Company to select an alternative method for allocating excess Nonrecourse Liabilities of the Company pursuant to Section 1.752-3(a)(3) of the Allocation Regulations if the Investment Member reasonably determines that such alternative method would (or could reasonably be expected to) avoid or mitigate any tax or economic detriment to the Investment Member or its affiliates (as a result of an actual or pending change in law, change in circumstance, or otherwise). Without limiting the foregoing, the Administrative Member shall provide written notice to the Investment Member no later than 45 days following the close of any Fiscal Year in which the Investment Member’s adjusted basis in its Company Interest is or is reasonably likely to be zero.

(xviii) Any recapture of any Tax Credit shall be allocated to and among the Members in the same manner as such Tax Credit was allocated to the Members.

(xix) If for any Fiscal Year the application of the minimum gain chargeback provisions of Section 10.4(b)(viii) or Section 10.4(b)(ix) of this Agreement would cause distortion in the economic arrangement among the Members and it is not expected that the Company will have sufficient other income to correct that distortion, the Managing Member may request a waiver from the Commissioner of the Service of the application in whole or in part of Section 10.4(b)(viii) or Section 10.4(b)(ix) in accordance with Section 1.704-2(f)(4) of the Allocation Regulations. Furthermore, if additional exceptions to the minimum gain chargeback requirements of the Allocation Regulations have been provided through private letter rulings issued to the Company or published revenue rulings or other binding administrative authority, the Managing Member is authorized to cause the Company to take advantage of such exceptions if to do so would be in the best interest of a majority in interest of the Members.
(xx) In the event that any fee payable to any for profit Managing Member or any for profit Affiliate thereof shall instead be determined to be a non-deductible, non-capitalizable distribution from the Company to a Member for federal income tax purposes, then there shall be allocated to such Managing Member an amount of gross income equal to the amount of such distribution.

(xxi) In applying the provisions of Article X with respect to distributions and allocations, the following ordering of priorities shall apply:

1. Capital Accounts shall be deemed to be reduced by Qualified Income Offset Items.
2. Capital Accounts shall be reduced by distributions of Cash Flow under Clause Seventh of Section 10.2(a).
3. Capital Accounts shall be reduced by distributions of Capital Proceeds under Clause Fifth of Section 10.2(b).
4. Capital Accounts shall be increased by any minimum gain chargeback under Section 10.4(b)(viii) or Section 10.4(b)(ix).
5. Capital Accounts shall be increased by any qualified income offset required under Section 10.4(b)(x).
6. Capital Accounts shall be increased by allocations of Operating Profits under Section 10.1(a).
7. Capital Accounts shall be reduced by allocations of Operating Losses under Section 10.1(a).
8. Capital Accounts shall be reduced by allocations of Losses under Section 10.1(b).
9. Capital Accounts shall be increased by allocations of Profits under Section 10.1(b).
10. All remaining allocations shall be made in the order in which they appear in Section 10.4(b).

(xxii) To the maximum extent permitted under the Code, allocations of Profits and Losses shall be modified so that the Members’ Capital Accounts reflect the amount they would have reflected if adjustments required by Sections 10.4(b)(x), 10.4(b)(xi) and 10.4(b)(xii) had not occurred.

(xxiii) In the event the Investment Member shall give notice to the Managing Member that, in the reasonable judgment of the Investment Member, its Capital Account as of the close of the tax year in which such notice is given either will have a zero balance or there will be an increase in Partner Nonrecourse Debt Minimum Gain for such
year that is attributable to the Deferred Development Fee Note, the Managing Member shall take all such action as may be necessary to assure that any outstanding balance of any Deferred Development Fee Note shall constitute a “partnership nonrecourse liability” of the Company, as such term is defined in Treasury Regulation Section 1.752-1(a)(2) or any successor regulation. One such action shall be the assignment of any Deferred Development Fee Note to an Entity that is not a “related person,” as defined in Section 42(d)(2)(D)(iii) of the Code, to the Company.

10.5 Authority of the Managing Member to Vary Allocations to Preserve and Protect the Members’ Intent

(a) It is the intent of the Members that each Member’s distributive share of Profits, tax-exempt income, Losses, non-deductible non-capitalizable expenditures and Tax Credits (and items thereof) shall be determined and allocated in accordance with this Agreement to the fullest extent permitted by Section 704(b) of the Code and the Allocation Regulations. In order to preserve and protect the determinations and allocations provided for in this Agreement, the Managing Member is hereby authorized and directed to allocate Profits, tax-exempt income, Losses, non-deductible non-capitalizable expenditures and credits (and items thereof) arising in any Fiscal Year differently than otherwise provided for in this Agreement to the extent that allocating Profits, tax-exempt income, Losses, non-deductible non-capitalizable expenditures or credits (or any item thereof) in the manner provided for herein would cause the determinations and allocations of each Member’s distributive share of Profits, tax-exempt income, Losses, non-deductible non-capitalizable expenditures or credits (or any item thereof) not to be permitted by Section 704(b) of the Code. Any allocation made pursuant to this Section 10.5 shall be deemed to be a complete substitute for any allocation otherwise provided for in this Agreement and shall only be made with the Consent of the Investment Member.

(b) In making any allocation (the “New Allocation”) under Section 10.5(a), the Managing Member is authorized to act only with the Consent of the Investment Member after having been advised in writing by the Tax Accountants that, under Section 704(b) of the Code and/or the Allocation Regulations, (i) the New Allocation is necessary, and (ii) the New Allocation is the minimum modification of the allocations otherwise provided for in this Agreement necessary in order to assure that, either in the then-current Fiscal Year or in any preceding Fiscal Year, each Member’s distributive share of Profits, tax-exempt income, Losses, non-deductible non-capitalizable expenditures and Tax Credits (or any item thereof) is determined and allocated in accordance with this Agreement to the fullest extent permitted by Section 704(b) of the Code and the Allocation Regulations.

(c) New Allocations made by the Managing Member under Section 10.5 shall be deemed to be made pursuant to the fiduciary obligation of the Managing Member to the Company and the Non-Managing Members, and no such allocation shall give rise to any claim or cause of action by any Non-Managing Member.

10.6 Recapture Amount

(a) If at any time during the “compliance period” (as defined in Section 42(i)(1) of the Code), the Apartment Complex ceases to be a “qualified low income housing project” (as
defined in Section 42(g)(1) of the Code, any Low-Income Unit in the Apartment Complex ceases to be a “low income unit” (as defined in Section 42(i)(3) of the Code), or for any other reason all or any portion of credits allowed to the Company and its Members under Section 42 of the Code are subject to recapture pursuant to Section 42(j) of the Code (such an occurrence being referred to herein as a “Recapture Event”), the Investment Member shall become entitled to receive funds equal to the “Recapture Amount”. The Recapture Amount shall be in the form of an offset against future Installments, a cash distribution or payment to the Investment Member, in each case as set forth in Sections 5.1(e) and/or (f).

(b) The Recapture Amount is an amount equal the sum of (i) the “credit recapture amount” allocable to the Investment Member as defined in Section 42(j) of the Code plus (ii) all income taxes payable by the Investment Member (or its partners or members) as computed under Section 10.6(d).

(c) Any Recapture Amount distributable to the Investment Member pursuant to the foregoing provisions shall be distributed as funds become available for such distributions, but such distributions shall not be made prior to (i) in the case of the “credit recapture amount”, the year of the Recapture Event and (ii) in the case of any credits disallowed with respect to any year subsequent to the Recapture Event, in each such subsequent year.

(d) Determination of the Recapture Amount shall be made on the assumption that receipt or accrual by each partner of the Investment Member of any amounts distributable to such partner under Subsection (c) above will currently be subject to United States federal and State income tax at the highest marginal rate applicable to corporations for the year(s) in question (and assuming the non-applicability of the alternative minimum tax).

(e) All computations required under this Section 10.6 shall be made reasonably by the Investment Member, and the results of such computations, together with a statement describing in reasonable detail the manner in which such computations were made, shall be delivered to the Managing Member in writing. Within fifteen (15) days following receipt of such computation, the Managing Member may request that the Auditors determine whether such computations are reasonable and are not erroneous. If the Auditors determine that such computations are unreasonable or contain errors, then the Auditors shall determine what they believe to be the appropriate computations. If the Investment Member does not agree with the determination of the Auditors, then another accounting firm other than the Auditors to be selected jointly by the Investment Member and the Managing Member or, if they cannot agree, by the American Arbitration Association, from among the ten largest national accounting firms, shall make such computations. The computations of the Investment Member, the Auditors, or the other accounting firm so selected, whichever is applicable, shall be final, binding and conclusive upon the parties. All fees and expenses payable to an accounting firm other than the Auditors under this paragraph shall be borne solely by the Managing Member. All fees and expenses payable to the American Arbitration Association shall be borne equally by the Managing Member and the Investment Member.
ARTICLE XI
Management Agent

11.1 General

The Managing Member shall engage the Management Agent to manage the Apartment Complex pursuant to the Management Agreement. The Management Agent shall receive a Management Fee of those amounts payable from time to time by the Company to the Management Agent for management services in accordance with a management contract approved by any Agency or Lender with the right to approve the same, or, when any such management contract is not subject to the approval of any Agency or Lender, in accordance with a reasonable and competitive fee arrangement. The initial Management Agent shall be Accolade Property Management, Inc. From and after the Admission Date, the Company shall not enter into any Management Agreement or modify or extend any Management Agreement unless (i) the Managing Member shall have obtained the prior Consent of the Special Member to the identity of the Management Agent and the terms of the Management Agreement or the modification or extension thereof and (ii) such new Management Agreement or modified or extended Management Agreement provides that it is terminable by the Company on thirty (30) days’ notice by the Company in the event of any change in the identity of the Managing Member. The Management Agent shall maintain insurance in accordance with the applicable Insurance Requirements set forth in Exhibit D. Copies of such policies (or binders) shall be provided to the Company and the Investment Member within thirty (30) days after the effective date of the Management Agreement and annually thereafter.

11.2 Fees

Notwithstanding the provisions of Section 11.1, however, should the Investment General Partner or an Affiliate thereof perform property management services for the Company, property management, rent-up or leasing fees shall be paid to the Investment General Partner or such Affiliate only for services actually rendered and shall be in an amount equal to the lesser of (i) fees competitive in price and terms with those of non-affiliated Persons rendering comparable services in the locality where the Apartment Complex is located and which could reasonably be available to the Company, or (ii) five percent (5%) of the gross revenues of the Apartment Complex. No duplicate property manager fees shall be paid to any Person.

11.3 Removal and Replacement

If (i) the Apartment Complex shall be subject to a substantial building code violation which shall not have been cured within six (6) months after notice from a Governmental Authority or (ii) the Company shall not have achieved a 1.15 to 1.00 Debt Service Coverage Ratio during any Fiscal Year commencing on January 1, 2019, or (iii) an Event of Bankruptcy shall occur with respect to the Management Agent, or (iv) the Management Agent shall commit willful misconduct or gross negligence in its conduct of its duties and obligations under the Management Agreement or (v) there is any change in the Persons acting as Managing Members (to which the Special Member has not consented), or (vi) the Management Agent is cited by the Credit Agency or any other Tax Credit monitoring or compliance agency of the State or any other Governmental Authority for a violation or alleged violation of any applicable rules,
regulations or requirements, including, without limitation, non-compliance with the Agreed-Upon Set-Aside Test, the Rent Restriction Test or any other Tax Credit-related provision, or (vii) the Management Agent fails to promptly and competently perform (after any applicable notice and cure period) all duties of the Management Agent under the Management Agreement, or (viii) the Apartment Complex fails to generate at least 90% of the Revised Projected Tax Credits in any calendar year, or (ix) the Management Agent fails to materially comply with the record keeping, tenant qualification and rental requirements of the Extended Use Agreement, and Code Section 42 and the Regulations, rulings and policies related thereto, or (x) the Apartment Complex is materially mismanaged, or (xi) the Managing Member is removed, then, upon request by the Special Member and subject to Agency and Lender approval, if required, the Managing Member shall cause the Company to promptly terminate the Management Agreement with the Management Agent and appoint a new Management Agent selected by the Special Member, which new Management Agent shall not be an Affiliate of a Managing Member. Each Managing Member hereby grants to the Special Member an irrevocable (to the extent permitted by applicable law) power of attorney coupled with an interest to take any action and to execute and deliver any and all documents and instruments on behalf of such Managing Member and the Company as the Special Member may deem to be necessary or appropriate in order to effectuate the provisions of this Article XI. Subject to any Requisite Approvals, the Company shall not enter into any future management arrangement or renew or extend any existing management arrangement unless such arrangement is terminable without penalty upon the occurrence of the events described in this Article XI.

11.4 Lack of Management Agent

The Managing Member shall have the duty to manage the Apartment Complex during any period when there is no Management Agent.
ARTICLE XII
Books and Records, Accounting, Tax Elections, Etc.

12.1 Books and Records

The Company shall maintain all books and records which are required under the Act or by any Governmental Authority and may maintain such other books and records as the Managing Member in its discretion deems advisable or as reasonably requested by the Special Member. Each Non-Managing Member, or its duly authorized representatives, shall have access to the records of the Company at the principal office of the Company at any and all reasonable times, and may inspect and copy any of such records. A list of the name and addresses of all of the Non-Managing Members shall be maintained as part of the books and records of the Company and shall be mailed to any Non-Managing Member upon request. The Company may require reimbursement for any out of pocket expenses which it incurs as a result of the exercise by any Non-Managing Member of its rights under this Section 12.1, including, without limitation, photocopying expenses. The Managing Member shall cause the Company to maintain at all times all informational and qualification files of each tenant of the Apartment Complex in fire proof storage facilities (whether paper files or micro fiche or film) and in a secure location controlled by the Company, for the later of six (6) years after completion of the Compliance Period or as long as is required under applicable law.

12.2 Bank Accounts

The bank accounts of the Company shall be maintained in the Company’s name with such financial institutions as the Managing Member shall determine. Withdrawals shall be made only in the regular course of Company business on such signature or signatures as the Managing Member may determine. All deposits (including security deposits and other funds required to be escrowed by any Lender or Agency) and other funds not needed in the operation of the business shall be deposited, if required by applicable law and to the extent permitted by applicable Agency or Lender requirements, in interest bearing accounts or invested in United States Government obligations maturing within one year.

12.3 Auditors

(a) The Auditors shall prepare, for execution by the Managing Member, all tax returns of the Company. Prior to the filing of the Company tax returns, and in no event later than February 15 of each Fiscal Year, the Auditors shall deliver the tax returns for the prior Fiscal Year to the Tax Accountants for their review and comment. If a dispute arises between the Auditors and the Tax Accountants over the proper preparation of the tax returns and such dispute cannot be resolved by the Auditors and the Tax Accountants by March 1 of such Fiscal Year, then the Tax Accountants shall make the final decision with respect to whether any changes are necessary. The Company shall reimburse the Investment Member and its Affiliates for all costs and expenses paid to the Tax Accountants for the aforementioned services.

(b) The Auditors shall certify all annual financial reports to the Members in accordance with generally accepted auditing standards.
(c) If the Company fails to fulfill any of its obligations under Section 12.7(a)(i) and/or Section 12.7(a)(ii) within the time periods set forth therein, at any time thereafter upon written notice from the Special Member, the Managing Member shall appoint replacement Auditors. If no such notice from the Special Member is delivered, the Consent of the Special Member must be received to the appointment of replacement Auditors. If the Managing Member fails to appoint replacement Auditors within thirty (30) days of the notice from the Special Member to replace the Auditors, then the Special Member shall appoint replacement Auditors of its own choosing, the cost of which shall be borne by the Company as a Company expense. All of the Members hereby grant to the Special Member a special power of attorney, irrevocable to the extent permitted by law, coupled with an interest, to so appoint replacement Auditors and to anything else which in the judgment of the Special Member may be necessary or appropriate to accomplish the purposes of this Section 12.3(c).

(d) On or prior to the date which is thirty (30) days after the Admission Date, the Managing Member shall cause the Company (i) in writing, to engage the Auditors to perform the services required herein and (ii) to deliver to the Investment Member copies of all such engagement letters and agreements.

12.4 Cost Recovery and Elections

(a) Unless the Special Member 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 Company shall depreciate substantially all of its residential rental property, site improvements and personal property costs, respectively, over 27.5 years, 15 years and 5 years for federal income tax purposes. Notwithstanding the foregoing, the Company will elect to depreciate 40% of its site improvements and personal property costs in the year in which such assets are placed in service in accordance with Section 168(k) of the Code (the “Bonus Depreciation”) provided that 40% shall be reduced to 30% if such site improvements and personal property costs are placed in service in 2019. Except at the written request of the Special Member, the Managing Member will not cause the Company to make an election under Section 168(k)(7) of the Code to elect-out of such Bonus Depreciation.

(b) Subject to the provisions of Section 12.5, all other elections required or permitted to be made by the Company under the Code shall be made by the Managing Member with the Consent of the Investment Member, in such manner as will, in the opinion of the Auditors, be most advantageous to the Investment Member and the limited partners thereof.

12.5 Special Basis Adjustments

In the event of a transfer of all or any part of the Interest of the Investment Member or a transfer of all or any part of an interest of a partner of the Investment Member, the Company shall elect, upon the request of the Investment Member, pursuant to Section 754 of the Code, to adjust the basis of the Company property. Any adjustments made pursuant to said Section 754 shall affect only the successor in interest to the transferring Member or partner thereof. Each Member will furnish the Company all information necessary to give effect to any such election.
12.6 Fiscal Year

Unless otherwise required by law, the Fiscal Year and tax year of the Company shall be the calendar year. The books of the Company shall be maintained on an accrual basis.

12.7 Information to Members

(a) The Managing Member shall cause to be prepared and distributed to all Persons who were Members at any time during a Fiscal Year of the Company:

(i) Within sixty (60) days after the end of each Fiscal Year of the Company, (A) a balance sheet as of the end of such Fiscal Year, a statement of income, a statement of members’ equity, and a statement of cash flows, each for the Fiscal Year then ended, all of which, except the statement of cash flows, shall be prepared in accordance with generally accepted accounting principles and accompanied by a report of the Auditors containing an opinion of the Auditors, and (B) a report of the activities of the Company during the period covered by the report. With respect to any distribution to the Investment Member, the report called for shall separately identify distributions from (1) Cash Flow from operations during the period, (2) Cash Flow from operations during a prior period which had been held as reserves, (3) proceeds from disposition of property and investments, (4) lease payments on net leases with builders and sellers, (5) reserves from the gross proceeds of the Capital Contributions of the Investment Member, (6) borrowed monies, and (7) transactions outside of the ordinary course of business with a description thereof.

(ii) Within forty-five (45) days after the end of each Fiscal Year of the Company, all information relating to the Company and/or the Apartment Complex which is necessary, in the view of the Tax Accountants, for the preparation of the Non-Managing Members’ federal income tax returns for the prior Fiscal Year.

(iii) Within thirty (30) days after the end of each quarter of a Fiscal Year of the Company, a report containing:

(A) a balance sheet, which may be unaudited;
(B) a statement of income for the quarter then ended, which may be unaudited;
(C) a statement of cash flows for the quarter then ended, which may be unaudited;
(D) a certification of the Managing Member that the Apartment Complex and its tenants are in compliance with all applicable federal, state and local requirements and regulations;
(E) a Tax Credit monitoring form, a copy of the rent roll for the Apartment Complex for each month during such quarter, a statement of income and expenses, an operating statement and an
Occupancy/Rental Report, all in a form specified by the Special Member;

(F) a certification of the Managing Member that it has received no notice of a building, health or fire code violation or similar violation of a governing law, ordinance or regulation against the Apartment Complex, or, if there is any such violation, a detailed description thereof;

(G) the number of Section 811 Units required by the Credit Agency pursuant to any Section 811 RAC; and

(H) all other information which would be pertinent to a reasonable investor regarding the Company and its activities during the quarter covered by the report.

(b) Within sixty (60) days after the end of each Fiscal Year of the Company a copy of the annual report to be filed with the United States Treasury concerning the status of the Apartment Complex as low-income housing and, if required, a certificate to the appropriate state agency concerning the same.

(c) Upon the written request of the Investment Member for further information with respect to any matter covered in item (a) or item (b) above, the Managing Member shall furnish such information within thirty (30) days of receipt of such request.

(d) Prior to October 15 of each Fiscal Year, the Company shall send to the Investment Member an estimate of the Investment Member’s share of the Tax Credits, Profits and Losses of the Company for federal income tax purposes for the current Fiscal Year. Such estimate shall be prepared by the Managing Member and the Auditors and shall be in the form specified by the Special Member.

(e) The Managing Member shall send the Investment Member a detailed report within fifteen (15) days after the end of any calendar quarter during which any of the following events occur:

(i) there is a material default by the Company under any Project Document or in the payment of any mortgage, taxes, interest or other obligation on secured or unsecured debt,

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

(iii) any Managing Member has received any notice of a material fact which may substantially affect further distributions or Tax Credit allocations to any Non-Managing Member,

(iv) any Member has pledged or collateralized its Interest in the Company, or
(v) TDHCA has proposed changes to the “rent schedule” under the Section 811 RAC (to the extent each such agreement is in effect).

(f) After the Admission Date, the Company shall send to the Investment Member copies of all applicable periodic reports covering the status of project operations and any matters relating to the Tax Credit as are required by any Lender or Agency. The Managing Member shall deliver to the Investment Member copies of all construction draw requests (and all supporting documentation) submitted to the Lender prior to the Admission Date, if any, and shall deliver to the Investment Member simultaneously with their submission to the Lender copies of all construction draw requests (and all supporting documentation) submitted to the Lender on or after the Admission Date.

(g) On or before May 1 of each Fiscal Year, the Company shall send to the Investment Member a report on operations, in the form supplied by the Special Member.

(h) The Managing Member hereby consents to each Lender or Agency providing the Investment Member with copies of all material communications between any such Lender or Agency and the Managing Member and/or the Company, including, but not limited to, any notices of default.

(i) [Intentionally Deleted]

(j) Within sixty (60) days following the Completion Date, the Managing Member shall prepare, or cause the Auditors to prepare, and deliver to each Non-Managing Member a Tax Credit basis worksheet for each building in the Apartment Complex, all in a form specified by the Special Member.

(k) Promptly after Permanent Mortgage Commencement, the Managing Member shall send to the Special Member a closing binder containing photocopies of the fully executed versions of all documents signed in connection with the Permanent Loan(s). From and after any date upon which the Managing Member receives notice from the Special Member that the Special Member would like copies of the monthly rent rolls for the Apartment Complex to be sent to the Special Member, the Managing Member shall send copies of the rent rolls to the Special Member no later than ten (10) days after the expiration of each month.

(l) If the Managing Member does not cause the Company to fulfill its obligations under Section 12.7(a)(i) and/or Section 12.7(a)(ii) within the time periods set forth therein, the Managing Member shall pay as damages the sum of $250 per day (plus interest at a rate equal to the Prime Rate plus three percent (3%)) to the Investment Member until such obligations shall have been fulfilled. Such damages shall be paid forthwith by the Managing Member, and the failure to pay any such damages shall constitute a material default by the Managing Member hereunder. In addition, if the Managing Member shall fail to pay any such damages, the Managing Member and its Affiliates shall forthwith cease to be entitled to the distribution of any Cash Flow or Capital Proceeds to which they may otherwise be entitled hereunder. Such distributions of Cash Flow and Capital Proceeds shall be restored only upon the payment of such damages in full, and any amount of such damages not so paid shall be deducted against
distributions of Cash Flow and Capital Proceeds otherwise due to the Managing Member or its Affiliates.

(m) On or before November 1 of each Fiscal Year, the Managing Member shall cause the Company to send to the Investment Member an operating budget of the Apartment Complex for the upcoming Fiscal Year. The Special Member shall have the right to review and comment on the budget, and the Managing Member shall incorporate the Special Member’s recommendations, subject to the approval of the Agency. If the Managing Member and the Special Member are unable to agree on a budget for a particular Fiscal Year, the budget for such year shall be the budget for the preceding year increased by 5%. The Managing Member shall keep the Special Member informed concerning the general state of the business and financial condition of the Company and shall, upon the reasonable request of the Special Member, furnish to the Special Member full information, accounts and documentation concerning the state of the business and financial condition of the Company. Such budget shall include, but not be limited to:

(i) an overall assessment of the market in the general vicinity of the Apartment Complex,

(ii) an assessment of repairs and capital improvements needed and the priority of such items; and

(iii) a proposed repairs and capital improvements budget for the year affected.

(n) Notwithstanding anything to the contrary contained herein, the Managing Member shall cause to be conducted and delivered to the Non-Managing Members pursuant to Section 5.1(a) an audit on one hundred (100%) percent of the initial leases or occupancy agreements executed in connection with the Apartment Complex in order to ensure compliance with the applicable Rent Restriction Test, Minimum Set Aside Test, or any other applicable tenant restriction test (“Initial Compliance Audit”). The Special Member shall select at its option, any combination of occupancy agreements which shall comprise the Initial Compliance Audit (the “Selected Occupancy Agreements”). The Initial Compliance Audit shall consist of a review of the complete tenant files in connection with the Selected Occupancy Agreements, including but not limited to any tenant financial information. Further, the Initial Compliance Audit shall be conducted with the cooperation of, and at the sole cost and expense of the Managing Member if the Initial Compliance Audit reveals an instance of material noncompliance. An instance of material noncompliance shall be deemed to exist if at least five (5) occupancy agreements reveal noncompliance or violations of any applicable tenant restriction test. If the Initial Compliance Audit does not reveal any instance of material noncompliance the Company shall bear the cost of such audit.

(o) The Managing Member shall deliver to the Investment Member audited annual financial statements of each of the Managing Member and the Guarantors within one hundred eighty (180) days of the end of each fiscal year of the Company, unless waived by the Special Member, in writing.
12.8 Expenses of the Company.

All expenses of the Company shall be billed directly to and paid by the Company.

12.9 Review of Compliance.

The Managing Member shall, within seventy-five (75) days after the end of each Fiscal Year of the Company, certify to each Non-Managing Member in the same scope and manner that it is required to certify, if requested, to the Agency, that the Company is in compliance with all regulations and procedures relating to the operation of the Apartment Complex as a qualified Tax Credit project within the meaning of Section 42(g) of the Code. The Special Member may, at its own expense, conduct or cause to be conducted an audit or review of the Company’s compliance with all regulations and procedures relating to the operation of the Apartment Complex as a qualified Tax Credit project within the meaning of Section 42(h) of the Code. Such audit or review shall be conducted upon not less than thirty (30) nor more than ninety (90) days prior written request. The Managing Member shall cooperate with any such audit by making appropriate personnel of the Managing Member and Property Manager and all books and records of the Apartment Complex and Company available to the Investment Members or their representatives at the offices of the Company during regular business hours.

12.10 Inspections.

The Special Member, at its sole cost and expense, shall have the right to conduct physical inspections of the Apartment Complex on an annual basis and the Managing Member shall take all reasonable steps necessary to cooperate therewith.
ARTICLE XIII
General Provisions

13.1 Restrictions by Reason of Section 708 of the Code

No Disposition of an Interest may be made if the Interest sought to be Disposed of, when added to the total of all other Interests Disposed of within the period of twelve (12) consecutive months prior to the proposed date of the Disposition, would, in the opinion of the Tax Accountants or tax counsel to the Company, result in the termination of the Company under Section 708 of the Code, unless the transferring Member agrees to indemnify the other Members for any federal income tax liability resulting from such Disposition. This Section 13.1 shall have no application to any required repurchase of the Investment Member’s Interest. Any Disposition in contravention of any of the provisions of this Section 13.1 shall be void ab initio and ineffectual and shall not bind or be recognized by the Company. Notwithstanding the foregoing provisions of this Section 13.1, however, the Investment Member may waive the provisions of this Section 13.1 at any time as to a Disposition or series of Dispositions, and in the event of such a waiver, this Section 13.1 shall have no force or effect upon such Disposition or series of Dispositions.

13.2 Amendments to Articles

Within one hundred twenty (120) days after the end of the Company Fiscal Year in which the Investment Member shall have received any distributions under Article X, the Managing Member shall file an amendment to the Articles reducing the amount of its allocable share of such distribution the amount of Capital Contribution of the Investment Member as stated in the last previous amendment to the Articles. However, Schedule A shall not be amended on account of any such distribution.

The Company shall amend the Articles at least once each calendar quarter to effect the substitution of Substitute Non-Managing Members, although the Managing Member may elect to do so more frequently. In the case of assignments, where the assignee does not become a Substitute Non-Managing Member, the Company shall recognize the assignment not later than the last day of the calendar month following receipt of notice of assignment and all documentation required in connection therewith hereunder.

Notwithstanding the foregoing provisions of this Section 13.2, no such amendments to the Articles need be filed by the Managing Member if the Act does not require it and the Articles do not identify the Non-Managing Members or their Capital Contributions in such capacity.

13.3 Notices

Except as otherwise specifically provided herein, all notices, demands or other communications hereunder shall be in writing and shall be deemed to have been given when the same are (i) deposited in the United States mail and sent by certified or registered mail, postage prepaid, three business days after mailing, (ii) sent by nationally recognized overnight delivery service, one business day after deposit with such nationally recognized overnight delivery service, provided all delivery charges have been prepaid, (iii) sent by telecopier or other facsimile transmission, answerback requested with a copy by regular mail, on the date such
answerback is received, or (iv) delivered personally, in each case, to the parties at the addresses set forth below or at such other addresses as such parties may designate by notice to the Company:

(a) If to the Company, at the office of the Company set forth in Section 2.2.

(b) If to a Member, at its address set forth in the Schedule, with copies to Douglas W. Clapp, Esq., Holland & Knight LLP, 10 St. James Avenue, Boston, MA 02116 and Gary Cohen, Esq., Shutts & Bowen LLP, 200 South Biscayne Boulevard, Suite 4100, Miami, FL 33131.

13.4 Word Meanings

The words such as “herein,” “hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural, and vice versa, and each gender (masculine, feminine and neuter) shall include the other genders, unless the context requires otherwise. Each reference to a “Section” or an “Article” refers to the corresponding Section or Article of this Agreement, unless specified otherwise. References to Treasury Regulations (permanent or temporary) or Revenue Procedures shall include any successor provisions.

13.5 Binding Effect

The covenants and agreements contained herein shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

13.6 Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the State.

13.7 Counterparts

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

13.8 Financing Regulations

(a) So long as any of the Project Documents are in effect, (i) each of the provisions of this Agreement shall be subject to, and the Managing Member covenants to act in accordance with, the Project Documents; (ii) the Project Documents shall govern the rights and obligations of the Members, their heirs, executors, administrators, successors and assigns to the extent expressly provided therein; (iii) upon any dissolution of the Company or any transfer of the Apartment Complex, no title or right to the possession and control of the Apartment Complex and no right to collect the rent therefrom shall pass to any Person who is not, or does not become, bound by the Project Documents in a manner satisfactory to the Lenders and any Agency (to the extent that its approval is required); (iv) no amendment to any provision of the Project Documents shall become effective without the prior written consent of any Lender and/or
Agency (to the extent that its approval is required); and (v) the affairs of the Company shall be subject to the Regulations, and no action shall be taken which would require the consent or approval of any Lender and/or Agency unless the prior consent or approval of such Lender and/or Agency, as the case may be, shall have been obtained. No new Member shall be admitted to the Company, and no Member shall withdraw from the Company or be substituted for without the consent of any Lender and/or Agency (if such consent is then required). No amendment to this Agreement relating to matters governed by the Regulations or requirements shall become effective until any Requisite Approvals to such amendment shall have been obtained.

(b) Any conveyance or transfer of title to all or any portion of the Apartment Complex required or permitted under this Agreement shall in all respects be subject to all conditions, approvals and other requirements of any Regulations applicable thereto.

13.9 Separability of Provisions

Each provision of this Agreement shall be considered separable and (a) if for any reason any provision is determined to be invalid, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid, and (b) if for any reason any provision would cause the Investment Member or the Special Member (in its capacity as a Non-Managing Member) to be bound by the obligations of the Company (other than the Regulations and the other requirements of any Agency or Lender), such provision or provisions shall be deemed void and of no effect.

13.10 Paragraph Titles

All article and section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any article or section.

13.11 Amendment Procedure

This Agreement may be amended by the Managing Member only with the Consent of the Investment Member and the Consent of the Special Member.

13.12 Extraordinary Non-Managing Member Expenses

(a) Any and all costs and expenses incurred by the Investment Member and/or the Special Member in connection with exercising rights and remedies against the Managing Member with respect to this Agreement, including, without limitation, reasonable attorneys’ fees, shall be paid by the Managing Member on demand. All amounts due to the Investment Member and/or the Special Member pursuant to this provision shall bear interest from demand at a rate of seven percent (7%) per annum.

(b) If any Managing Member breaches any provision of this Agreement, the Investment Member and/or the Special Member may employ an attorney or attorneys to protect its rights hereunder, and the Managing Member shall pay on demand the reasonable attorneys’ fees and expenses incurred by the Investment Member and/or the Special Member, whether or not a legal action is actually commenced against any Managing Member by reason of such
breach. All amounts due to the Investment Member and/or the Special Member pursuant to this provision shall bear interest from demand at a rate equal to nine percent (9%) per annum.

13.13 Time of Admission

The Investment Member shall be deemed to have been admitted to the Company as of the Commencement Date for all purposes of this Agreement, including Article X, provided, however, that if treasury regulations are issued under the Code or an amendment to the Code is adopted which would require, in the opinion of the Auditors, that the Investment Member be deemed admitted on a date other than as of the Commencement Date, then the Managing Member shall select a permitted admission date which is most favorable to the Investment Member.


The Company and its Members shall be permitted to disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure (as defined in Treasury Regulation Section 1.6011-4(c) or its successor) of the transaction contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) relating to such tax treatment and tax structure. The Managing Members will notify the Members of any “reportable transaction” under Treasury Regulation Section 1.6011-4 (or its successor) in which the Company shall engage.
WITNESS the execution hereof under seal as of the date first written above.

CO-MANAGING MEMBER: O-SDA KAIA, LLC, a Texas limited liability company, by its sole member, O-SDA Industries, LLC, a Texas limited liability company

By:  
Megan Lasch, Sole Member

ADMINISTRATIVE MEMBER: SAIGEBROOK KAIA, LLC, a Florida limited liability company, by its sole member, Saigebrook Development, LLC, a Florida limited liability company

By:  
Lisa Stephens, Sole Member

CLASS B SPECIAL MEMBER: RDEVKAIA, LLC, a California limited liability company

By:  
Mark Ragsdale, Sole Member
WITNESS the execution hereof under seal as of the date first written above.

CO-MANAGING MEMBER: O-SDA KAIA, LLC, a Texas limited liability company, by its sole member, O-SDA Industries, LLC, a Texas limited liability company

By: ________________
    Megan Lasch, Sole Member

ADMINISTRATIVE MEMBER: SAIGEBROOK KAIA, LLC, a Florida limited liability company, by its sole member, Saigebrook Development, LLC, a Florida limited liability company

By: ____________
    Lisa Stephens, Sole Member

CLASS B SPECIAL MEMBER: RDEVKAIA, LLC, a California limited liability company

By: ________________
    Mark Ragsdale, Sole Member
WITNESS the execution hereof under seal as of the date first written above.

CO-MANAGING MEMBER: O-SDA KAIA, LLC, a Texas limited liability company, by its sole member, O-SDA Industries, LLC, a Texas limited liability company

By: ___________________________
    Megan Lasch, Sole Member

ADMINISTRATIVE MEMBER: SAIGEBROOK KAIA, LLC, a Florida limited liability company, by its sole member, Saigebrook Development, LLC, a Florida limited liability company

By: ___________________________
    Lisa Stephens, Sole Member

CLASS B SPECIAL MEMBER: RDEVKAIA, LLC, a California limited liability company

By: ___________________________
    Mark Ragsdale, Sole Member
SPECIAL MEMBER:

BCCC, INC., a Massachusetts corporation

By:  

Jeffrey H. Goldstein  
Executive Vice President

INVESTMENT MEMBER:

BOSTON CAPITAL CORPORATE TAX CREDIT FUND XLIV, A LIMITED PARTNERSHIP, a Massachusetts limited partnership, by its general partner, BCCTC Associates XLIV, LLC, a Massachusetts limited liability company, by its manager, BCCTC Associates, Inc., a Massachusetts corporation

By:  

Jeffrey H. Goldstein  
Executive Vice President

ORIGINAL INVESTMENT MEMBER:

BOSTON CAPITAL DIRECT PLACEMENT, A LIMITED PARTNERSHIP, a Massachusetts limited partnership, by its general partner, Corporate Investment Holdings, Inc., a Massachusetts corporation

By:  

Jeffrey H. Goldstein  
Executive Vice President
CONSENT AND AGREEMENT

The undersigned hereby executes this Agreement for the sole purpose of agreeing to the provisions of Article XI of the foregoing Second Amended and Restated Operating Agreement of the Company notwithstanding any provision of the Management Agreement to the contrary.

ACCOLADE PROPERTY MANAGEMENT, INC.,
a Texas corporation

By: ____________________________
Name: STEPHANIE BREEN
Title: PRESIDENT
# KAIA POINTE, LLC
## SCHEDULE A

As of October 1, 2017

<table>
<thead>
<tr>
<th>Role</th>
<th>Capital Contribution</th>
<th>Percentage Interests of Operating Profits and Losses</th>
<th>Percentage Interests of Tax Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Co-Managing Member</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>O-SDA Kaia, LLC</td>
<td>$100</td>
<td>0.0049%</td>
<td>0.0049%</td>
</tr>
<tr>
<td>c/o Saigebrook Development, LLC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>421 West 3rd Street, Suite 1504</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Austin, TX 78701</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Administrative Member</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Saigebrook Kaia, LLC</td>
<td>$100</td>
<td>0.0041%</td>
<td>0.0041%</td>
</tr>
<tr>
<td>c/o Saigebrook Development, LLC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>421 West 3rd Street, Suite 1504</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Austin, TX 78701</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Class B Special Member</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RDevKaia, LLC</td>
<td>$100</td>
<td>0.001%</td>
<td>0.001%</td>
</tr>
<tr>
<td>330 Glendale Road</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hillsborough, CA 94010</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Special Member</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BCCC, Inc.</td>
<td>$10</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>c/o Boston Capital Partners, Inc.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One Boston Place, 21st Floor</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boston, MA 02108</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Investment Member</strong></th>
<th>Total Agreed-to Capital Contribution</th>
<th>Paid-In Capital Contribution*</th>
<th>Percentage Interests of Operating Profits and Losses</th>
<th>Percentage Interests of Tax Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boston Capital Corporate Tax Credit Fund XLIV, A Limited Partnership</td>
<td>$12,771,343</td>
<td>$1,915,701</td>
<td>99.99%</td>
<td>99.99%</td>
</tr>
<tr>
<td>c/o Boston Capital Partners, Inc.</td>
<td>One Boston Place, 21st Floor</td>
<td>Boston, MA 02108</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Paid-in Capital Contribution as of the date of this Schedule A. Future Installments of Capital Contribution are subject to adjustment and are due at the times and subject to the conditions set forth in the Agreement to which this Schedule is attached.
# SCHEDULE B

## INVESTMENT MEMBER UNDERWRITTEN OPERATING EXPENSES

<table>
<thead>
<tr>
<th>Operating Expenses</th>
<th>BCC Underwriting 102 units</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
</tr>
<tr>
<td><strong>Administrative Expenses</strong></td>
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</tr>
<tr>
<td>Advertising</td>
<td>15,600</td>
</tr>
<tr>
<td>Screening/Credit</td>
<td>2,460</td>
</tr>
<tr>
<td>Office Salaries</td>
<td>75,650</td>
</tr>
<tr>
<td>Mgr/Super Free Unit</td>
<td>0</td>
</tr>
<tr>
<td>Office Supplies</td>
<td>3,000</td>
</tr>
<tr>
<td>Tax Credit Compliance &amp; Monitoring Fees</td>
<td>3,200</td>
</tr>
<tr>
<td>Audit/Accounting/Legal</td>
<td>13,000</td>
</tr>
<tr>
<td>Telephone</td>
<td>5,100</td>
</tr>
<tr>
<td>Security - Vehicle Cost</td>
<td>1,200</td>
</tr>
<tr>
<td>Miscellaneous/Unallocated</td>
<td>1,500</td>
</tr>
<tr>
<td>Management Fee</td>
<td>50,671</td>
</tr>
<tr>
<td><strong>Total Administrative Expenses</strong></td>
<td><strong>$171,381</strong></td>
</tr>
</tbody>
</table>

| **Utility Expenses** |       |          |
| Electricity         | 16,320 | 160      |
| Adjustment - Common Area Only |             |          |
| Water & Sewer       | 36,108 | 354      |
| Adj. - Tenant Pays  | 0      | 0        |
| Fuel                | 0      | 0        |
| Adjustment - Tenant Pays |         |          |
| Miscellaneous/Unallocated | 0 | 0 |
| **Total Utility Expenses** | **$52,428** | **$514** |

| **Maintenance Expenses** |       |          |
| Materials & Supplies   | 18,000 | 176      |
| Maintenance Contracts  | 19,500 | 191      |
| Payroll               | 52,002 | 510      |
| Elevator              | 0      | 0        |
| Pool                  | 4,500  | 44       |
| Grounds Supplies/Contracts | 18,000 | 176 |
| Exterminating         | 4,000  | 39       |
| Trash Removal         | 6,300  | 62       |
| Decorating/Turnover   | 14,080 | 138      |
| Miscellaneous/Unallocated | 0 | 0 |
| **Total Maintenance Expenses** | **$136,382** | **$1,337** |

| **Taxes & Insurance Expenses** |       |          |
| Real Estate Taxes        | 126,832 | 1,243    |
| Adjustment for Real Estate Taxes | 0  | 0 |
| Payroll Taxes/Benefits   | 24,424  | 239      |
| Health Insurance Benefits| 12,600  | 124      |
| Property Insurance       | 37,500  | 368      |
| Other Expenses           | 0      | 0        |
| Miscellaneous/Unallocated| 0      | 0        |
| **Total Taxes & Insurance Expenses** | **$201,356** | **$1,974** |

| **Other Expenses** |       |          |
| Supportive Services    | 2,500  | 25       |
|                       | 0      | 0        |
| **Total Other Expenses** | **$2,500** | **$25** |

| **Total Operating Expenses** |       |          |
|                              | $564,047 | $5,530   |

| Replacement Reserves       | 25,500  | 250      |
| **Total Operating Expenses & Reserves** | **$589,547** | **$5,780** |
EXHIBIT A

LEGAL DESCRIPTION

BEING 5.001 ACRES OF LAND SITUATED WITHIN THE CITY OF GEORGETOWN, IN THE ISAAC JONES SURVEY, ABSTRACT NUMBER 361, WILLIAMSON COUNTY, TEXAS, AND BEING A PORTION OF THAT PARCEL OF LAND AS DESCRIBED IN THE DEED TO GEORGETOWN’S GATLIN CREEK LTD RECORDED UNDER INSTRUMENT NUMBER 2014074963 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS (HEREAFTER REFERRED TO AS THE GEORGETOWN’S GATLIN CREEK PARCEL). SAID 5.001 ACRES OF LAND SURVEYED ON THE GROUND IN THE MONTH OF JUNE 2016, UNDER THE DIRECTION AND SUPERVISION OF ROBERT A. HANSEN, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6439 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE SOUTHWEST CORNER OF A CALLED 0.106 ACRE PARCEL AS DESCRIBED IN THE JUDGEMENT OF COURT IN ABSENCE OF OBJECTION TO THE STATE OF TEXAS RECORDED UNDER INSTRUMENT NUMBER 2007068146 OF SAID OFFICIAL PUBLIC RECORDS AND BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 2930.73 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 55 DEGREES 03 MINUTES 47 SECONDS EAST, 175.36 FEET;

THENCE SOUTHEASTERLY WITH THE SOUTHWEST CURVING RIGHT OF WAY LINE OF WILLIAMS DRIVE, A VARIABLE WIDTH RIGHT OF WAY, AS DESCRIBED IN THE JUDGEMENT OF COURT IN ABSENCE OF OBJECTION RECORDED UNDER INSTRUMENT NUMBER 2008034153 OF SAID OFFICIAL PUBLIC RECORDS, AN ARC LENGTH OF 175.39 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE BEGINNING OF A TANGENT LINE TO THE AFOREMENTIONED CURVE;

THENCE SOUTH 56 DEGREES 46 MINUTES 39 SECONDS EAST, 125.48 FEET WITH THE SOUTHWEST RIGHT OF WAY LINE OF SAID WILLIAMS DRIVE TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND;

THENCE THROUGH THE INTERIOR OF SAID GEORGETOWN’S GATLIN CREEK PARCEL THE FOLLOWING SIX (6) CALLS:

1. SOUTH 32 DEGREES 57 MINUTES 52 SECONDS WEST, 149.03 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 200.00 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 26 DEGREES 24 MINUTES 09 SECONDS WEST, 45.71 FEET;

2. SOUTHWESTERLY AN ARC LENGTH OF 45.81 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE POINT OF REVERSE CURVE, CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 175.00 FEET AND CHORD BEARING AND DISTANCE OF SOUTH 36 DEGREES 33 MINUTES 26 SECONDS WEST, 100.67 FEET;

3. SOUTHWESTERLY AN ARC LENGTH OF 102.12 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE POINT OF REVERSE CURVE, CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 365.00 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 43 DEGREES 07 MINUTES 09 SECONDS WEST, 128.70 FEET;

4. SOUTHWESTERLY AN ARC LENGTH OF 129.38 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE BEGINNING OF A TANGENT LINE TO THE AFOREMENTIONED CURVE;
5. SOUTH 32 DEGREES 57 MINUTES 52 SECONDS WEST, 73.29 FEET TO A FOUND ½ INCH CAPPED REBAR STAMPED "DIAMOND SURVEYING";

6. NORTH 50 DEGREES 22 MINUTES 40 SECONDS WEST, 611.08 FEET TO A POINT ON THE SOUTH LINE BLOCK 3, AS SHOWN ON THE PLAT TITLED "CASA LOMA" RECORDED IN CABINET D, SLIDE 9 OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS FROM WHICH A ½ INCH CAPPED REBAR STAMPED "DIAMOND SURVEYING" BEARS SOUTH 71 DEGREES WEST, 0.4 FEET AND A FOUND COTTON SPINDLE NEAR A 12 INCH DEAD CEDAR ELM TREE BEARS SOUTH 71 DEGREES 27 MINUTES 45 SECONDS WEST, 49.92 FEET;

THENCE NORTH 71 DEGREES 22 MINUTES 33 SECONDS EAST, 89.59 FEET WITH THE SOUTH LINE OF SAID BLOCK 3 TO A 1/2 INCH REBAR FOUND AT AN ANGLE POINT IN THE SOUTH LINE OF SAID BLOCK 3;

THENCE NORTH 71 DEGREES 05 MINUTES 03 SECONDS EAST, 297.91 FEET WITH THE SOUTH LINE OF SAID BLOCK 3 TO THE CENTER OF A 16 INCH LIVE OAK FOUND AT A SALIENT CORNER OF SAID BLOCK 3 (A 60D NAIL AND WASHER STAMPED "RPLS 5043" WAS FOUND ON SAID 16 INCH LIVE OAK'S SOUTHERLY SIDE);

THENCE NORTH 68 DEGREES 36 MINUTES 58 SECONDS EAST, 155.15 FEET WITH THE SOUTH LINE OF SAID BLOCK 3 TO THE POINT OF BEGINNING, CONTAINING 5.001 ACRES. THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS GRID NORTH, TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE.
EXHIBIT B

PROJECTED RENTS

(attached behind)
### Maximum Eligible & Projected Rents

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Bath-Rooms</th>
<th>Number of Units</th>
<th>Floor Area</th>
<th>Set Aside</th>
<th>% of Effective Median</th>
<th>Maximum Eligible Gross Rent</th>
<th>Utility Allowance</th>
<th>Maximum Eligible Net Rent</th>
<th>Revised G.P. Rent</th>
<th>Revised B.C. Rents</th>
<th>Revised Market Rents</th>
<th>Revised B.C. Rent</th>
<th>Maximum Eligible Net Rent</th>
<th>Total Annual B.C. Rent</th>
<th>Rental Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bedroom</td>
<td>1 Bath</td>
<td>2</td>
<td>705</td>
<td>30%</td>
<td>22.5%</td>
<td>458</td>
<td>64</td>
<td>394</td>
<td>394</td>
<td>394</td>
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<td>9,453</td>
<td>788</td>
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<td>1 Bath</td>
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<td>705</td>
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<td>916</td>
<td>64</td>
<td>822</td>
<td>852</td>
<td>852</td>
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<td>100%</td>
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<td>2 Bath</td>
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<td>948</td>
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<td>549</td>
<td>79</td>
<td>470</td>
<td>470</td>
<td>470</td>
<td>1,185</td>
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<tr>
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<td>948</td>
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<td>916</td>
<td>79</td>
<td>837</td>
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<tr>
<td>2 Bedroom</td>
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<td>948</td>
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<td>54.0%</td>
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<td>281,492</td>
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<td>31.2%</td>
<td>635</td>
<td>94</td>
<td>541</td>
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<td>94</td>
<td>964</td>
<td>964</td>
<td>964</td>
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<td>3 Bedroom</td>
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<td>62.4%</td>
<td>1,270</td>
<td>94</td>
<td>1,176</td>
<td>1,176</td>
<td>1,176</td>
<td>1,310</td>
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<td>98,771</td>
<td>8,231</td>
<td>None</td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>2 Bath</td>
<td>1</td>
<td>1,139</td>
<td>30%</td>
<td>31.2%</td>
<td>635</td>
<td>94</td>
<td>541</td>
<td>541</td>
<td>541</td>
<td>1,310</td>
<td>100%</td>
<td>6,491</td>
<td>541</td>
<td>None</td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>2 Bath</td>
<td>10</td>
<td>948</td>
<td>Market 0%</td>
<td>0%</td>
<td>852</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,020</td>
<td>100%</td>
<td>122,400</td>
<td>10,200</td>
<td>None</td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>2 Bath</td>
<td>4</td>
<td>1,139</td>
<td>Market 0%</td>
<td>0%</td>
<td>1,176</td>
<td>0</td>
<td>1,176</td>
<td>1,176</td>
<td>1,176</td>
<td>1,310</td>
<td>100%</td>
<td>98,771</td>
<td>8,231</td>
<td>None</td>
</tr>
</tbody>
</table>

Total: 102 units includes managers' units

2017 Total Rental: $1,104,560

Total LIHTC: 80

Set Aside: 78.43%

4-person Very Low Income: $40,700

Total per Year: 18,360

Total per Month: 1,530

<table>
<thead>
<tr>
<th>Set Aside</th>
<th>30%</th>
<th>40%</th>
<th>50%</th>
<th>60%</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Bedroom</td>
<td>21.0%</td>
<td>28.0%</td>
<td>35.0%</td>
<td>42.0%</td>
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<tr>
<td>1 Bedroom</td>
<td>22.5%</td>
<td>30.0%</td>
<td>37.5%</td>
<td>45.0%</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>27.0%</td>
<td>36.0%</td>
<td>45.0%</td>
<td>54.0%</td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>31.2%</td>
<td>41.6%</td>
<td>52.0%</td>
<td>62.4%</td>
</tr>
<tr>
<td>4 Bedroom</td>
<td>34.8%</td>
<td>46.4%</td>
<td>56.0%</td>
<td>69.6%</td>
</tr>
<tr>
<td>5 Bedroom</td>
<td>38.4%</td>
<td>51.2%</td>
<td>64.0%</td>
<td>76.8%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AMI Trending Analysis</th>
<th>0.2155683</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td>4-person LI Change</td>
</tr>
<tr>
<td>2017</td>
<td>$40,700</td>
</tr>
<tr>
<td>2016</td>
<td>$38,900</td>
</tr>
<tr>
<td>2015</td>
<td>$36,400</td>
</tr>
<tr>
<td>2014</td>
<td>$33,750</td>
</tr>
<tr>
<td>2013</td>
<td>$30,500</td>
</tr>
<tr>
<td>2012</td>
<td>$37,950</td>
</tr>
<tr>
<td>2011</td>
<td>$37,400</td>
</tr>
<tr>
<td>2010</td>
<td>$36,900</td>
</tr>
<tr>
<td>2009</td>
<td>$36,400</td>
</tr>
<tr>
<td>2008</td>
<td>$35,500</td>
</tr>
<tr>
<td>2007</td>
<td>$35,500</td>
</tr>
<tr>
<td>2006</td>
<td>$35,500</td>
</tr>
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<td>2005</td>
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<tr>
<td>2004</td>
<td>$35,500</td>
</tr>
<tr>
<td>2003</td>
<td>$35,500</td>
</tr>
<tr>
<td>2002</td>
<td>$35,500</td>
</tr>
</tbody>
</table>

Model Section 8 Overhang? Yes

Kaia Pointe LLC
EXHIBIT C

DUE DILIGENCE RECOMMENDATIONS

1. Receipt by the Investment Member of a copy of the recorded plat with respect to access via Bettie May Way

2. Satisfaction of the items listed on Exhibit C-1
EXHIBIT C-1
August 31, 2017
File No. 172822.26

Mr. David M. Core
Boston Capital
One Boston Place
Boston, Massachusetts 02108

Re: Review of Environmental Documents
Kaia Pointe
Georgetown, Texas

Dear Mr. Core:

At your request, and in accordance with our master agreement with Boston Capital (GZA File No. 14070), GZA GeoEnvironmental, Inc. (GZA) has reviewed the following documents:

<table>
<thead>
<tr>
<th>ENVIRONMENTAL REPORT</th>
<th>COMPANY</th>
<th>REPORT DATE</th>
<th>GZA REVIEW</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Phase I Environmental Site Assessment, Kaia Pointe, LLC, Williams Drive, Georgetown, Williamson County, Texas” (ESA-1)</td>
<td>Terracon Consultants, Inc. (Terracon)</td>
<td>February 16, 2016</td>
<td>August 23, 2017</td>
</tr>
<tr>
<td>“Noise Assessment, Kaia Pointe, LLC, Williams Drive, Georgetown, Williamson County, Texas”</td>
<td>Terracon</td>
<td>March 22, 2016</td>
<td>August 23, 2017</td>
</tr>
<tr>
<td>“Phase I Environmental Site Assessment, Kaia Pointe, LLC, Williams Drive, Georgetown, Williamson County, Texas” (ESA-2)</td>
<td>Terracon</td>
<td>June 5, 2017</td>
<td>August 23, 2017</td>
</tr>
<tr>
<td>“Water Pollution Abatement Plan (WPAP) &amp; Organized Sewer Collection System Plan (SCS) for Gatlin Creek Section 2, 4900 Williams Drive, Georgetown, Texas”</td>
<td>Waelts &amp; Prete, Inc.</td>
<td>November 2016</td>
<td>August 31, 2017</td>
</tr>
<tr>
<td>Environmental Responses</td>
<td></td>
<td>August 31, 2017</td>
<td>August 31, 2017</td>
</tr>
</tbody>
</table>

Based on our review of the above-referenced document, it is GZA’s opinion that the ESAs are generally consistent with the referenced ASTM Standard (E 1527-13) for Phase I Environmental Site Assessments. The ESAs did not identify the presence of Recognized Environmental Conditions (RECs); however, GZA offers the following comments:

1. **Issue**: The ESAs note that the Site overlies the Edwards Aquifer Recharge Zone, a sensitive environmental area. Terracon states that future development is subject to Texas Commission on Environmental Quality (TCEQ) regulations regarding the aquifer recharge zone; in
particular, a Water Pollution Abatement Plan (WPAP) including a Geologic Assessment must be prepared prior to the placement of stormwater management structures.

**Recommendation:** A copy of the WPAP, as well as any other relevant correspondence with TCEQ, should be provided to Boston Capital as available.

**Response:** “Received Approval Letter from Texas Commission on Environmental Quality dated 3/8/17. And Water Pollution Abatement Plan (WPAP) & Organized Sewage Collection System Plan (SCS) for Gatlin Creek Section 2 4900 Williams Drive Georgetown, Texas”

**Status:** No immediate response required, based on the submission of the WPAP/SCS Plan prepared by Waeltz & Prete, Inc., and the Deed Recordation Affidavit, which includes a copy of the TCEQ’s approval letter. Copies of the completion and ongoing testing documentation referenced in TCEQ’s approval letter should be provided to Boston Capital as available.

2. **Issue:** Terracon observed minor trash and debris at the Site, including household debris, wooden pallets, a pile of pea gravel, and metal fencing. Terracon did not observe evidence of the presence of oil or hazardous material associated with the trash and debris.

**Recommendation:** Terracon recommended that the trash and debris be removed from the Site and disposed of in accordance with applicable regulations. GZA concurs with this recommendation. The disposal contractor should be prepared to properly manage any oil or hazardous material that may be encountered in association with the trash and debris. Documentation of the removal and proper disposal of the trash and debris should be provided to Boston Capital as available.

**Response:** “Kaia Pointe, LLC will remove all debris per the ESA prepared by Kaia Pointe dated June 5th, 2017”

**Status:** No immediate response required, based on the above response and the submission of the letter from O-SDA Industries/Kaia Pointe, LLC, dated June 5, 2017. Documentation of the removal and proper disposal of the trash and debris should be provided to Boston Capital when available.

3. **Issue:** The ESAs identified potential sources of noise including Williams Drive and the Georgetown Municipal Airport, and recommended a noise study. The noise study concluded that the projected outdoor day-night average sound level (DNL) at the noise assessment location is 68.6 decibels (dB), and that “the predicted DNL for the proposed site buildings would be classified under the HUD criteria as being “Normally Unacceptable.”

**Recommendation:** The noise study states, “Based on this information, Terracon recommends noise mitigation (i.e. construct natural or man-made noise barriers or increase mitigation in the building walls/windows/doors) or reconfigure the site plan to increase the distance between the noise source (Williams Drive) and noise-sensitive uses.” GZA concurs with this recommendation. Documentation that appropriate noise mitigation measures are being undertaken should be provided to Boston Capital when available.

**Response:** “Architect’s response from Miller Slayton Architects, Paul Slayton, dated 6/16/17”

**Status:** CLOSED by Boston Capital’s acceptance of the above response.
If you have any questions regarding the above, please contact Sara Hanna at shanna@gza.com or Frank Vetere at (781) 278-4807.

Very truly yours,

GZA GEOENVIRONMENTAL, INC.

Sara R. Hanna  Frank S. Vetere
Senior Hydrogeologist  Principal
PART I - SITE INFORMATION

1. Boston Capital project designation

   Project Name: Kaia Pointe
   Location: Georgetown, Texas
   Acquisitions Assoc. / V.P.: 

2. GZA project designation

   File No.: 172822.26
   Principal in Charge: Hanna  Reviewer: Daubenspeck

3. Current land use
   a. residential 
   b. commercial 
   c. vacant, wooded, pasture 
   d. active agricultural 
   e. under development 

4. Age of ESA at time of GZA review 2.5 months

PART II - ADEQUACY OF SITE ASSESSMENT - GENERAL

1. Adequate description of site visit/observations? Yes ☒ No 

2. Adequate description of site history? Yes ☒ No 

3. Adequate review of regulatory information/environmental databases
   a. for study site? Yes ☒ No 
   b. for surrounding properties? Yes ☒ No 

4. If there are surrounding properties that have the potential to impact the study site, have they been adequately addressed in the ESA? Yes ☒ No 

5. If the current or recent past use of the study site is active agricultural, has the ESA addressed the potential impact of
residual levels of agricultural chemicals in the soil on the future residential use of the site?  

6. Does the ESA provide an opinion with respect to radon levels in current or future site structures?  
   a. Does existing structure have basement?  
   b. Will future structure have basement?  

Comments: The ESAs report that the Site is in U.S. EPA Radon Zone 3 (average indoor radon levels less than 2 pCi/L).

7. Is asbestos adequately addressed?  
   a. no buildings on site  
   b. all buildings on site post-1978  
   c. buildings undergoing extensive renovation  
   d. asbestos suspected:  
      friable  
      non-friable  
   e. asbestos confirmed by inspection/testing:  
      friable  
      non-friable  
   f. management plan recommended  
   g. no asbestos present  

8. Is lead paint adequately addressed?  
   a. no buildings on site  
   b. all buildings on site post-1978  
   c. buildings undergoing extensive renovation  
   d. lead paint suspected  
   e. lead paint confirmed by testing  
   f. management plan recommended  
   g. no lead paint present  

9. Are wetland issues adequately addressed?  
   a. wetland issues of concern  
   b. wetland on-site
PART III - ISSUES RAISED BY REPORT

1. On-site source of contamination?
   - Yes ☐ No ☒
   - Past ☐ Present ☒

2. Off-site source of contamination?
   - Yes ☐ No ☒
   - Past ☐ Present ☒

3. Agricultural chemical residue?
   - Yes ☐ No ☒
   - In soil ☐ In on-site supply well ☒

4. Elevated radon levels likely?
   - Yes ☐ No ☒

5. Asbestos?
   - Yes ☐ No ☒

6. Lead paint?
   - Yes ☐ No ☒

7. High-tension lines?
   - Yes ☐ No ☒

8. PCB-containing electrical equipment?
   - Yes ☐ No ☒

9. Elevators/hydraulic lifts?
   - Yes ☐ No ☒

10. Wetlands?
    - Yes ☐ No ☒

If any of the Part III items are checked yes, provide a brief explanation:
Description: Kaia Pointe Apartments is a proposed new construction development located in Georgetown, Texas. The project will consist of 102 units in five, three story apartment buildings. The unit mix will consist of 28 – one bedroom/ one bathroom units, 56 – two bedroom/ 2 bath units, and 18 – three bedroom / 2 bath units. All units on the ground floor will be ADA adaptable. There are 6 UFAS Mobility Accessible Units, and 2 HVI units. Kaia Pointe is a 9% tax credit deal with a Placed in Service Deadline of 12/31/2018. The exterior of the building will consist of hardi siding, cultured stone, and painted fascia soffit and trim. Windows are Low E Energy Star double-glazed with 0.35 U factor, and s0.25 single hung with vinyl frames. The roofing will be finished with 30-year Type I Class A 235 lbs. per square composition shingles over Ice and Water Shield Underlayment over sloped trusses and sheathing, with metal standing seam roof in low slope areas. Units are heated and cooled with split system heat pumps ranging from 1.5 – 2.5 ton compressors with interior AHU with coils. Kitchens will have black appliances including refrigerators, electric range, microwaves, and dishwashers. All appliances will be Energy Star rated. Other amenities include a community center with kitchenette, exercise room, computer room, management office, and pool facilities. Units are accessed through two breezeway stairways. No elevators are provided. There is one primary point of vehicular access into the development from Williams Drive via Bettie Mae Way. Bettie Mae Way will be extended in the future and connect with the commercial loop form the south and it will also connect to residential connector streets via the same loop. The project will provide a total of 158 parking spaces, fifteen of which will be handicap accessible.

RECOMMENDATIONS

1. A draft Owner/Contractor Agreement in AIA A101 - 2007 format indicating a stipulated sum of $10,850,000 was provided. The agreement dated August 2017, is between the Owner, Kaia Pointe, LLC, a Florida limited liability company, and Contractor, Maker Bros, LLC a Texas limited liability company. The contract time for substantial completion is 435 days. The contract references Exhibit A - General Conditions of the Contract for Construction Exhibit B - Construction Schedule, Exhibit C - Form of Final Payment Affidavit, Exhibit D - Schedule of values, Exhibit E-1 - Index of Drawings, Exhibit E-2 - Index of Specifications, Exhibit F - Form of conditional Waiver and Release of Lien (for Progress Payment), Exhibit G - Form of Unconditional Waiver and Release of Lien (for progress Payment), and Exhibit H - Form of Conditional Waiver and Release of Lien (for Final Payment), Exhibit I - Contractor's Certificate of Insurance, Exhibit J - Subcontractor Insurance Requirements, Exhibit K - TDHCA Required Items, Exhibit L - Contractor's Clarifications, Allowances and Alternates.
   - Final executed contract with all attachments should be provided.
   Response: To be provided this week.
   Status: OPEN – Not yet received. Will close when BC receives. UPDATE 9/22: Received. CLOSED.

2. Please confirm trade costs are based on bids from subcontractors. Were multiple bids obtained for all trades? Additionally, please indicate what percentage of the construction hard costs have been bid to support the contract sum and demonstrate readiness to begin.
   Response: 100% of the contract has been bid out. Multiple bids were received.
   Status: CLOSED
3. Please provide further detail on Geotech potential issues. Do you expect to need to import fill, and if so, at what cost? If not, are you crushing rock at the site?
   Response: Fill will be a combination of imported soils and processed rock from the site.
   Status: CLOSED

4. Does this affect any utilities or proposed utilities at the site?
   Response: No
   Status: CLOSED

5. Confirm foundation design and pavement design are consistent with Geotech Report recommendations from Terracon Consultants Report dated 7/15/16.
   Response: Confirmed, design was per the geotech report.
   Status: CLOSED

6. Have tests been done to characterize soil for disposal?
   Response: Environmental raised no concerns with soils.
   Status: CLOSED

7. Please confirm that the architect will be engaged for all standard construction administration services and that the signed proposal from Miller Slayton will serve as the final Owner/Architect agreement, or will a standard AIA Contract be provided?
   Response: Confirmed, the architect will perform standard CA services. Proposal is final agreement. No AIA architect agreement to be provided
   Status: Accept - CLOSED

8. Status of plan review should be provided. Have any comments to plans been received from the Building Department that would cause changes in scope and cost? What is the anticipated date for permit issuance?
   Response: Permit review is complete and permits may be issued upon payment of fees.
   Status: CLOSED – Copy of permits should be provided when available.

9. Please confirm the number of handicapped/HVI units (6 mobility, hearing & visual, and 3 HVI). The number of accessible parking and van spaces should also be confirmed as 15. How many of these spaces will be van spaces?
   Response: There are 15 accessible spaces. None are designated van accessible.
   Status: OPEN – 2010 ADA standards require 1 van accessible space for every 6 accessible spaces. The plans note to provide one van accessible space per 8 spaces (prior ADA standard). There should be at least 3 van spaces provided. When going through the plans, it appears on the site drawings that there are multiple spaces with the proper width of the space itself, but I do not see the required 8 foot (96”) access aisles. Please confirm that there are 3 spaces that meet these requirements. UPDATE 9/22: Please see the engineer’s response below and attached that while not designated on the plan as van spaces, in fact 6 of the HC spaces are van accessible and meet the requirements. UPDATE 9/22: Received confirmation that requirements will be met. CLOSED.

10. The Construction contract lists a project construction duration of 436 Calendar days. The schedule is very general and does not include trade-level detail. A more detailed construction schedule should be provided when available.
    Response: A more detailed schedule will be provided prior to closing.
    Status: CLOSED

11. The resume of the Site Superintendent should be provided.
    Response: Attached
    Status: CLOSED
MISSING DOCUMENTS

1. Site Work & Building permits. Received 9/21. CLOSED.
2. Architect’s Certification. RECEIVED. CLOSED

PLAN REVIEW COMMENTS

POST CLOSING FOLLOW-UP
EXHIBIT D

INSURANCE REQUIREMENTS

The following are construction and permanent insurance requirements. This outline describes the minimum types and amounts of insurance that are satisfactory to Boston Capital Partners, Inc. (“Boston Capital”), its affiliates, and/or its assigns. Special Member reserves the right to modify the insurance requirements as conditions warrant.

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 VII 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 Boston Capital 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 Boston Capital entity shown below as Loss Payee and Additional Insured.

- Copies of policies, binders and certificates shall be provided to Boston Capital 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:
  - Investment Member – its successors and/or its assigns (“IM”)
  - Special Member – its successors and/or its assigns (“SM”)

Construction Period Coverage

Prior to the commencement of any construction activities, the Managing Member 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:

| Company |

<p>| Builder’s All Risk (Property)- if rehab, insurance must be in place to cover both construction phase and existing structures. |</p>
<table>
<thead>
<tr>
<th>Named Insured:</th>
<th>Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss Payee:</td>
<td>IM and SM</td>
</tr>
<tr>
<td>Form:</td>
<td>ISO Special Form (please supply Evidence of Property Insurance, ACORD form 28 “Special” or “All Risk” form); Copies of Policies to follow within 90 day of acceptance Completed Value (Non-Reporting Form)</td>
</tr>
<tr>
<td>Perils:</td>
<td>Special form “All Risk” policy, including wind/hail, subject to the policy terms, conditions and exclusions</td>
</tr>
<tr>
<td>Flood and Earthquake exclusion acceptable (unless specifically required by the Special Member as outlined in the Additional Insurance section on Page 2 of this form)</td>
<td></td>
</tr>
<tr>
<td>Valuation:</td>
<td>Replacement Cost including the existing structure(s), if applicable</td>
</tr>
<tr>
<td>Deductible:</td>
<td>Not to exceed $10,000 for 1-100 units/$25,000 for 101 or more units per occurrence</td>
</tr>
<tr>
<td></td>
<td>If located in Tier One Wind County, wind/hail deductible not to exceed 5%. All other locations, wind/hail deductible not to exceed $10,000 for 1-100 units/$25,000 for 101 or more units</td>
</tr>
<tr>
<td>Endorsements/Extensions:</td>
<td>Permission to Occupy Endorsement Renovations Coverage Endorsement Loss of Rents (12 Months)/Delay in Start Up Soft Costs Ordinance and Law Coverage, 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</td>
</tr>
</tbody>
</table>

**Commercial General Liability**

<table>
<thead>
<tr>
<th>Named Insured:</th>
<th>Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Insured:</td>
<td>IM and SM</td>
</tr>
<tr>
<td>Form:</td>
<td>ISO, Occurrence Form (please supply Certificate of Insurance on an ACORD form 25)</td>
</tr>
<tr>
<td>Minimum Limits:</td>
<td>Aggregate Limit $2,000,000 Products / completed operations aggregate $1,000,000 Personal &amp; Advertising Injury $1,000,000 Each Occurrence $1,000,000 Fire Damage $50,000 Medical Expense (if applicable) $5,000</td>
</tr>
<tr>
<td>Note: aggregate limits must be written on a “per location” basis</td>
<td></td>
</tr>
<tr>
<td>Deductible</td>
<td>No greater than $10,000</td>
</tr>
</tbody>
</table>
Primary and Non Contributory

<table>
<thead>
<tr>
<th>Umbrella or Excess Liability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Named Insured: Company</td>
</tr>
<tr>
<td>Additional Insured: IM and SM</td>
</tr>
<tr>
<td>Minimum Limits:</td>
</tr>
<tr>
<td>1-10 stories $5,000,000</td>
</tr>
<tr>
<td>11-20 stories $10,000,000</td>
</tr>
<tr>
<td>21 or more $25,000,000</td>
</tr>
<tr>
<td>Note: umbrella or excess liability to be written on a following form</td>
</tr>
<tr>
<td>Deductible/SIR: $10,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Boiler and Machinery (if property has centralized equipment, boilers or elevators)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Named Insured: Company</td>
</tr>
<tr>
<td>Loss Payee/Additional Interest: IM and SM</td>
</tr>
<tr>
<td>Form: Comprehensive Form</td>
</tr>
<tr>
<td>Limit: Limit equal to the replacement value of the covered equipment</td>
</tr>
<tr>
<td>Valuation: Replacement Cost</td>
</tr>
<tr>
<td>Extensions: Loss of Rents with Mechanical Breakdown Endorsement</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Additional Coverages, if applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flood:</td>
</tr>
<tr>
<td>• 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”).</td>
</tr>
<tr>
<td>• 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.</td>
</tr>
<tr>
<td>• 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.</td>
</tr>
<tr>
<td>• Flood policies must be in full effect for both the construction and permanent phases.</td>
</tr>
<tr>
<td>Earthquake:</td>
</tr>
<tr>
<td>• If located in Seismic Zones 3 or 4, a Seismic Report must be completed to determine Scenario Expected Loss (SEL)</td>
</tr>
<tr>
<td>• If the SEL is shown to have an expected seismic damage ratio of less than 20%, earthquake coverage is not required.</td>
</tr>
</tbody>
</table>
• 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.

Wind:
• 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 months rents. If located in a Tier 1 county, Named Storm coverage must be provided.

Ordinance and Law:
• 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, 10% of the demolition cost and the increased cost of construction.

Terrorism:
• Terrorism coverage is not required unless deemed by the Special Member to be in a high risk area. To be determined during the underwriting process.

### Worker’s Compensation and Employer’s Liability*

| If the Company has employee(s), provide evidence of Workers Compensation as applicable by law. |
| Certificate Holder: | IM and/or SM |
| Worker’s Compensation: | State Statutory Requirement applies |

### Automobile-Hired and Non-Owned (Owned if Company owns any vehicles) NOT REQUIRED ON NEW CONSTRUCTION AND UNOCCUPIED REHAB

| Liability: | Per accident Combined Single Limit (CSL) | $1,000,000 |

### General Contractor

### Commercial General Liability

| Additional Insured: | IM, SM and Company |
| 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 (if available) $5,000
Note: aggregate limits must be written on a “per project” basis

Deductible No greater than $10,000

**Umbrella or Excess Liability**

Additional Insured: IM, SM and Company
Minimum Limits: 1-10 stories $5,000,000
11-20 stories $10,000,000
21 or more $25,000,000
Note: umbrella or excess liability to be written on a following form

Deductible/SIR: $10,000

**Worker’s Compensation, Employer’s Liability, and Automobile Liability**

Certificate Holder: IM and/or SM
Worker’s Compensation: State Statutory Requirement applies
Automobile Liability: Per accident Combined Single Limit (CSL) $1,000,000

**Architect**

**Professional (Errors & Omissions) Liability**

Certificate Holder: IM and/or SM
Minimum Limit: 10% of construction cost with a maximum requirement of $1,000,000 (please supply Certificate of Insurance on an ACORD Form 25)

**Property Management Company**

Note: Coverage required for both construction (if occupied rehab) and permanent phases. If new construction or unoccupied rehab, certificates will be required for review purposes to ensure proper coverage at the time the management is on site.
Worker’s Compensation, Employer’s Liability, Automobile Liability and Crime or Fidelity Bond

Certificate Holder: IM and/or SM

Worker’s Compensation: State Statutory Requirement applies

Crime or Fidelity Bond: 3 months of projects gross rental receipts; Crime or Fidelity Bond coverage must be in full effect at time of occupancy. Coverage to be held by the Managing Member or the Management Agent

Automobile Liability: Per accident Combined Single Limit (CSL) $1,000,000

Permanent Phase Coverage

Company

Property Insurance

Named Insured: Company
Loss Payee: IM and SM
Form: ISO Special Form (please supply Evidence of Property Insurance, ACORD form 28 “Special” or “All Risk” form); Copies of Policies to follow within 90 day of acceptance

Limits:

<table>
<thead>
<tr>
<th>Building (Real Property):</th>
<th>100% of Insurable Value (Replacement Cost)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contents (Personal Property):</td>
<td>Replacement Cost Coverage</td>
</tr>
<tr>
<td>Business Interruption:</td>
<td>12 months gross rental income with extra expense. This is to include tenant’s gross rents as well as any subsidies</td>
</tr>
</tbody>
</table>

Valuation: Replacement Cost

Deductible: $10,000 for 1-100 units/$25,000 for 101 or more units per occurrence
If located in Tier 1 Wind County - wind deductible not to exceed 5%. All other locations, wind/hail deductible not to exceed $10,000 for 1-100 units/$25,000 for 101 or more units.

Extensions: Vacancy/Un-occupancy up to 60 days
Ordinance and Law if legal non-conforming
Waiver of Coinsurance/Agreed Amount Endorsement

Commercial General Liability
## Commercial General Liability

<table>
<thead>
<tr>
<th>Named Insured:</th>
<th>Company</th>
</tr>
</thead>
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<tr>
<td>Additional Insured:</td>
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<tr>
<td>Deductible:</td>
<td>No greater than $10,000</td>
</tr>
<tr>
<td>Note: aggregate limits must be written on a “per location” basis. “per policy” if a stand alone policy.</td>
<td></td>
</tr>
</tbody>
</table>

## Worker’s Compensation and Employer’s Liability*

| Certificate Holder: | IM and/or SM |
| Worker’s Compensation: | State Statutory Requirement applies |

## Automobile-Hired and Non-Owned (Owned if Company owns any vehicles)

| Liability: | Per accident Combined Single Limit (CSL) $1,000,000 |

## Umbrella or Excess Liability

<table>
<thead>
<tr>
<th>Named Insured:</th>
<th>Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Insured:</td>
<td>IM and SM</td>
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<td>11-20 stories $10,000,000</td>
</tr>
<tr>
<td></td>
<td>21 or more $25,000,000</td>
</tr>
<tr>
<td>Note: umbrella or excess liability to be written on a following form</td>
<td></td>
</tr>
</tbody>
</table>

## Boiler and Machinery (if property has centralized equipment, boilers or elevators)

| Named Insured: | Company |

---

#53379006_v8
Loss Payee/Additional Interest: IM and SM
Form: Comprehensive Form
Limit: Limit equal to the replacement value of the covered equipment
Valuation: Repair and/or Replacement
Extensions: Loss of Rents with Mechanical Breakdown Endorsement

### Additional Coverages, if applicable

**Flood:**
- 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”).
- 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.
- 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.
- Flood policies must be in full effect for both the construction and permanent phases.

**Earthquake:**
- If located in Seismic Zones 3 or 4, a Seismic Report must be completed to determine Scenario Expected Loss (SEL)
- If the SEL is shown to have an expected seismic damage ratio of less than 20%, earthquake coverage is not required.
- 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.

**Wind:**
- 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 months rents. If located in a Tier 1 county, Named Storm coverage must be provided

**Ordinance and Law:**
- 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, 10% of replacement cost for the demolition cost and the increased cost of construction.
<table>
<thead>
<tr>
<th>Additional Coverages, if applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Terrorism:</strong></td>
</tr>
<tr>
<td><strong>Worker’s Compensation:</strong></td>
</tr>
<tr>
<td><strong>Pollution Liability</strong></td>
</tr>
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</table>
EXHIBIT E

SUBSTANTIAL COMPLETION CERTIFICATE

The undersigned, an architect duly licensed and registered in the State of Texas has reviewed final working plans, detailed specifications (including, without limitation, for heating, ventilation and cooling systems, roof and structural details, and mechanical and electrical systems), and soil tests for Kaia Pointe, LLC (the “Company”), dated and identified as set forth in Schedule 1 attached hereto. This certification is provided in connection with that certain Second Amended and Restated Operating Agreement (the “Operating Agreement”) among O-SDA Kaia, LLC, Saigebrook Kaia, LLC, RDevKaia, LLC, Boston Capital Corporate Tax Credit Fund XLIV, A Limited Partnership, and BCCC, Inc. in connection with the construction of improvements on certain real property located in Georgetown, Texas, such improvement or project being known as Kaia Pointe Apartments (the “Improvements”).

The undersigned hereby represents and warrants that (i) it has approved the aforesaid plans and specifications, (ii) to the best of its knowledge, information and belief, with due inquiry, based upon periodic inspection of the Improvements during construction, and a final inspection after completion of the Improvements, the Improvements have been completed in material conformance with the aforesaid plans and specifications, (iii) a temporary certificate of occupancy and all other permits required for the continued use and occupancy of the Improvements have been issued with respect thereto by the governmental agencies having jurisdiction thereof, (iv) in its professional opinion, the Improvements have been designed in compliance with all laws, regulations, codes, requirements and restrictions of all governmental authorities having jurisdiction in effect as of the date on the plans and specifications, including, without limitation, all applicable zoning, building, environmental, fire, health ordinances, rules and regulations, including any accessibility requirements found in the Americans with Disabilities Act (42 U.S.C. § 12101 et seq., as amended), the Rehabilitation Act of 1973 (20 U.S.C. § 794 et seq., as amended) and the Fair Housing Act (42 U.S.C. § 3601 et seq., as amended), and (v) it has signed the final draw request (AIA Form __________) for the improvements and amounts in dispute are listed on Schedule 2 attached hereto.

[NAME OF ARCHITECT]

By: ______________________________
Name: ______________________________
Title: ______________________________
Date: ______________________________
ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section 811 PRA Program)

Describe and attach the request made by the Applicant or Affiliate to the Third Party asking for consent:
Letter to Boston Capital on Feb. 12 requesting to add 811 units to Kaia Pointe.

**ATTACH PDF OF THE REQUEST FROM THE APPLICANT OR AFFILIATE TO THE THIRD PARTY BEHIND THIS PAGE.**
February 12, 2019

Mr. Scott Arrighi
Vice President
Boston Capital Corporation
One Boston Place
Boston, MA 02108-4406

Re: 811 Units – Kaia Pointe

Dear Scott:

Per the 2019 TDHCA Qualified Allocation Plan, we are hereby submitting a request for your consideration to add an additional ten 811 program units at Kaia Pointe, in Georgetown, Texas.

Under the Second Amended and Restated Operating Agreement for Kaia Pointe, the Borrower’s Authority is restricted without consent of the Special Member to add 811 units other than those underwritten at the time of closing. Kaia Pointe already has ten 811 units as was contemplated during underwriting and closing of the transaction. An additional ten units would result in 20% of the property being 811 tenants.

A written response is required by TDHCA for submission in our 2019 applications. If you have any questions about this request, you may reach me at 352-213-8700.

Sincerely,

Lisa M. Stephens
President
Saigebrook Development, LLC
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet
Documentation of Request for Consent Cover Page §11.9(c)(6)(A)(iii)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name: Kaia Pointe

iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party that they are denying an Existing Development from participation).

Describe and attach the response from the Third Party that was received by the Applicant or Owner that reflects their decision not to provide the requested consent:
Letter from Boston Capital denying the request to add 811 units beyond the original 10 units that were previously committed.

ATTACH PDF OF THE RESPONSE FROM THE THIRD PARTY THAT REFLECTS THEIR DECISION TO DENY THE REQUESTED CONSENT BEHIND THIS PAGE.
February 19, 2019

Ms. Lisa Stephens  
Saigebrook Development, LLC  
220 Adams Dr. Site 180, #138  
Weatherford, TX 76086

RE: Kaia Pointe, Georgetown, TX

Dear Lisa:

It is my understanding that you were notified by the Texas Department of Housing and Community Affairs (TDHCA), of certain requirements of TDHCA with regard to Section 811 units that could impact the set-asides and property encumbrances at Kaia Pointe, in Georgetown, TX that Boston Capital syndicated in 2018.

Boston Capital performed and completed the underwriting and market analysis on the property based upon the information and due diligence provided to us at the time of our investment. These findings have been provided to our investors. The addition of Section 811 units at the property would alter our analysis, require additional feasibility underwriting, and would require consent from our investors. As such, it is our preference not to change the resident profile at the property at this time and we must deny your request.

Please do not hesitate to contact me with any questions at the number or email address below.

Sincerely,

Scott M. Arrighi  
VP, Assistant Director Acquisitions  
Boston Capital Corporation  
617-624-8867  
sarrighi@bostoncapital.com
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Legal Right to Withhold Cover Page §11.9(c)(6)(A)(i)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Kaia Pointe

(i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement)

Describe the specific legally enforceable agreement being attached: Amended & Restated Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing

Provide the name of the Third Party: Citibank N.A.

List the specific citation in the agreement that clearly denotes the Third Party has a legal right to withhold consent: Section 2 - Uniform Commerical Code Security Agreement; Section 16 Liens; Encumbrances

List the page number in the agreement that clearly denotes the Third Party has a legal right to withhold consent: 11 & 24 and definitions on page 9

ATTACH PDF OF THE LEGALLY ENFORCEABLE AGREEMENT BEHIND THIS PAGE.
WHEN RECORDED MAIL TO:

Citibank, N.A.
Transaction Management Group/Post Closing
388 Greenwich Street, 8th Floor
New York, New York 10013
Attention: Tanya Jimenez
Re: Kaia Pointe Apartments Deal ID No. 24855

AMENDED AND RESTATED MULTIFAMILY DEED OF TRUST,
ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING (TEXAS)
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EXHIBITS

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EXHIBIT B  Modifications to Instrument
EXHIBIT C  Financing Statement Information
AMENDED AND RESTATED MULTIFAMILY DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (TEXAS)

This AMENDED AND RESTATED MULTIFAMILY DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this “Instrument”) is dated for reference purposes only as of the 1st day of October, and will not be effective and binding on the parties hereto until the Closing Date (as hereinafter defined), by KAIA POINTE, LLC, a Florida limited liability company, whose address is 421 West 3rd Street, Suite 1504, Austin, Texas 78701, as grantor (“Borrower”), to FIRST AMERICAN TITLE INSURANCE COMPANY, having an address at 1 First American Way, Santa Ana, California 92707, as trustee (“Trustee”) for the benefit of the CITIBANK, N.A., a national banking association, whose address is 388 Greenwich Street, 8th Floor, New York, NY, 10013, as beneficiary, and its successors and assigns (“Lender”). Borrower’s organizational identification number is L16000152738.

On or about August 23, 2017, Borrower, BCCC, Inc. and Boston Capital Direct Placement, A Limited Partnership (“Boston Capital”) executed that certain Deed of Trust (“Original Deed of Trust”) in the principal sum of $600,000. On October 6, 2017 Boston Capital assigned the Original Deed of Trust to Lender pursuant to that certain Assignment of Deed of Trust. Borrower, Trustee and Lender hereby agree to amend and restate the terms of the Original Deed of Trust in its entirety on the terms set forth herein.

The Loan (as hereinafter defined) is made and the Indebtedness (as hereinafter defined) is evidenced by the Note (as hereinafter defined) in the maximum principal amount of ELEVEN MILLION TWO HUNDRED THOUSAND AND NO/100 DOLLARS $(11,200,000.00), maturing on April 1, 2035 (the “Maturity Date”) (subject to the Borrower’s satisfaction of the Conditions to Conversion in accordance with the Loan Agreement) and secured by this Instrument.

NOW THEREFORE:

Granting Clause. Borrower, in consideration of the Indebtedness and the trust created by this Instrument, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, the Mortgaged Property, including the Land located in the City of Georgetown, Williamson County, Texas, and described in Exhibit A attached to this Instrument, to have and to hold the Mortgaged Property unto Trustee, Trustee’s successor in trust and Trustee’s assigns forever.

TO SECURE TO LENDER and its successors and assigns the repayment of the Indebtedness evidenced by the Note executed by Borrower and maturing on the Maturity Date, and all renewals, extensions and modifications of the Indebtedness, including, without limitation, the payment of all sums advanced by or on behalf of Lender to protect the security of this Instrument under Section 12 and the performance of the covenants and agreements of Borrower contained in the Loan Documents. Borrower mortgages, warrants, grants, conveys and assigns to Lender the Mortgaged Property, including the Land located in Williamson County, State of Texas and described in Exhibit A attached to this Instrument.
Borrower represents and warrants that Borrower is lawfully seized of the Mortgaged Property and has the right, power and authority to grant, convey and assign the Mortgaged Property, and that the Mortgaged Property is unencumbered except for the Permitted Encumbrances. Borrower covenants that Borrower will warrant and defend generally the title to the Mortgaged Property against all claims and demands, subject to any Permitted Encumbrances.

This Instrument is also a financing statement and a fixture filing under the Uniform Commercial Code of the Property Jurisdiction and the information set forth on Exhibit C is included for that purpose.

Covenants. Borrower and Lender covenant and agree as follows:

1. DEFINITIONS. The following terms, when used in this Instrument (including when used in the above recitals), shall have the following meanings:

(a) “Affiliate” means, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

(b) “Agreement of Environmental Indemnification” means that certain Agreement of Environmental Indemnification, dated as of the date hereof, by Borrower and Guarantor for the benefit of Beneficiary Parties.

(c) “Bankruptcy Event” means any one or more of the following:

(i) (A) the commencement of a voluntary case under one or more of the Insolvency Laws by the Borrower; (B) the acknowledgment in writing by the Borrower that it is unable to pay its debts generally as they mature; (C) the making of a general assignment for the benefit of creditors by the Borrower; (D) the commencement of an involuntary case under one or more Insolvency Laws against the Borrower; or (E) the appointment of a receiver, liquidator, custodian, sequestrator, trustee or other similar officer who exercises control over the Borrower or any substantial part of the assets of the Borrower provided that any proceeding or case under (D) or (E) above is not dismissed within 90 days after filing;

(ii) Any Guarantor or any Affiliate of a Guarantor files an involuntary petition against Borrower under one or more of the Insolvency Laws; or

(iii) Both (A) an involuntary petition under any one or more of the Insolvency Laws is filed against Borrower or Borrower directly or indirectly becomes the subject of any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction, or in equity, and (B) Borrower or any Affiliate of
Borrower has acted in concert or conspired with such creditors of Borrower (other than Lender) to cause the filing thereof with the intent to interfere with enforcement rights of Lender after the occurrence of an Event of Default.

(d) “Beneficiary Parties” means Lender, any Servicer and their respective successors and assigns, together with any lawful owner, holder or pledgee of the Note.

(e) “Borrower” means all persons or entities identified as “Borrower” in the first paragraph of this Instrument, together with their successors and assigns.

(f) “Borrower’s Organizational Documents” means, collectively: (i) the articles of organization of Borrower filed with the Department of State of Florida on August 16, 2016, as the same may be amended and/or restated from time to time; and (ii) the Second Amended and Restated Operating Agreement of Borrower, dated as of October 1, 2017, as the same may be amended and/or restated from time to time.

(g) “Business Day” means any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

(h) “Closing Date” has the meaning ascribed thereto in the Loan Agreement.

(i) “Collateral Agreement” means any separate agreement between Borrower and Lender or Servicer for the purpose of establishing tax, repair or replacement reserve or escrow accounts for the Mortgaged Property or granting Lender a security interest in any such accounts (including, without limitation, the Replacement Reserve Agreement), or any other agreement or agreements between Borrower, Lender or Servicer which provide for the establishment of any other fund, reserve or account.

(j) “Collateral Assignments” means, collectively, (i) the Assignment of Construction Contract, dated as of the date hereof, by Borrower to Lender and any consents relating thereto, (ii) the Assignment of Architect’s Agreement and Plans and Specifications, dated as of the date hereof, by Borrower to Lender and any consents relating thereto, (iii) the Assignment of Project Documents, dated as of the date hereof, by Borrower to Lender, (iv) the Assignment of Management Agreement, dated as of the date hereof, by Borrower and the Manager (as defined therein) to Lender, (v) the Assignment of Equity Investor Capital Contributions, Pledge and Security Agreement, dated as of the date hereof, by Borrower to Lender, (vi) the Assignment of Equity Interests, Pledge and Security Agreement, dated as of the date hereof, by the Managing Member of the Borrower to Lender, and (vii) the Assignment and Subordination of Developer Fees, Pledge and Security Agreement, dated as of the date hereof, by the Assignor (as defined therein) and Borrower to Lender.
(k) “Conditions to Conversion” has the meaning ascribed thereto in the Loan Agreement.

(l) “Construction Note” means that certain Amended and Restated Multifamily Construction Note dated as of the Closing Date, executed and delivered by the Borrower, payable to Lender in an amount not to exceed the original maximum principal amount of the Loan set forth in the recitals to this Instrument, including all schedules, riders, allonges and addenda, as the same may be amended, modified, or supplemented from time to time.

(m) “Control” means, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, through the ownership of voting securities, by contract or otherwise, including the power to elect a majority of the directors of a corporation, to select the managing partner of a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity.

(n) “Conversion Date” has the meaning ascribed thereto in the Loan Agreement.

(o) “Credit Enhancer” means a government sponsored enterprise that at any time, directly or indirectly, purchases the Loan or provides credit enhancement with respect to the Loan.

(p) “Credit Enhancer Insurance Standards” means the insurance standards and requirements set forth in the multifamily underwriting guidelines generated by the Credit Enhancer, as in effect from time to time.

(q) “Environmental Permit” means any permit, license, or other authorization issued under any Hazardous Materials Law with respect to any activities or businesses conducted on or in relation to the Mortgaged Property.

(r) “Event of Default” means the occurrence of any event listed in Section 22.

(s) “Fixtures” means all property which is so attached to the Land or the Improvements as to constitute a fixture under applicable law, including: machinery, equipment, engines, boilers, incinerators, installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air, or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention, or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers
and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; and exercise equipment.

(t) “Governmental Authority” means any board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property or the use, operation or improvement of the Mortgaged Property.

(u) “Guarantor” means, individually and collectively, jointly and severally (i) Lisa Stephens and Mark Ragsdale prior to the Conversion Date, and (ii) Lisa Stephens and Megan Lasch on and after the Conversion Date, and/or any other person or entity which may hereafter become a guarantor of any of Borrower’s obligations under the Loan.

(v) “Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“PCBs”) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; radon; Mold; toxic or mycotoxin spores; any substance the presence of which on the Mortgaged Property is prohibited by any federal, state or local authority; any substance that requires special handling; and any other material or substance (whether or not naturally occurring) now or in the future that (i) is defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic substance,” “toxic pollutant,” “solid waste”, “pesticide”, “contaminant,” or “pollutant”, or otherwise classified as hazardous or toxic by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law.

(w) “Hazardous Materials Laws” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, rule of common law (including, without limitation, nuisance and trespass), consent order, administrative rulings and court judgments and decrees or other government directive in effect now or in the future and including all amendments, that relate to Hazardous Materials or to the protection or conservation of the environment or human health and apply to Borrower or to the Mortgaged Property, including, without limitation, those relating to industrial hygiene, or the use, analysis, generation, manufacture, storage, discharge, release, disposal, transportation, treatment, investigation, or remediation of Hazardous Materials. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq., the Superfund Amendments and Reauthorization Act, the Solid
Waste Disposal Act, the Clean Air Act, the Occupational Safety and Health Act, and their state analogs.

(x) “Impositions” and “Imposition Deposits” shall have the meanings ascribed thereto in Section 7(a).

(y) “Improvements” means the buildings, structures, improvements, and alterations now constructed or at any time in the future constructed or placed upon the Land, including any future replacements and additions.

(z) “Indebtedness” means collectively, the principal of, interest on, and all other amounts due at any time under, the Note, this Instrument or any other Loan Document, including prepayment premiums, late charges, default interest, and advances as provided in Section 12 to protect the security of this Instrument, and any fees or expenses paid by Lender on behalf of Borrower to Lender, or any other party for the Loan or other amounts relating to the Loan Documents which are paid by Lender;

(aa) “Initial Owners” means, with respect to Borrower or any other entity, the persons or entities who on the date of the Note, directly or indirectly, own in the aggregate 100% of the ownership interests in Borrower or that entity.

(bb) “Insolvency Laws” means the United States Bankruptcy Code, 11 U.S.C. § 101, et seq., together with any other federal or state law affecting debtor and creditor rights or relating to the bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding, as amended from time to time, to the extent applicable to the Borrower.

(cc) “Land” means the land described in Exhibit A.

(dd) “Leases” means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property (including proprietary leases or occupancy agreements if Borrower is a cooperative housing corporation), and all modifications, extensions or renewals.

(ee) “Lender” means the entity identified as “Lender” in the first paragraph of this Instrument, or any subsequent holder of the Note.

(ff) “Loan” means the loan made by Lender to Borrower in an amount not to exceed the original principal amount of the Note, which loan is evidenced by the Note and secured by, among other things, this Instrument.

(gg) “Loan Agreement” means that certain Construction Loan Agreement, dated as of the date hereof, by and between Borrower and Lender relating to the Loan, as the same may be amended, modified or supplemented from time to time.
(hh) “Loan Documents” means collectively, the Loan Agreement, the Note, this Instrument, the Agreement of Environmental Indemnification, all guaranties, all indemnity agreements, all Collateral Agreements, all Collateral Assignments, all O&M Programs, the MMP, and any other documents now or in the future executed by Borrower, any guarantor or any other person in connection with the Loan, as such documents may be amended from time to time.

(ii) “Material Property Agreements” means any agreement which, in Lender’s sole discretion, acting in good faith, materially affects the Mortgaged Property, the use thereof or otherwise materially affects the rights of Borrower or Beneficiary Parties in, to, and with respect to the Mortgaged Property or the proceeds therefrom, including, without limitation, each of the following: (i) any agreement regarding the payment in lieu of taxes (“PILOT”), (ii) all covenants, conditions and restrictions, including, without limitation, any declaration subjecting the Mortgaged Property to an association of owners or other community governance, (iii) any agreement regarding the abatement or exemption of real estate taxes, (iv) any easement pursuant to which the Mortgaged Property is granted access to a public right of way, (v) any material lease of all or any portion of the Mortgaged Property, (vi) any operating agreements relating to the Land or the Improvements and (vii) any regulatory agreements, declarations, land use restriction agreements or similar instruments affecting the Mortgaged Property including the operation or use thereof.

(jj) “Maturity Date” has the meaning ascribed thereto in the recitals to this Instrument.

(kk) “MMP” means an operations and maintenance plan, moisture management program and/or microbial operations and maintenance program approved by Lender to control water intrusion and prevent the development of Mold or moisture at the Mortgaged Property throughout the term of this Instrument. If required by Lender, the MMP shall contain a provision for (i) staff training, (ii) information to be provided to tenants, (iii) documentation of the plan, (iv) the appropriate protocol for incident response and remediation and (v) routine, scheduled inspections of common space and unit interiors.

(ll) “Mold” means mold, fungus, microbial contamination or pathogenic organisms.

(mm) “Mortgaged Property” means all of Borrower’s present and future right, title and interest in and to all of the following:

(i) the Land;

(ii) the Improvements;

(iii) the Fixtures;

(iv) the Personality;
(v) all current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights-of-way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses, and appurtenances related to or benefiting the Land or the Improvements, or both, and all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated;

(vi) all proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, whether or not Borrower obtained the insurance pursuant to Lender’s requirements;

(vii) all awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, including any awards or settlements resulting from condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof;

(viii) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Borrower now or in the future, including cash or securities deposited to secure performance by parties of their obligations;

(ix) all Rents and Leases;

(x) all earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, whether the foregoing are now due, past due, or to become due, all undisbursed proceeds of the loan secured by this Instrument, deposits forfeited by tenants, and, if Borrower is a cooperative housing corporation, maintenance charges or assessments payable by shareholders or residents;

(xi) all refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Instrument is dated);

(xii) all tenant security deposits which have not been forfeited by any tenant under any Lease and any bond or other security in lieu of such deposits;
(xiii) all names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property;

(xiv) all documents, writings, books, files, records and other documents arising from or relating to any of the foregoing, whether now existing or hereafter created; and

(xv) all proceeds from the conversion, voluntary or involuntary, of any of the above into cash or liquidated claims, and the right to collect such proceeds, and all other cash and non-cash proceeds and products of any of the foregoing.

(nn) “Note” means the Construction Note, provided that effective as of the Conversion Date, provided the Conditions to Conversion have been satisfied, “Note” shall mean the Permanent Note.

(oo) “O&M Program” has the meaning ascribed thereto in Section 18(d).

(pp) “Permanent Note” means the Multifamily Permanent Note in the form attached to the Loan Agreement, including all schedules, riders, allonges and addenda, as the same may be amended, modified, or supplemented from time to time, to be executed by the Borrower and delivered to the Lender on or prior to the Conversion Date as one of the conditions precedent to the satisfaction of the Conditions to Conversion, to be effective as of the Conversion Date provided the Conditions to Conversion have been satisfied.

(qq) “Permitted Encumbrances” means any easements, encumbrances or restrictions listed on the schedule of exceptions in the title insurance policy issued to Lender as of the date of recordation of this Instrument insuring Lender’s interest in the Mortgaged Property.

(rr) “Permitted Transfer” has the meaning ascribed thereto in Section 21(b).

(ss) “Person” means any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

(tt) “Personalty” means all:

(i) accounts (including deposit accounts) of Borrower related to the Mortgaged Property;

(ii) Imposition Deposits;

(iii) equipment, goods, supplies and inventory owned by Borrower that are used now or in the future in connection with the ownership,
management or operation of the Land or the Improvements or are located on the Land or in the Improvements (other than Fixtures), including furniture, furnishings, machinery, building materials, tools, books, records (whether in written or electronic form), computer equipment (hardware and software);

(iv) other tangible personal property owned by Borrower which are used now or in the future in connection with the ownership, management or operation of the Land or Improvements or are located on the Land or in the Improvements (other than Fixtures), including ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances;

(v) any operating agreements relating to the Land or the Improvements;

(vi) any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements;

(vii) documents, instruments, chattel paper, claims, deposits, deposit accounts, payment intangibles, other intangible property, general intangibles, and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental permits relating to any activities on the Land and including subsidy or similar payments received from any sources, including a governmental authority; and

(viii) any rights of Borrower in or under letters of credit.

(uu) “Project” means that 102-unit multifamily project known as Kaia Pointe Apartments and located in the City of Georgetown, Williamson County, State of Texas.

(vv) “Property Jurisdiction” means the State of Texas.

(ww) “Rents” means all rents (whether from residential or non-residential space), revenues and other income of the Land or the Improvements, including subsidy payments received from any sources (including, but not limited to payments under any Housing Assistance Payments Contract or similar agreements), parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Mortgaged Property, whether now due, past due, or to become due, and deposits forfeited by tenants.

(xx) “Replacement Reserve Agreement” means that certain Replacement Reserve Agreement, dated as of the date hereof, by and between Borrower and Lender.
(yy) “Replacement Reserve Fund” has the meaning ascribed thereto by the Replacement Reserve Agreement.

(zz) “Servicer” means the servicing party that is designated by Lender to service the Loan, together with its successors in such capacity.

(aaa) “Taxes” means, collectively, all taxes, assessments, vault rentals and other charges, if any, general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a lien, on the Land or the Improvements.

(bbb) “Transfer” means (i) a sale, assignment, transfer, or other disposition (whether voluntary, involuntary or by operation of law); (ii) the grant, creation, or attachment of a lien, encumbrance, or security interest (whether voluntary, involuntary or by operation of law); (iii) the issuance or other creation of a direct or indirect ownership interest; or (iv) the withdrawal, retirement, removal or involuntary resignation of any owner or manager of a legal entity.

(ccc) “Uniform Commercial Code” shall mean the Texas Uniform Commercial Code.


2. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.**

(a) This Instrument is also a security agreement under the Uniform Commercial Code for any of the Mortgaged Property which, under applicable law, may be subjected to a security interest under the Uniform Commercial Code, whether such Mortgaged Property is owned now or acquired in the future, and all products and cash and non-cash proceeds thereof (collectively, “UCC Collateral”), and Borrower hereby grants to Lender a security interest in the UCC Collateral. Borrower hereby authorizes Lender to prepare and file any and all financing statements, continuation statements and financing statement amendments, in such form as Lender may require to perfect or continue the perfection of this security interest without execution by Borrower. Borrower shall pay all filing costs and all costs and expenses of any record searches for financing statements and/or amendments that Lender may require. Without the prior written consent of Lender, Borrower shall not create or permit to exist any other lien or security interest in any of the UCC Collateral except for the Permitted Encumbrances. If an Event of Default has occurred and is continuing, Lender shall have the remedies of a secured party under the Uniform Commercial Code, in addition to all remedies provided by this Instrument or existing under applicable law. In exercising any remedies, Lender may exercise its remedies against the UCC Collateral separately or together, and in any order, without in any way affecting the availability of Lender’s other remedies. This Instrument constitutes a financing statement with respect to any part of the Mortgaged Property which is or may become a Fixture.
(b) Unless Borrower gives at least thirty (30) days’ prior written notice to Lender and subject to Section 21 hereof, Borrower shall not: (i) change its name, identity, or structure of organization; (ii) change its state of organization through dissolution, merger, transfer of assets or otherwise; (iii) change its principal place of business (or chief executive office if more than one place of business); or (iv) add to or change any location at which any of the Mortgaged Property is stored, held or located. Such notice shall be accompanied by new financing statements and/or financing statement amendments in the same form as the financing statements delivered to Lender on the date hereof. Without limiting the foregoing, Borrower hereby authorizes and irrevocably appoints Lender and each of its officers attorneys-in-fact for Borrower to execute, deliver, and file, as applicable, such financing statements, continuation statements or amendments deemed necessary by Lender in its sole discretion for and on behalf of Borrower, without execution by Borrower. Borrower shall also execute and deliver to Lender modifications or supplements of this Instrument as Lender may require in connection with any change described in this Section.

3. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.

(a) As part of the consideration for the Indebtedness, Borrower absolutely and unconditionally assigns and transfers to Lender all Rents. It is the intention of Borrower to establish a present, absolute and irrevocable transfer and assignment to Lender of all Rents and to authorize and empower Lender to collect and receive all Rents without the necessity of further action on the part of Borrower. Promptly upon request by Lender, Borrower agrees to execute and deliver such further assignments of Rents as Lender may from time to time require. Borrower and Lender intend this assignment of Rents to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of Rents, and for no other purpose, Rents shall not be deemed to be a part of the Mortgaged Property. Notwithstanding anything to the contrary contained herein, the Lender is entitled to all the rights and remedies of an assignee set forth in Chapter 64 of the Texas Property Code, the Texas Assignment of Rents Act (“TARA”). This Instrument shall constitute and serve as a security instrument under TARA. The Lender shall have the ability to exercise its rights related to the Leases and payments, in the Lender’s sole discretion and without prejudice to any other remedy available, as provided in this Instrument or as otherwise allowed by applicable law, including, without limitation, TARA. Notwithstanding anything to the contrary contained in this Instrument or the other Loan Documents, to the extent this Instrument or any of the other Loan Documents contain any notice or cure period, the date the enforcement of rights under TARA begins shall not be affected, extended or otherwise modified by reason of such periods.

(b) Borrower authorizes Lender to collect, sue for and compromise Rents and directs each tenant of the Mortgaged Property to pay all Rents to, or as directed by, Lender. However, until the occurrence of an Event of Default, Lender hereby grants to Borrower a revocable license to collect and receive all Rents, to hold all Rents in trust for
the benefit of Lender and to apply all Rents to pay the installments of interest and principal then due and payable under the Note and the other amounts then due and payable under the other Loan Documents, including Imposition Deposits, and to pay the current costs and expenses of managing, operating and maintaining the Mortgaged Property, including utilities, Taxes and insurance premiums (to the extent not included in Imposition Deposits), tenant improvements and other capital expenditures. So long as no Event of Default has occurred and is continuing, the Rents remaining after application pursuant to the preceding sentence may be retained by Borrower free and clear of, and released from, Lender’s rights with respect to Rents under this Instrument. Upon the occurrence of an Event of Default, and without the necessity of Lender entering upon and taking and maintaining control of the Mortgaged Property directly, or by a receiver, Borrower’s license to collect Rents shall automatically terminate and Lender shall without notice be entitled to all Rents as they become due and payable, including Rents then due and unpaid (such license shall be reinstated upon Borrower’s cure of the Event of Default to the satisfaction of Lender). Borrower shall pay to Lender upon demand all Rents to which Lender is entitled. At any time on or after the occurrence of an Event of Default, Lender may give, and Borrower hereby irrevocably authorizes Lender to give, notice to all tenants of the Mortgaged Property instructing them to pay all Rents to Lender, no tenant shall be obligated to inquire further as to the right of Lender to collect Rents, and no tenant shall be obligated to pay to Borrower any amounts which are actually paid to Lender in response to such a notice. Any such notice by Lender shall be delivered to each tenant personally, by mail or by delivering such demand to each rental unit. Borrower shall not interfere with and shall cooperate with Lender’s collection of such Rents.

(c) Borrower represents and warrants to Lender that Borrower has not executed any prior assignment of Rents (other than an assignment of Rents securing indebtedness that will be paid off and discharged with the proceeds of the Loan), that Borrower has not performed, and Borrower covenants and agrees that it will not perform, any acts and has not executed, and shall not execute, any instrument which would prevent Lender from exercising its rights under this Section 3, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any Rents for more than two months prior to the due dates of such Rents (other than a security deposit not in excess of one month’s rent). Borrower shall not collect or accept payment of any Rents more than two months prior to the due dates of such Rents (other than a security deposit not in excess of one month’s rent).

(d) If an Event of Default has occurred and is continuing, Lender may, but shall in no event be required to, regardless of the adequacy of Lender’s security or the solvency of Borrower and even in the absence of waste, enter upon and take and maintain full control of the Mortgaged Property in order to perform all acts that Lender in its discretion determines to be necessary or desirable for the operation and maintenance of the Mortgaged Property, including the execution, cancellation or modification of Leases, the collection of all Rents, the making of repairs to the Mortgaged Property and the execution or termination of contracts providing for the management, operation or maintenance of the Mortgaged Property, for the purposes of enforcing the assignment of
Rents pursuant to Section 3(a), protecting the Mortgaged Property or the security of this Instrument, or for such other purposes as Lender in its discretion may deem necessary or desirable. Alternatively, if an Event of Default has occurred and is continuing, regardless of the adequacy of Lender’s security, without regard to Borrower’s solvency and without the necessity of giving prior notice (oral or written) to Borrower, Lender may apply to any court having jurisdiction for the appointment of a receiver for the Mortgaged Property to take any or all of the actions set forth in the preceding sentence. If Lender elects to seek the appointment of a receiver for the Mortgaged Property at any time after an Event of Default has occurred and is continuing, Borrower, by its execution of this Instrument, expressly consents to the appointment of such receiver, including the appointment of a receiver *ex parte* if permitted by applicable law. Lender or the receiver, as the case may be, shall be entitled to receive a reasonable fee for managing the Mortgaged Property. Immediately upon appointment of a receiver or immediately upon Lender’s entering upon and taking possession and control of the Mortgaged Property, Borrower shall surrender possession of the Mortgaged Property to Lender or the receiver, as the case may be, and shall deliver to Lender or the receiver, as the case may be, all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Mortgaged Property and all security deposits and prepaid Rents. In the event Lender takes possession and control of the Mortgaged Property, Lender may exclude Borrower and its representatives from the Mortgaged Property. Borrower acknowledges and agrees that the exercise by Lender of any of the rights conferred under this Section 3 shall not be construed to make Lender a mortgagee-in-possessory of the Mortgaged Property so long as Lender has not itself entered into actual possession of the Land and Improvements.

(e) If Lender enters the Mortgaged Property, Lender shall be liable to account only to Borrower and only for those Rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Mortgaged Property, by reason of any act or omission of Lender under this Section 3, and Borrower hereby releases and discharges Lender from any such liability to the fullest extent permitted by law, except for the gross negligence or willful misconduct of Lender or its agents.

(f) If the Rents are not sufficient to meet the costs of taking control of and managing the Mortgaged Property and collecting the Rents, any funds expended by Lender for such purposes shall become an additional part of the Indebtedness as provided in Section 12.

(g) Any entering upon and taking of control of the Mortgaged Property by Lender or the receiver, as the case may be, and any application of Rents as provided in this Instrument shall not cure or waive any Event of Default or invalidate any other right or remedy of Lender under applicable law or provided for in this Instrument.

4. **ASSIGNMENT OF LEASES; LEASES AFFECTING THE MORTGAGED PROPERTY.**
(a) As part of the consideration for the Indebtedness, Borrower absolutely and unconditionally assigns and transfers to Lender all of Borrower’s right, title and interest in, to and under the Leases, including Borrower’s right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease. It is the intention of Borrower to establish a present, absolute and irrevocable transfer and assignment to Lender of all of Borrower’s right, title and interest in, to and under the Leases. Borrower and Lender intend this assignment of the Leases to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of the Leases, and for no other purpose, the Leases shall not be deemed to be a part of the “Mortgaged Property” as that term is defined in Section 1. Notwithstanding anything to the contrary contained herein, the Lender is entitled to all the rights and remedies of an assignee set forth in TARA. This Instrument shall constitute and serve as a security instrument under TARA. The Lender shall have the ability to exercise its rights related to the Leases and payments, in the Lender’s sole discretion and without prejudice to any other remedy available, as provided in this Instrument or as otherwise allowed by applicable law, including, without limitation, TARA. Notwithstanding anything to the contrary contained in this Instrument or the other Loan Documents, to the extent this Instrument or any of the other Loan Documents contain any notice or cure period, the date the enforcement of rights under TARA begins shall not be affected, extended or otherwise modified by reason of such periods.

(b) Unless an Event of Default has occurred and is continuing, Borrower shall have all rights, power and authority granted to Borrower under any Lease (except as otherwise limited by this Section or any other provision of this Instrument), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Upon the occurrence of an Event of Default, the permission given to Borrower pursuant to the preceding sentence to exercise all rights, power and authority under Leases shall automatically terminate. Borrower shall comply with and observe Borrower’s obligations under all Leases, including Borrower’s obligations pertaining to the maintenance and disposition of tenant security deposits.

(c) Borrower acknowledges and agrees that the exercise by Lender, either directly or by a receiver, of any of the rights conferred under this Section 4 shall not be construed to make Lender a mortgagee-in-possession of the Mortgaged Property so long as Lender has not itself entered into actual possession of the Land and the Improvements. The acceptance by Lender of the assignment of the Leases pursuant to Section 4(a) shall not at any time or in any event obligate Lender to take any action under this Instrument or to expend any money or to incur any expenses. Lender shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Mortgaged Property, except to the extent arising from the gross negligence or willful misconduct of Lender. Prior to Lender’s actual entry into and taking possession of the Mortgaged Property, Lender shall not (i) be obligated to perform any of the terms, covenants and conditions contained in any Lease (or otherwise have any obligation with respect to any Lease); (ii) be obligated to appear in or defend any action or proceeding relating to the Lease or the Mortgaged Property; or (iii) be responsible for
the operation, control, care, management or repair of the Mortgaged Property or any portion of the Mortgaged Property. The execution of this Instrument by Borrower shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Mortgaged Property is and shall be that of Borrower, prior to such actual entry and taking of possession.

(d) Upon delivery of notice by Lender to Borrower of Lender’s exercise of Lender’s rights under this Section 4 at any time after the occurrence of an Event of Default, and without the necessity of Lender entering upon and taking and maintaining control of the Mortgaged Property directly, by a receiver, or by any other manner or proceeding permitted by the laws of the Property Jurisdiction, Lender immediately shall have all rights, powers and authority granted to Borrower under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease.

(e) Borrower shall, promptly upon Lender’s request, deliver to Lender an executed copy of each residential Lease then in effect. All Leases for residential dwelling units shall (i) be on forms approved by Lender, (ii) be for initial terms of at least six (6) months and not more than two (2) years, (iii) not include options to purchase, (iv) be legally valid, binding, and enforceable obligations of the tenants, (v) contain language expressly stating that such Lease is subordinate to the lien of this Instrument and (vi) comply with all applicable laws.

(f) Except for laundry facilities and cable television services for tenants on market terms and conditions, Borrower shall not lease any portion of the Mortgaged Property for non-residential use except with the prior written consent of Lender and Lender’s prior written approval of the Lease agreement. Borrower shall not modify the terms of, or extend or terminate, any Lease for non-residential use (including any Lease in existence on the date of this Instrument) without the prior written consent of Lender. Borrower shall, without request by Lender, deliver an executed copy of each non-residential Lease to Lender promptly after such Lease is signed. All non-residential Leases, including renewals or extensions of existing Leases, shall specifically provide that (i) such Leases are subordinate to the lien of this Instrument; (ii) the tenant shall attorn to Lender and any purchaser at a foreclosure sale, such attornment to be self-executing and effective upon acquisition of title to the Mortgaged Property by any purchaser at a foreclosure sale or by Lender in any manner; (iii) the tenant agrees to execute such further evidences of attornment as Lender or any purchaser at a foreclosure sale may from time to time request; (iv) the Lease shall not be terminated by foreclosure or any other transfer of the Mortgaged Property; (v) after a foreclosure sale of the Mortgaged Property, Lender or any other purchaser at such foreclosure sale may, at Lender’s or such purchaser’s option, accept or terminate such Lease; and (vi) the tenant shall, upon receipt after the occurrence of an Event of Default of a written request from Lender, pay all Rents payable under the Lease to Lender.

(g) Borrower shall not receive or accept Rent under any Lease (whether residential or non-residential) for more than two months in advance (other than a security deposit not in excess of one month’s rent).
5. **PAYMENT OF INDEBTEDNESS; PERFORMANCE UNDER LOAN DOCUMENTS; PREPAYMENT PREMIUM.** Borrower shall pay the Indebtedness when due in accordance with the terms of the Note and the other Loan Documents and shall perform, observe and comply with all other provisions of the Note and the other Loan Documents. Borrower shall pay a prepayment premium in connection with certain prepayments of the Indebtedness, including a payment made after Lender’s exercise of any right of acceleration of the Indebtedness, as provided in the Note.

6. **EXCULPATION.** The personal liability of Borrower for payment of the Note and for performance of the other obligations to be performed by Borrower under this Instrument is limited in the manner, and to the extent, provided in the Note.

7. **DEPOSITS FOR TAXES, INSURANCE AND OTHER CHARGES.**

   (a) Following the Conversion Date, Borrower shall deposit with Lender on the day monthly installments of principal or interest, or both, are due under the Note (or on another day designated in writing by Lender), until the Indebtedness is paid in full, an additional amount sufficient to accumulate with Lender the entire sum required to pay, when due (i) any water and sewer charges which, if not paid, may result in a lien on all or any part of the Mortgaged Property, (ii) the premiums for fire and other hazard insurance, rental loss insurance and such other insurance as Lender may require under Section 19, (iii) Taxes, and (iv) amounts for other charges and expenses which Lender at any time reasonably deems necessary to protect the Mortgaged Property, to prevent the imposition of liens on the Mortgaged Property, or otherwise to protect Lender’s interests, all as reasonably estimated from time to time by Lender, plus one-twelfth of such estimate, if required by Lender. The amounts deposited under the preceding sentence are collectively referred to in this Instrument as the “**Imposition Deposits**”. The obligations of Borrower for which the Imposition Deposits are required are collectively referred to in this Instrument as “**Impositions**”. The amount of the Imposition Deposits shall be sufficient to enable Lender to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added. Lender shall maintain records indicating how much of the monthly Imposition Deposits and how much of the aggregate Imposition Deposits held by Lender are held for the purpose of paying Taxes, insurance premiums and each other Imposition.

   (b) Imposition Deposits shall be held in an institution (which may be Lender, if Lender is such an institution) whose deposits or accounts are insured or guaranteed by a federal agency. Lender shall not be obligated to open additional accounts or deposit Imposition Deposits in additional institutions when the amount of the Imposition Deposits exceeds the maximum amount of the federal deposit insurance or guaranty. Lender shall apply the Imposition Deposits to pay Impositions so long as no Event of Default has occurred and is continuing. Unless applicable law requires, Lender shall not be required to pay Borrower any interest, earnings or profits on the Imposition Deposits. As additional security for all of Borrower’s obligations under this Instrument and the other Loan Documents, Borrower hereby pledges and grants to Lender a security interest in the Imposition Deposits and all proceeds of and all interest and dividends on the Imposition Deposits. Any amounts deposited with Lender under this Section 7 shall not
be trust funds, nor shall they operate to reduce the Indebtedness, unless applied by Lender for that purpose under Section 7(e).

(c) If Lender receives a bill or invoice for an Imposition, Lender shall pay the Imposition from the Imposition Deposits held by Lender. Lender shall have no obligation to pay any Imposition to the extent it exceeds Imposition Deposits then held by Lender. Lender may pay an Imposition according to any bill, statement or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.

(d) If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition exceeds the amount deemed necessary by Lender, plus one twelfth of such estimate if required by Lender, the excess shall be credited against future installments of Imposition Deposits. If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition is less than the amount estimated by Lender to be necessary, plus one twelfth of such estimate if required by Lender, Borrower shall pay to Lender the amount of the deficiency within 15 days after notice from Lender.

(e) If an Event of Default has occurred and is continuing, Lender may apply any Imposition Deposits, in any amounts and in any order as Lender determines, in Lender’s discretion, to pay any Impositions or as a credit against the Indebtedness. Upon payment in full of the Indebtedness, Lender shall refund to Borrower any Imposition Deposits held by Lender.

(f) If Lender does not collect an Imposition Deposit pursuant to a separate written waiver by Lender, then on or before the date each such Imposition is due, or on the date this Instrument requires each such Imposition to be paid, Borrower shall, if required by Lender, provide Lender with proof of payment of each such Imposition for which Lender does not require collection of Imposition Deposits. Lender may, at any time and in Lender’s discretion, revoke its deferral or waiver and require Borrower to deposit with Lender any or all of the Imposition Deposits listed in this Section 7.

8. **COLLATERAL AGREEMENTS.** Borrower shall deposit with Lender such amounts as may be required by the Loan Agreement and any Collateral Agreement and shall perform all other obligations of Borrower under the Loan Agreement and each Collateral Agreement.

9. **APPLICATION OF PAYMENTS.** If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, then Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Lender, in Lender’s discretion. Neither Lender’s acceptance of an amount that is less than all amounts then due and payable nor Lender’s application of such payment in the manner authorized shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the Indebtedness, Borrower’s obligations under this Instrument and the Note shall remain unchanged.
10. **COMPLIANCE WITH LAWS.** Borrower shall comply with all laws, ordinances, regulations and requirements of any Governmental Authority and all recorded lawful covenants and agreements relating to or affecting the Mortgaged Property, including all laws, ordinances, regulations, requirements and covenants pertaining to health and safety, construction of improvements on the Mortgaged Property, fair housing, disability accommodation, zoning and land use, and Leases. Borrower also shall comply with all applicable laws that pertain to the maintenance and disposition of tenant security deposits. Borrower shall at all times maintain records sufficient to demonstrate compliance with the provisions of this Section 10. Borrower shall take appropriate measures to prevent, and shall not engage in or knowingly permit, any illegal activities at the Mortgaged Property that could endanger tenants or visitors, result in damage to the Mortgaged Property, result in forfeiture of the Mortgaged Property, or otherwise materially impair the lien created by this Instrument or Lender’s interest in the Mortgaged Property. Borrower represents and warrants to Lender that no portion of the Mortgaged Property has been or will be purchased with the proceeds of any illegal activity.

11. **USE OF PROPERTY.** Unless required by applicable law, Borrower shall not (a) allow changes in the use for which all or any part of the Mortgaged Property is being used at the time this Instrument was executed, except for any change in use approved by Lender, (b) convert any individual dwelling units or common areas to commercial use, (c) initiate a change in the zoning classification of the Mortgaged Property or acquiesce in a change in the zoning classification of the Mortgaged Property, (d) establish any condominium or cooperative regime with respect to the Mortgaged Property; (e) combine all or any part of the Mortgaged Property with all or any part of a tax parcel which is not part of the Mortgaged Property, or (f) subdivide or otherwise split any tax parcel constituting all or any part of the Mortgaged Property without the prior consent of Lender.

12. **PROTECTION OF LENDER’S SECURITY; INSTRUMENT SECURES FUTURE ADVANCES.**

(a) If Borrower fails to perform any of its obligations under this Instrument or any other Loan Document after the expiration of any applicable notice and cure period, or if any action or proceeding (including a Bankruptcy Event) is commenced which purports to affect the Mortgaged Property, Lender’s security or Lender’s rights under this Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Lender at Lender’s option may make such appearances, file such documents, disburse such sums and take such actions as Lender deems necessary to perform such obligations of Borrower and to protect Lender’s interest, including (i) payment of fees, expenses and reasonable fees of attorneys, accountants, inspectors and consultants, (ii) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (iii) procurement of the insurance required by Section 19 (specifically including, without limitation, flood insurance if required by Section 19), and (iv) payment of amounts which Borrower has failed to pay under Sections 15 and 17.

(b) Any amounts disbursed by Lender under this Section 12, or under any other provision of this Instrument that treats such disbursement as being made under this
Section 12, shall be secured by this Instrument, shall be added to, and become part of, the principal component of the Indebtedness, shall be immediately due and payable and shall bear interest from the date of disbursement until paid at the “Default Rate”, as defined in the Note.

(c) If the Lender shall elect to pay any sum due with reference to the Project or the Mortgaged Property, the Lender may do so in reliance on any bill, statement or assessment procured from the appropriate Governmental Authority or other issuer thereof without inquiring into the accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created by this Instrument and/or the other Loan Documents, the Lender shall not be bound to inquire into the validity of any apparent or threatened adverse title, lien, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same.

(d) Nothing in this Section 12 shall require Lender to incur any expense or take any action.

13. INSPECTION.

(a) Lender and its agents, representatives, and designees may make or cause to be made entries upon and inspections of the Mortgaged Property (including environmental inspections and tests to the extent permitted under Section 18) during normal business hours, or at any other reasonable time, upon reasonable notice to Borrower if the inspection is to include occupied residential units (which notice need not be in writing). Notice to Borrower shall not be required in the case of an emergency, as determined in Lender’s discretion, or when an Event of Default has occurred and is continuing.

(b) If Lender determines that Mold has developed as a result of a water intrusion event or leak, Lender, at Lender’s discretion, may require that a professional inspector inspect the Mortgaged Property as frequently as Lender determines is necessary until any issue with Mold and its cause(s) are resolved to Lender’s satisfaction. Such inspection shall be limited to a visual and olfactory inspection of the area that has experienced the Mold, water intrusion event or leak. Borrower shall be responsible for the cost of such professional inspection and any remediation deemed to be necessary as a result of the professional inspection. After any issue with Mold, water intrusion or leaks is remedied to Lender’s satisfaction, Lender shall not require a professional inspection any more frequently than once every three years unless Lender is otherwise aware of Mold as a result of a subsequent water intrusion event or leak.

(c) If Lender determines not to conduct an annual inspection of the Mortgaged Property, and in lieu thereof Lender requests a certification, Borrower shall be prepared to provide and must actually provide to Lender a factually correct certification each year that the annual inspection is waived to the following effect: that Borrower represents and warrants that Borrower has not received any written complaint, notice, letter or other written communication from tenants, management agent or governmental authorities regarding odors, indoor air quality, Mold or any activity, condition, event or
omission that causes or facilitates the growth of Mold on or in any part of the Mortgaged Property, or if Borrower has received any such written complaint, notice, letter or other written communication, that Borrower has investigated and determined that no Mold activity, condition or event exists or alternatively has fully and properly remediated such activity, condition, event or omission in compliance with the MMP for the Mortgaged Property. If Borrower is unwilling or unable to provide such certification, Lender may require a professional inspection of the Mortgaged Property at Borrower’s expense.

14. BOOKS AND RECORDS; FINANCIAL REPORTING.

(a) Borrower shall keep and maintain at all times at the Mortgaged Property or the management agent’s offices, and upon Lender’s request shall make available at the Mortgaged Property, complete and accurate books of account and records (including copies of supporting bills and invoices) adequate to reflect correctly the operation of the Mortgaged Property, and copies of all written contracts, Leases, and other instruments which affect the Mortgaged Property. The books, records, contracts, Leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender upon reasonable advance oral notice.

(b) Borrower shall furnish to Lender all of the following:

(i) except as provided in clause (2) below, within 45 days after the end of each fiscal quarter of Borrower, a statement of income and expenses for Borrower’s operation of the Mortgaged Property on a year-to-date basis as of the end of each fiscal quarter, (2) within 120 days after the end of each fiscal year of Borrower, (A) a statement of income and expenses for Borrower’s operation of the Mortgaged Property for such fiscal year, (B) a statement of changes in financial position of Borrower relating to the Mortgaged Property for such fiscal year, and (C) a balance sheet showing all assets and liabilities of Borrower relating to the Mortgaged Property as of the end of such fiscal year; and (3) any of the foregoing at any other time upon Lender’s request;

(ii) within 45 days after the end of each fiscal quarter of Borrower, and at any other time upon Lender’s request, a rent schedule for the Mortgaged Property showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable for the current month, the date through which rent has been paid, and any related information requested by Lender;

(iii) within 120 days after the end of each fiscal year of Borrower, and at any other time upon Lender’s request, an accounting of all security deposits held pursuant to all Leases, including the name of the institution (if any) and the names and identification numbers of the accounts (if any) in which such security deposits are held and the name of the person to contact at such financial institution,
along with any authority or release necessary for Lender to access information regarding such accounts;

(iv) within 120 days after the end of each fiscal year of Borrower, and at any other time upon Lender’s request, a statement that identifies all owners of any interest in Borrower and the interest held by each, if Borrower is a corporation, all officers and directors of Borrower, and if Borrower is a limited liability company, all managers who are not members;

(v) upon Lender’s request, a monthly property management report for the Mortgaged Property, showing the number of inquiries made and rental applications received from tenants or prospective tenants and deposits received from tenants and any other information requested by Lender;

(vi) upon Lender’s request, a balance sheet, a statement of income and expenses for Borrower and a statement of changes in financial position of Borrower for Borrower’s most recent fiscal year;

(vii) annually, if applicable, within 60 days of the date required for submission by the agency in the Property Jurisdiction responsible for monitoring the low income housing tax credit program, a low income housing tax credit compliance report in form and substance acceptable to Lender; and

(viii) if required by Lender, within 30 days of the end of each calendar month, a monthly statement of income and expenses for such calendar month on a year-to-date basis for Borrower’s operation of the Mortgaged Property.

(c) Each of the statements, schedules and reports required by Section 14(b) shall be certified to be complete and accurate by an individual having authority to bind Borrower and shall be in such form and contain such detail as Lender may require. Lender also may require that any statements, schedules or reports be audited at Borrower’s expense by independent certified public accountants acceptable to Lender.

(d) If Borrower fails to provide in a timely manner the statements, schedules and reports required by Section 14(b), Lender shall have the right to have Borrower’s books and records audited, at Borrower’s expense, by independent certified public accountants selected by Lender in order to obtain such statements, schedules and reports, and all related costs and expenses of Lender shall become immediately due and payable and shall become an additional part of the Indebtedness as provided in Section 12.

(e) If an Event of Default has occurred and is continuing, Borrower shall deliver to Lender upon written demand all books and records relating to the Mortgaged Property or its operation.
(f) Borrower authorizes Lender to obtain a credit report on Borrower at any time.

15. **TAXES; OPERATING EXPENSES.**

(a) Subject to the provisions of Section 15(c) and Section 15(d), Borrower shall pay, or cause to be paid, all Taxes when due and before the imposition of any interest, fine, penalty or cost for nonpayment.

(b) Subject to the provisions of Section 15(c), Borrower shall pay (i) the expenses of operating, managing, maintaining and repairing the Mortgaged Property (including insurance premiums, utilities, repairs and replacements) before the last date upon which each such payment may be made without any penalty or interest charge being added, and (ii) insurance premiums at least 30 days prior to the expiration date of each policy of insurance, unless applicable law specifies some lesser period.

(c) If Lender is collecting Imposition Deposits, and to the extent that Lender holds sufficient Imposition Deposits for the purpose of paying a specific Imposition, then Borrower shall not be obligated to pay such Imposition, so long as no Event of Default exists and Borrower has timely delivered to Lender any bills or premium notices that it has received. If an Event of Default exists, Lender may exercise any rights Lender may have with respect to Imposition Deposits without regard to whether Impositions are then due and payable. Lender shall have no liability to Borrower for failing to pay any Impositions to the extent that any Event of Default has occurred and is continuing, insufficient Imposition Deposits are held by Lender at the time an Imposition becomes due and payable or Borrower has failed to provide Lender with bills and premium notices as provided above.

(d) Borrower, at its own expense, may contest by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition other than insurance premiums, if (i) Borrower notifies Lender of the commencement or expected commencement of such proceedings, (ii) the Mortgaged Property is not in danger of being sold or forfeited, (iii) Borrower deposits with Lender reserves sufficient to pay the contested Imposition, if requested by Lender, and (iv) Borrower furnishes whatever additional security is required in the proceedings or is requested by Lender, which may include the delivery to Lender of the reserves established by Borrower to pay the contested Imposition.

(e) Borrower shall promptly deliver to Lender copies of all notices of, and invoices for, Impositions, and if Borrower pays any Imposition directly, Borrower shall promptly furnish to Lender on or before the date this Instrument requires such Impositions to be paid, copies of receipts evidencing that such payments were made.

(f) All payments made by Borrower to Lender pursuant to this Instrument or any of the Loan Documents shall be free and clear of any and all tax liabilities whatsoever (other than United States federal income taxation payable by Lender) and, to the extent Lender is required to pay any such tax liabilities, Borrower shall reimburse
Lender in respect of any such payment of taxes and, immediately upon request from Lender, shall deliver to Lender copies of receipts evidencing the payment of such taxes.

16. **LIENS; ENCUMBRANCES.** Borrower acknowledges that, to the extent provided in Section 21, the grant, creation or existence of any mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance (a “Lien”) on the Mortgaged Property (other than the lien of this Instrument and the Permitted Encumbrances) or on certain ownership interests in Borrower, whether voluntary, involuntary or by operation of law, and whether or not such Lien has priority over the lien of this Instrument, is a “Transfer” which constitutes an Event of Default and subjects Borrower to personal liability under the Note. Borrower shall maintain the lien created by this Instrument as a first mortgage lien upon the Mortgaged Property, subject to no other Liens or encumbrances other than Permitted Encumbrances.

17. **PRESERVATION, MANAGEMENT AND MAINTENANCE OF MORTGAGED PROPERTY.**

(a) Borrower shall not commit waste or permit impairment or deterioration of the Mortgaged Property.

(b) Borrower shall not abandon the Mortgaged Property.

(c) Borrower shall restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, whether or not insurance proceeds or condemnation awards are available to cover any costs of such restoration or repair.

(d) Borrower shall keep the Mortgaged Property in good repair (normal wear and tear excepted), including the replacement of Personality and Fixtures with items of equal or better function and quality.

(e) Borrower shall provide for professional management of the Mortgaged Property by a residential rental property manager satisfactory to Lender at all times, under a contract approved by Lender, in writing, which contract must be terminable upon not more than thirty (30) days notice without the necessity of establishing cause and without payment of a penalty or termination fee by Borrower or its successors. There shall be no change in the property manager or any contract for the management of the Mortgaged Property without Lender’s prior written approval. Lender shall have the right to require that Borrower and any new property manager enter into an Assignment of Management Agreement on a form approved by Lender. If required by Lender (whether before or after an Event of Default), Borrower will cause any Affiliate of Borrower to whom fees are payable for the management of the Mortgaged Property to enter into an agreement with Lender, in a form approved by Lender, providing for subordination of those fees and such other provisions as Lender may require.

(f) Borrower shall give notice to Lender of and, unless otherwise directed in writing by Lender, shall appear in and defend any action or proceeding purporting to
affect the Mortgaged Property, Lender’s security or Lender’s rights under this Instrument. Borrower shall not (and shall not permit any tenant or other person to) remove, demolish or alter the Mortgaged Property or any part of the Mortgaged Property, including any removal, demolition or alteration occurring in connection with a rehabilitation of all or part of the Mortgaged Property, except (i) in connection with the replacement of tangible Personality and (ii) repairs and replacements in connection with making an individual unit ready for a new occupant.

(g) Unless otherwise waived by Lender in writing, Borrower must have or must establish and must adhere to the MMP. If Borrower is required to have an MMP, Borrower must keep all MMP documentation at the Mortgaged Property or at the management agent’s office and available for Lender or its agents to review during any annual assessment or inspection of the Mortgaged Property that is required by Lender.

18. **ENVIRONMENTAL HAZARDS.**

(a) Except for matters described in Section 18(b), Borrower shall not cause or permit any of the following:

(i) the presence, use, generation, release, treatment, processing, storage (including storage in above ground and underground storage tanks), handling, or disposal of any Hazardous Materials on or under the Mortgaged Property (whether as a result of activities on the Mortgaged Property or on surrounding properties) or any other property of Borrower that is adjacent to the Mortgaged Property;

(ii) the transportation of any Hazardous Materials to, from, or across the Mortgaged Property (whether as a result of activities on the Mortgaged Property or on surrounding properties);

(iii) any occurrence or condition on the Mortgaged Property (whether as a result of activities on the Mortgaged Property or on surrounding properties) or any other property of Borrower that is adjacent to the Mortgaged Property, which occurrence or condition is or may be in violation of Hazardous Materials Laws;

(iv) any violation of or noncompliance with the terms of any Environmental Permit with respect to the Mortgaged Property or any property of Borrower that is adjacent to the Mortgaged Property;

(v) the imposition of any environmental lien against the Mortgaged Property; or

(vi) any violation or noncompliance with the terms of any O&M Program.
The matters described in clauses (i) through (vi) above, except as otherwise provided in Section 18(b), are referred to collectively in this Section 18 as “**Prohibited Activities or Conditions**”.

(b) **Prohibited Activities or Conditions** shall not include lawful conditions permitted by an O&M Program or the safe and lawful use and storage of quantities of (i) pre-packaged supplies, cleaning materials, petroleum products, household products, paints, solvents, lubricants and other materials customarily used in the construction, renovation, operation, maintenance or use of comparable multifamily properties, (ii) cleaning materials, household products, personal grooming items and other items sold in pre-packaged containers for consumer use and used by tenants and occupants of residential dwelling units in the Mortgaged Property; and (iii) petroleum products used in the operation and maintenance of motor vehicles from time to time located on the Mortgaged Property’s parking areas, so long as all of the foregoing are used, stored, handled, transported and disposed of in compliance with Hazardous Materials Laws.

(c) Borrower shall take all commercially reasonable actions (including the inclusion of appropriate provisions in any Leases executed after the date of this Instrument) to prevent its employees, agents, and contractors, and all tenants and other occupants from causing or permitting any Prohibited Activities or Conditions. Borrower shall not lease or allow the sublease or use of all or any portion of the Mortgaged Property to any tenant or subtenant for nonresidential use by any user that, in the ordinary course of its business, would cause or permit any Prohibited Activity or Condition.

(d) If and as required by Lender, Borrower shall also establish a written operations and maintenance program with respect to certain Hazardous Materials. Each such operations and maintenance program and any additional or revised operations and maintenance programs established for the Mortgaged Property pursuant to this Instrument must be approved by Lender and shall be referred to herein as an “**O&M Program**.” Borrower shall comply in a timely manner with, and cause all employees, agents, and contractors of Borrower and any other persons present on the Mortgaged Property to comply with each O&M Program. Borrower shall pay all costs of performance of Borrower’s obligations under any O&M Program, and any Beneficiary Party’s out-of-pocket costs incurred by such Beneficiary Party in connection with the monitoring and review of each O&M Program and Borrower’s performance shall be paid by Borrower upon demand by such Beneficiary Party. Any such out-of-pocket costs of such Beneficiary Party which Borrower fails to pay promptly shall become an additional part of the Indebtedness as provided in Section 12.

(e) Without limitation of the foregoing, (i) Borrower hereby agrees to implement and maintain during the entire term of the Loan the O&M Program(s), and (ii) if asbestos-containing materials are found to exist at the Mortgaged Property, the O&M Program with respect thereto shall be undertaken consistent with the Guidelines for Controlling Asbestos Containing Materials in Buildings (USEPA, 1985) and other relevant guidelines and applicable Hazardous Materials Laws.
(f) With respect to any O&M Program, Lender may require (i) periodic notices or reports to Lender in form, substance and at such intervals as Lender may reasonably specify; (ii) amendments to such O&M Program to address changing circumstances, laws or other matters, including, without limitation, variations in response to reports provided by environmental consultants; and (iii) execution of an Operations and Maintenance Agreement relating to such O&M Program satisfactory to Lender.

(g) Borrower represents and warrants to Beneficiary Parties that, except as otherwise disclosed in the Environmental Reports (as defined in the Agreement of Environmental Indemnification):

(i) Borrower has not at any time engaged in, caused or permitted any Prohibited Activities or Conditions;

(ii) to the best of Borrower’s knowledge after reasonable and diligent inquiry, no Prohibited Activities or Conditions exist or have existed, and Borrower has provided Lender with copies of all reports and information acquired in such inquiries;

(iii) the Mortgaged Property does not now contain any underground storage tanks and, to the best of Borrower’s knowledge, the Mortgaged Property has not contained any underground storage tanks in the past. If there is an underground storage tank located on the Mortgaged Property that has been disclosed in Exhibit A to the Agreement of Environmental Indemnification, that tank complies with all requirements of Hazardous Materials Laws;

(iv) Borrower has complied with and will continue to comply with all Hazardous Materials Laws, including all requirements for notification regarding releases of Hazardous Materials. Without limiting the generality of the foregoing, Borrower has obtained all Environmental Permits required for the operation of the Mortgaged Property in accordance with Hazardous Materials Laws now in effect and all such Environmental Permits are in full force and effect;

(v) no event has occurred with respect to the Mortgaged Property that constitutes, or with the passing of time or the giving of notice would constitute, noncompliance with the terms of any Environmental Permit or Hazardous Materials Law;

(vi) there are no actions, suits, claims or proceedings pending or, to the best of Borrower’s knowledge after reasonable and diligent inquiry, threatened that involve the Mortgaged Property and allege, arise out of, or relate to any Prohibited Activity or Condition;
(vii) Borrower has not received any complaint, order, notice of violation or other communication from any Governmental Authority with regard to air emissions, water discharges, noise emissions or Hazardous Materials, or any other environmental, health or safety matters affecting the Mortgaged Property or any other property of Borrower that is adjacent to the Mortgaged Property;

(viii) no prior Remedial Work (as defined below) has been undertaken, and no Remedial Work is ongoing, with respect to the Mortgaged Property during Borrower’s ownership thereof or, to the best of Borrower’s knowledge, at any time prior to Borrower’s ownership thereof; and

(ix) Borrower has disclosed in the Agreement of Environmental Indemnification all material facts known to Borrower or contained in Borrower’s records the nondisclosure of which could cause any representation or warranty made herein or any statement made in the Agreement of Environmental Indemnification to be false or materially misleading.

The representations and warranties in this Section 18 shall be continuing representations and warranties that shall be deemed to be made by Borrower throughout the term of the Loan, until the Indebtedness has been paid in full or otherwise discharged.

(h) Borrower shall promptly notify Lender in writing upon the occurrence of any of the following events:

(i) Borrower’s discovery of any Prohibited Activity or Condition;

(ii) Borrower’s receipt of or knowledge of any complaint, order, notice of violation or other communication from any tenant, management agent, Governmental Authority or other person with regard to present or future alleged Prohibited Activities or Conditions or any other environmental, health or safety matters affecting the Mortgaged Property or any other property of Borrower that is adjacent to the Mortgaged Property;

(iii) Borrower’s receipt of or knowledge of any personal injury claim, proceeding or cause of action directly or indirectly arising as a result of the presence of asbestos or other Hazardous Materials on or from the Mortgaged Property;

(iv) Borrower’s discovery that any representation or warranty in this Section 18 has become untrue after the date of this Instrument; and

(v) Borrower’s breach of any of its obligations under this Section 18.
Any such notice given by Borrower shall not relieve Borrower of, or result in a waiver of, any obligation under this Instrument, the Note, or any other Loan Document.

(i) Borrower shall pay promptly the costs of any environmental inspections, tests or audits (“Environmental Inspections”) required by Lender or any Beneficiary Party in connection with any foreclosure or deed in lieu of foreclosure, or as a condition of Lender’s consent to any Transfer under Section 21, or required by Lender following a determination by Lender that Prohibited Activities or Conditions may exist. Any such costs incurred by Lender (including, without limitation, fees and expenses of attorneys, expert witnesses, engineers, technical consultants and investigatory fees, whether incurred in connection with any judicial or administrative process or otherwise) that Borrower fails to pay promptly shall become an additional part of the Indebtedness as provided in Section 12. The results of all Environmental Inspections made by Lender shall at all times remain the property of Lender and Lender shall have no obligation to disclose or otherwise make available to Borrower or any other party such results or any other information obtained by Lender in connection with such Environmental Inspections. Lender hereby reserves the right, and Borrower hereby expressly authorizes Lender, to make available to any party, including any prospective bidder at a foreclosure sale of the Mortgaged Property, the results of any Environmental Inspections made by Lender with respect to the Mortgaged Property. Borrower consents to Lender notifying any party (either as part of a notice of sale or otherwise) of the results of any of Lender’s Environmental Inspections. Borrower acknowledges that Lender cannot control or otherwise assure the truthfulness or accuracy of the results of any of its Environmental Inspections and that the release of such results to prospective bidders at a foreclosure sale of the Mortgaged Property may have a material and adverse effect upon the amount which a party may bid at such sale. Borrower agrees that Lender shall have no liability whatsoever as a result of delivering the results of any of its Environmental Inspections to any third party, and Borrower hereby releases and forever discharges Lender from any and all claims, damages, or causes of action, arising out of, connected with or incidental to the results of, the delivery of any of Lender’s Environmental Inspections.

(j) If any investigation, site monitoring, containment, clean-up, restoration or other remedial work (“Remedial Work”) is necessary to comply with or cure a violation of any Hazardous Materials Law or order of any Governmental Authority that has or acquires jurisdiction over the Mortgaged Property or the use, operation or improvement of the Mortgaged Property under any Hazardous Materials Law, or is otherwise required by Lender as a consequence of any Prohibited Activity or Condition or to prevent the occurrence of a Prohibited Activity or Condition, Borrower shall, by the earlier of (i) the applicable deadline required by such Hazardous Materials Law or (ii) thirty (30) days after notice from Lender demanding such action, begin performing the Remedial Work, and thereafter diligently prosecute it to completion, and shall in any event complete the work by the time required by such Hazardous Materials Law. Borrower shall promptly provide Lender with a cost estimate from an environmental consultant acceptable to Lender to complete any required Remedial Work. If required by Lender, Borrower shall promptly establish with Lender a reserve fund in the amount of such estimate. If in Lender’s opinion the amount reserved at any time during the Remedial Work is
insufficient to cover the work remaining to complete the Remediation or achieve compliance, Borrower shall increase the amount reserved in compliance with Lender’s written request. All amounts so held in reserve, until disbursed, are hereby pledged to Lender as security for payment of Borrower’s obligations under this Instrument. If Borrower fails to begin on a timely basis or diligently prosecute any required Remedial Work, Lender may, at its option, cause the Remedial Work to be completed, in which case Borrower shall reimburse Lender on demand for the cost of doing so. Any reimbursement due from Borrower to Lender shall become part of the Indebtedness as provided in Section 12.

(k) Borrower shall comply with all Hazardous Materials Laws applicable to the Mortgaged Property. Without limiting the generality of the previous sentence, Borrower shall (i) obtain and maintain all Environmental Permits required by Hazardous Materials Laws and comply with all conditions of such Environmental Permits; (ii) cooperate with any inquiry by any Governmental Authority; and (iii) comply with any governmental or judicial order that arises from any alleged Prohibited Activity or Condition.

(l) BORROWER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND BENEFICIARY PARTIES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, EMPLOYEES, AGENTS, ATTORNEYS, TRUSTEES, HEIRS AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE “INDEMNITTEES”) FROM AND AGAINST ALL LOSSES, PROCEEDINGS, CLAIMS, DAMAGES, PENALTIES AND COSTS (WHETHER INITIATED OR SOUGHT BY GOVERNMENTAL AUTHORITIES OR PRIVATE PARTIES), INCLUDING, WITHOUT LIMITATION, FEES AND OUT-OF-POCKET EXPENSES OF ATTORNEYS AND EXPERT WITNESSES, ENGINEERING FEES, ENVIRONMENTAL CONSULTANT FEES, INVESTIGATORY FEES, AND REMEDIATION COSTS (INCLUDING, WITHOUT LIMITATION, ANY FINANCIAL ASSURANCES REQUIRED TO BE POSTED FOR COMPLETION OF REMEDIAL WORK AND COSTS ASSOCIATED WITH ADMINISTRATIVE OVERSIGHT), AND ANY OTHER LIABILITIES OF WHATEVER KIND AND WHATEVER NATURE, WHETHER INCURRED IN CONNECTION WITH ANY JUDICIAL OR ADMINISTRATIVE PROCESS OR OTHERWISE, ARISING DIRECTLY OR INDIRECTLY FROM ANY OF THE FOLLOWING:

(i) ANY BREACH OF ANY REPRESENTATION OR WARRANTY OF BORROWER IN THIS SECTION 18;

(ii) ANY FAILURE BY BORROWER TO PERFORM ANY OF ITS OBLIGATIONS UNDER THIS SECTION 18;

(iii) THE EXISTENCE OR ALLEGED EXISTENCE OF ANY PROHIBITED ACTIVITY OR CONDITION;

(iv) THE PRESENCE OR ALLEGED PRESENCE OF HAZARDOUS MATERIALS ON OR UNDER THE MORTGAGED PROPERTY
(v) THE ACTUAL OR ALLEGED VIOLATION OF ANY HAZARDOUS MATERIALS LAW;

(vi) ANY LOSS OR DAMAGE RESULTING FROM A LOSS OF PRIORITY OF THIS INSTRUMENT OR ANY OTHER LOAN DOCUMENT DUE TO AN IMPOSITION OF AN ENVIRONMENTAL LIEN AGAINST THE MORTGAGED PROPERTY; AND

(vii) ANY PERSONAL INJURY CLAIM, PROCEEDING OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY ARISING AS A RESULT OF THE PRESENCE OF ASBESTOS OR OTHER HAZARDOUS MATERIALS ON OR FROM THE MORTGAGED PROPERTY.

(m) COUNSEL SELECTED BY BORROWER TO DEFEND INDEMNITEES SHALL BE SUBJECT TO THE APPROVAL OF THOSE INDEMNITEES. IN ANY CIRCUMSTANCES IN WHICH THE INDEMNITY UNDER THIS SECTION 18 APPLIES, ANY BENEFICIARY PARTY MAY EMPLOY ITS OWN LEGAL COUNSEL AND CONSULTANTS TO PROSECUTE, DEFEND OR NEGOTIATE ANY CLAIM OR LEGAL OR ADMINISTRATIVE PROCEEDING AT BORROWER’S EXPENSE, AND SUCH BENEFICIARY PARTY, WITH THE PRIOR WRITTEN CONSENT OF BORROWER (WHICH SHALL NOT BE UNREASONABLY WITHELD, DELAYED OR CONDITIONED) MAY SETTLE OR COMPROMISE ANY ACTION OR LEGAL OR ADMINISTRATIVE PROCEEDING. BORROWER SHALL REIMBURSE SUCH BENEFICIARY PARTY UPON DEMAND FOR ALL COSTS AND EXPENSES INCURRED BY SUCH BENEFICIARY PARTY, INCLUDING, WITHOUT LIMITATION, ALL COSTS OF SETTLEMENTS ENTERED INTO IN GOOD FAITH, AND THE FEES AND OUT OF POCKET EXPENSES OF SUCH ATTORNEYS AND CONSULTANTS.

(n) BORROWER SHALL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THOSE INDEMNITEES WHO ARE NAMED AS PARTIES TO A CLAIM OR LEGAL OR ADMINISTRATIVE PROCEEDING (A “CLAIM”), SETTLE OR COMPROMISE THE CLAIM IF THE SETTLEMENT (1) RESULTS IN THE ENTRY OF ANY JUDGMENT THAT DOES NOT INCLUDE AS AN UNCONDITIONAL TERM THE DELIVERY BY THE CLAIMANT OR PLAINTIFF TO BENEFICIARY PARTIES OF A WRITTEN RELEASE OF THOSE INDEMNITEES, SATISFACTORY IN FORM AND SUBSTANCE TO LENDER; OR (2) MAY MATERIALLY AND ADVERSELY AFFECT BENEFICIARY PARTIES, AS DETERMINED BY LENDER IN ITS DISCRETION.
(o) BORROWER’S OBLIGATION TO INDEMNIFY THE INDEMNITEES SHALL NOT BE LIMITED OR IMPAIRED BY ANY OF THE FOLLOWING, OR BY ANY FAILURE OF BORROWER OR ANY GUARANTOR TO RECEIVE NOTICE OF OR CONSIDERATION FOR ANY OF THE FOLLOWING:

(i) ANY AMENDMENT OR MODIFICATION OF ANY LOAN DOCUMENT;

(ii) ANY EXTENSIONS OF TIME FOR PERFORMANCE REQUIRED BY ANY LOAN DOCUMENT;

(iii) ANY PROVISION IN ANY LOAN DOCUMENT LIMITING BENEFICIARY PARTIES’ RECURSE TO PROPERTY SECURING THE INDEBTEDNESS, OR LIMITING THE PERSONAL LIABILITY OF BORROWER OR ANY OTHER PARTY FOR PAYMENT OF ALL OR ANY PART OF THE INDEBTEDNESS;

(iv) THE ACCURACY OR INACCURACY OF ANY REPRESENTATIONS AND WARRANTIES MADE BY BORROWER UNDER THIS INSTRUMENT OR ANY OTHER LOAN DOCUMENT;

(v) THE RELEASE OF BORROWER OR ANY OTHER PERSON, BY BENEFICIARY PARTIES OR BY OPERATION OF LAW, FROM PERFORMANCE OF ANY OBLIGATION UNDER ANY LOAN DOCUMENT;

(vi) THE RELEASE OR SUBSTITUTION IN WHOLE OR IN PART OF ANY SECURITY FOR THE INDEBTEDNESS; AND

(vii) FAILURE BY BENEFICIARY PARTIES TO PROPERLY PERFECT ANY LIEN OR SECURITY INTEREST GIVEN AS SECURITY FOR THE INDEBTEDNESS.

(p) BORROWER SHALL, AT ITS OWN COST AND EXPENSE, DO ALL OF THE FOLLOWING:

(i) PAY OR SATISFY ANY JUDGMENT OR DECREES THAT MAY BE ENTERED AGAINST ANY INDEMNITEE OR INDEMNITEES IN ANY LEGAL OR ADMINISTRATIVE PROCEEDING INCIDENT TO ANY MATTERS AGAINST WHICH INDEMNITEES ARE ENTITLED TO BE INDEMNIFIED UNDER THIS SECTION 18;

(ii) REIMBURSE INDEMNITEES FOR ANY AND ALL EXPENSES PAID OR INCURRED IN CONNECTION WITH
ANY MATTERS AGAINST WHICH INDEMNITEES ARE
ENTITLED TO BE INDEMNIFIED UNDER THIS SECTION 18;
AND

(iii) REIMBURSE INDEMNITEES FOR ANY AND ALL
EXPENSES, INCLUDING, WITHOUT LIMITATION, FEES
AND OUT OF POCKET EXPENSES OF ATTORNEYS AND
EXPERT WITNESSES, PAID OR INCURRED IN
CONNECTION WITH THE ENFORCEMENT BY
INDEMNITEES OF THEIR RIGHTS UNDER THIS SECTION
18, OR IN MONITORING AND PARTICIPATING IN ANY
LEGAL OR ADMINISTRATIVE PROCEEDING.

(q) THE PROVISIONS OF THIS SECTION 18 SHALL BE IN ADDITION
TO ANY AND ALL OTHER OBLIGATIONS AND LIABILITIES THAT
BORROWER MAY HAVE UNDER APPLICABLE LAW OR UNDER ANY OTHER
LOAN DOCUMENT, AND EACH INDEMNITEE SHALL BE ENTITLED TO
INDEMNIFICATION UNDER THIS SECTION 18 WITHOUT REGARD TO
WHETHER ANY OTHER BENEFICIARY PARTY OR THAT INDEMNITEE HAS
EXERCISED ANY RIGHTS AGAINST THE MORTGAGED PROPERTY OR ANY
OTHER SECURITY, PURSUED ANY RIGHTS AGAINST ANY GUARANTOR, OR
PURSUED ANY OTHER RIGHTS AVAILABLE UNDER THE LOAN DOCUMENTS
OR APPLICABLE LAW. IF BORROWER CONSISTS OF MORE THAN ONE
PERSON OR ENTITY, THE OBLIGATION OF THOSE PERSONS OR ENTITIES TO
INDEMNIFY THE INDEMNITEES UNDER THIS SECTION 18 SHALL BE JOINT
AND SEVERAL. THE OBLIGATION OF BORROWER TO INDEMNIFY THE
INDEMNITEES UNDER THIS SECTION 18 SHALL SURVIVE ANY REPAYMENT
OR DISCHARGE OF THE INDEBTEDNESS, ANY FORECLOSURE PROCEEDING,
ANY FORECLOSURE SALE, ANY DELIVERY OF ANY DEED IN LIEU OF
FORECLOSURE, AND ANY RELEASE OF RECORD OF THE LIEN OF THIS
INSTRUMENT.

(r) Notwithstanding anything herein to the contrary, (i) Borrower shall have
no obligation hereunder to indemnify any Indemnitee for any liability under this
Section 18 to the extent that the Prohibited Activity or Condition giving rise to such
liability resulted solely from the gross negligence or willful misconduct of such
Indemnitee, and (ii) Borrower’s liability under this Section 18 shall not extend to cover
the violation of any Hazardous Materials Laws or Prohibited Activities or Conditions that
first arise, commence or occur as a result of actions of Lender, its successors, assigns or
designees, after the satisfaction, discharge, release, assignment, termination or
cancellation of this Instrument following the payment in full of the Note and all other
sums payable under the Loan Documents or after the actual dispossession from the entire
Mortgaged Property of Borrower and all Affiliates of Borrower following foreclosure of
this Instrument or acquisition of the Mortgaged Property by a deed in lieu of foreclosure.

19. PROPERTY AND LIABILITY INSURANCE.
(a) Borrower shall keep the Improvements insured at all times against such hazards as Lender may from time to time require, which insurance shall include but not be limited to coverage against loss by fire and allied perils, general boiler and machinery coverage, business income coverage and extra expense insurance, coverage against acts of terrorism, mold and earthquake coverage. Borrower acknowledges and agrees that Lender’s insurance requirements may change from time to time throughout the term of the Indebtedness. If Lender so requires, such insurance shall also include sinkhole insurance, mine subsidence insurance, earthquake insurance, and, if the Mortgaged Property does not conform to applicable zoning or land use laws, building ordinance or law coverage. If any portion of the Improvements is at any time located in an area identified by the Federal Emergency Management Agency (or any successor to that agency) as an area now or hereafter having special flood hazards, and if flood insurance is available in that area, Borrower shall insure such Improvements against loss by flood in an amount equal to the maximum amount available under the National Flood Insurance Program or any successor thereto.

(b) All premiums on insurance policies required under Section 19(a) shall be paid in the manner provided in Section 7, unless Lender has designated in writing another method of payment. All such policies shall also be in a form approved by Lender. All policies of property damage insurance shall include a non-contributing, non-reporting mortgage clause in favor of, and in a form approved by, Lender. Lender shall have the right to hold the original policies or duplicate original policies of all insurance required by Section 19(a). Borrower shall promptly deliver to Lender a copy of all renewal and other notices received by Borrower with respect to the policies and all receipts for paid premiums. At least 30 days prior to the expiration date of a policy, Borrower shall deliver to Lender the original (or a duplicate original) of a renewal policy in form satisfactory to Lender.

(c) All insurance policies and renewals of insurance policies required by this Section 19 shall be in such amounts and for such periods as Lender may from time to time require consistent with Lender’s then current practices and standards, and shall be issued by insurance companies satisfactory to Lender.

(d) From and after the Conversion Date, all insurance policies and renewals of insurance policies required by this Section 19 shall also comply with any applicable Credit Enhancer Insurance Standards. During any period of construction and/or rehabilitation, and at all times prior to occupancy of the Project by any tenants following the completion of the construction and/or rehabilitation of the Project in accordance with the Loan Agreement, the following provisions shall apply, in addition to the other provisions of this Section 19 and without limiting the generality of the other provisions of this Section 19:

(i) Borrower shall provide (or cause to be provided), maintain and keep in force, the following insurance coverage:

(A) Builder’s “all risk” insurance or the equivalent coverage, including theft, to insure all buildings, machinery,
equipment, materials, supplies, temporary structures and all other property of any nature on-site, off-site and while in transit which is to be used in fabrication, erection, installation and construction and/or rehabilitation of the Project, and to remain in effect until the entire Project has been completed and accepted by Borrower and is first occupied by any tenants (provided that in any event, such coverage shall remain in effect until such time as Borrower has provided Lender with evidence of property insurance covering the Improvements and meeting the requirements of this Section 19). Such insurance shall be provided on a replacement cost value basis and shall include foundations, other underground property, tenant improvements and personal property. If tenant improvements and personal property are not included in the above coverage, they may be insured separately by Borrower provided coverage is acceptable to Lender. Builders “all risk” insurance shall (i) be on a nonreporting, completed value form, (ii) cover soft costs, debris removal expense (including removal of pollutants), resulting loss and damage to property due to faulty or defective workmanship or materials and error in design or specification, loss while the property is in the care, custody and control of others to whom the property may be entrusted, (iii) provide that Borrower can complete and occupy the Mortgaged Property without further written consent from the insurer, and (iv) cover loss of income resulting from delay in occupancy and use of the Mortgaged Property due to loss. During the initial construction and/or rehabilitation of the Project and until such time as the Project is first occupied by any tenants, the Borrower shall not be required to maintain property insurance as required by this Section 19 for so long as Builder’s “all risk” insurance or equivalent coverage is maintained in accordance with this paragraph.

(B) If any portion of the Mortgaged Property is or becomes located in an area identified by the United States Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973, as amended, Borrower shall also keep the improvements and the equipment located thereon insured against loss by flood in an amount at least equal to the principal amount of the Loan or the maximum limits of coverage available with respect to the Mortgaged Property, whichever is less. All
such insurance shall also cover continuing expenses not directly involved in the direct cost of construction, rehabilitation or renovation, including interest on money borrowed to finance construction, rehabilitation or renovation, continuing interest on the Loan, advertising, promotion, real estate taxes and other assessments, the cost of renegotiating leases, and other expenses incurred as the result of property loss or destruction by the insured peril. Such coverage shall not contain any monthly limitation.

(ii) If Lender fails to receive proof and evidence of the insurance required hereunder, Lender shall have the right, but not the obligation, to obtain or cause to be obtained current coverage and to make a Disbursement, as defined in the Loan Agreement (or, in its sole discretion, advance funds) to pay the premiums for it. If Lender makes an advance for such purpose, Borrower shall repay such advance immediately on demand and such advance shall be considered to be a demand loan to Borrower bearing interest at the Default Rate (as defined in the Note) and secured by the Mortgaged Property.

(e) Borrower shall maintain at all times commercial general liability insurance, workers’ compensation insurance and such other liability, errors and omissions and fidelity insurance coverages as Lender may from time to time require, consistent with Lender’s then current practices and standards (and from and after the Conversion Date, any applicable Credit Enhancer Insurance Standards).

(f) Borrower shall comply with all insurance requirements and shall not permit any condition to exist on the Mortgaged Property that would invalidate any part of any insurance coverage that this Instrument requires Borrower to maintain.

(g) In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and appoints Lender as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claims under policies of property damage insurance, to appear in and prosecute any action arising from such property damage insurance policies, to collect and receive the proceeds of property damage insurance, and to deduct from such proceeds Lender’s expenses incurred in the collection of such proceeds. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 19 shall require Lender to incur any expense or take any action. Lender may, at Lender’s option, (i) hold the balance of such proceeds to be used to reimburse Borrower for the cost of restoring and repairing the Mortgaged Property to the equivalent of its original condition or to a condition approved by Lender (the “Restoration”), or (ii) apply the balance of such proceeds to the payment of the Indebtedness, whether or not then due. To the extent Lender determines to apply insurance proceeds to Restoration, Lender shall apply the proceeds in accordance with Lender’s then-current policies relating to the restoration of casualty damage on similar multifamily properties.
(h) Lender shall not exercise its option to apply insurance proceeds to the payment of the Indebtedness if all of the following conditions are met: (i) no Event of Default (or any event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing; (ii) Lender determines, in its discretion, that there will be sufficient funds to complete the Restoration (and complete construction of the Project in accordance with the Loan Agreement and the Plans and Specifications, as defined therein, if such construction has not been completed at such time); (iii) Lender determines, in its discretion, that the net operating income generated by the Mortgaged Property after completion of the Restoration will be sufficient to meet all operating costs and other expenses, Imposition Deposits, deposits to reserves and loan repayment obligations relating to the Mortgaged Property; (iv) Lender determines, in its discretion, that the Restoration will be completed before the earlier of (A) one year before the Maturity Date set forth in the Note, (B) one year before the Outside Conversion Date, as defined in the Loan Agreement, if Conversion, as defined in the Loan Agreement, has not yet occurred, or (C) one year after the date of the loss or casualty; and (v) upon Lender’s request, Borrower provides Lender evidence of the availability during and after the Restoration of the insurance required to be maintained pursuant to this Instrument.

(i) If the Mortgaged Property is sold at a foreclosure sale or Lender acquires title to the Mortgaged Property, Lender shall automatically succeed to all rights of Borrower in and to any insurance policies and unearned insurance premiums and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

(j) Unless Lender otherwise agrees in writing, any application of any insurance proceeds to the Indebtedness shall not extend or postpone the due date of any monthly installments referred to in the Note, Section 7 of this Instrument or any Collateral Agreement, or change the amount of such installments, except as provided in the Note.

(k) Borrower agrees to execute such further evidence of assignment of any insurance proceeds as Lender may require.

(l) Borrower further agrees that to the extent that Borrower obtains any form of property damage insurance for the Mortgaged Property or any portion thereof that insures perils not required to be insured against by Lender, such policy of property damage insurance shall include a standard mortgagee clause and shall name Lender as loss payee and, within ten (10) days following Borrower’s purchase of such additional insurance, Borrower shall cause to be delivered to Lender a duplicate original policy of insurance with respect to such policy. Any insurance proceeds payable to Borrower under such policy shall be additional security for the Indebtedness and Lender shall have the same rights to such policy and proceeds as it has with respect to insurance policies required by Lender pursuant to this Section 19 (except that Lender shall not require that the premium for such additional insurance be included among the Imposition Deposits).

20. **CONDEMNATION.**
(a) Borrower shall promptly notify Lender in writing of any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a “Condemnation”), and shall deliver to the Lender copies of any and all papers served in connection with such Condemnation. Borrower shall appear in and prosecute or defend any action or proceeding relating to any Condemnation unless otherwise directed by Lender in writing. Borrower authorizes and appoints Lender as attorney-in-fact for Borrower to commence, appear in and prosecute, in Lender’s or Borrower’s name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 20 shall require Lender to incur any expense or take any action. Borrower hereby transfers and assigns to Lender all right, title and interest of Borrower in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.

(b) Lender may apply such awards or proceeds, after the deduction of Lender’s expenses incurred in the collection of such amounts (including, without limitation, fees and out-of-pocket expenses of attorneys and expert witnesses, investigatory fees, whether incurred in connection with any judicial or administrative process or otherwise), at Lender’s option, to the restoration or repair of the Mortgaged Property or to the payment of the Indebtedness in accordance with the provisions of the Note as to application of payments to the Indebtedness, with the balance, if any, to Borrower. Unless Lender otherwise agrees in writing, any application of any awards or proceeds to the Indebtedness shall not extend or postpone the due date of payments due under the Note, Section 7 of this Instrument or any Collateral Agreement or any other Loan Document, or change the amount of such payments, except as otherwise provided in the Note. Borrower agrees to execute such further evidence of assignment of any awards or proceeds as Lender may require.

21. TRANSFERS OF THE MORTGAGED PROPERTY OR INTERESTS IN BORROWER.

(a) The occurrence of any of the following events shall constitute an Event of Default under this Instrument:

   (i) other than the lien of this Instrument and the Permitted Encumbrances, a Transfer of all or any part of the Mortgaged Property or any interest in the Mortgaged Property;

   (ii) a Transfer of a Controlling Interest in Borrower;

   (iii) a Transfer of a Controlling Interest in any entity which owns, directly or indirectly through one or more intermediate entities, a Controlling Interest in Borrower;
(iv) a Transfer of all or any part of a Guarantor’s ownership interests in Borrower, or in any other entity which owns, directly or indirectly through one or more intermediate entities, an ownership interest in Borrower (other than a Transfer of an aggregate beneficial ownership interest in Borrower of 49% or less of such Guarantor’s original ownership interest in Borrower and which does not otherwise result in a Transfer of the Guarantor’s Controlling Interest in such intermediate entities or in Borrower);

(v) if Guarantor is an entity, (A) a Transfer of a Controlling Interest in Guarantor, or (B) a Transfer of a Controlling Interest in any entity which owns, directly or indirectly through one or more intermediate entities, a Controlling Interest in Guarantor;

(vi) if Borrower or Guarantor is a trust, the termination or revocation of such trust; unless the trust is terminated as a result of the death of an individual trustor, in which event Lender must be notified and such Borrower or Guarantor must be replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 21(c) hereof, within 90 days of such death (provided however that no property inspection shall be required and a 1% transfer fee will not be charged);

(vii) if Guarantor is a natural person, the death of such individual; unless the Lender is notified and such individual is replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 21(c) hereof, within 90 days of such death (provided however that no property inspection shall be required and a 1% transfer fee will not be charged);

(viii) the merger, dissolution, liquidation, or consolidation of (i) Borrower, (ii) any Guarantor that is a legal entity, or (iii) any legal entity holding, directly or indirectly, a Controlling Interest in Borrower or in any Guarantor that is an entity;

(ix) a conversion of Borrower from one type of legal entity into another type of legal entity (including the conversion of a general partnership into a limited partnership and the conversion of a limited partnership into a limited liability company), whether or not there is a Transfer; if such conversion results in a change in any assets, liabilities, legal rights or obligations of Borrower (or of any Guarantor, or any general partner of Borrower, as applicable), by operation of law or otherwise;

(x) a Transfer of the economic benefits or right to cash flows attributable to the ownership interests in Borrower and/or, if Guarantor is an entity, Guarantor, separate from the Transfer of the
underlying ownership interests, unless the Transfer of the underlying ownership interests would otherwise not be prohibited by this Instrument; and

(xii) the filing, recording, or consent to filing or recording of any plat or map subdividing, replatting or otherwise affecting the Mortgaged Property or any other replat or subdivision of the Mortgaged Property, whether or not any such action affects the priority of the lien of this Instrument.

Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default in order to exercise any of its remedies with respect to an Event of Default under this Section 21.

(b) The occurrence of any of the following events shall not constitute an Event of Default under this Instrument, notwithstanding any provision of Section 21(a) to the contrary (each a “Permitted Transfer”):

(i) a Transfer to which Lender has consented;

(ii) except as provided in Section 21(a)(vi) and (vii), a Transfer that occurs by devise, descent, pursuant to the provisions of a trust, or by operation of law upon the death of a natural person;

(iii) the grant of a leasehold interest in an individual dwelling unit for a term of two years or less not containing an option to purchase;

(iv) a Transfer of obsolete or worn out Personalty or Fixtures that are contemporaneously replaced by items of equal or better function and quality, which are free of liens, encumbrances and security interests other than those created by or permitted pursuant to the Loan Documents or consented to by Lender;

(v) the grant of an easement, servitude, or restrictive covenant if, before the grant, Lender determines in its reasonable judgment that the easement, servitude, or restrictive covenant will not materially affect the operation or value of the Mortgaged Property or Lender’s interest in the Mortgaged Property, and Borrower pays to Lender, upon demand, all costs and expenses incurred by Lender in connection with reviewing Borrower’s request; provided, however, utility easements of a type usually permitted or required to operate a multifamily project in the Property Jurisdiction (such as, by way of example, gas, sewer and electricity supplier easements and easements to provide cable service) shall be deemed to be Permitted Transfers without the need for Lender’s prior review or determination so long as (A) such easement does not obligate Borrower to incur any additional costs, (B) such easement does not
grant the grantee of the easement the option to acquire any other estate in the Mortgaged Property, and (C) Lender is not obligated to subordinate the lien of this Security Instrument to the proposed easement;

(vi) the creation of a mechanic’s, materialman’s, or judgment lien against the Mortgaged Property which is released of record or otherwise remedied to Lender’s satisfaction within 45 days after Borrower has actual or constructive notice of the existence of such lien; and

(vii) the conveyance of the Mortgaged Property at a judicial or non-judicial foreclosure sale under this Instrument.

(c) Lender shall consent to a Transfer that would otherwise violate this Section 21 if, prior to the Transfer, Borrower has satisfied each of the following requirements:

(i) the submission to Lender of all information required by Lender to make the determination required by this Section 21(c);

(ii) the absence of any Event of Default;

(iii) the transferee meets all of the eligibility, credit, management and other standards (including any standards with respect to previous relationships between Lender and the transferee and the organization of the transferee) customarily applied by Lender at the time of the proposed Transfer to the approval of borrowers in connection with the origination or purchase of similar mortgage finance structures on similar multifamily properties, unless partially waived by Lender in exchange for such additional conditions as Lender may require;

(iv) the Mortgaged Property, at the time of the proposed Transfer, meets all standards as to its physical condition, that are customarily applied by Lender at the time of the proposed Transfer to the approval of properties in connection with the origination or purchase of similar mortgage finance structures on similar multifamily properties, unless partially waived by Lender in exchange for such additional conditions as Lender may require;

(v) if the transferor or any other person has obligations under any Loan Document, the execution by the transferee or one or more individuals or entities acceptable to Lender of an assumption agreement that is acceptable to Lender and that, among other things, requires the transferee to perform all obligations of transferor or such person set forth in the Loan Documents, and
may require that the transferee comply with any provisions of this Instrument or any other Loan Document which previously may have been waived by Lender;

(vi) if a guaranty has been executed and delivered by the transferor in connection with the Note, this Instrument or any of the other Loan Documents, Borrower causes one or more individuals or entities acceptable to Lender to execute and deliver to Lender a substitute guaranty in a form acceptable to Lender;

(vii) Lender’s receipt of all of the following:

(A) a non-refundable review fee in the amount of $3,000, and a transfer fee equal to one percent (1%) of the outstanding Indebtedness immediately prior to the Transfer; and

(B) Borrower’s reimbursement of all of Lender’s out-of-pocket costs (including, reasonable attorneys’ fees) incurred in reviewing the Transfer request, to the extent such expenses exceed $3,000; and

(viii) Borrower has agreed to Lender’s conditions to approve such Transfer, which may include, but are not limited to (A) providing additional collateral, guaranties, or other credit support to mitigate any risks concerning the proposed transferee or the performance or condition of the Mortgaged Property, and (B) amending the Loan Documents to (1) delete any specially negotiated terms or provisions previously granted for the exclusive benefit of transferor and (2) restore to original provisions of the standard Lender forms of multifamily loan documents, to the extent such provisions were previously modified.

(d) For purposes of this Section, the following terms shall have the meanings set forth below:

(i) A Transfer of a “Controlling Interest” shall mean:

(A) with respect to any entity, the following:

(1) if such entity is a general partnership or a joint venture, a Transfer of any general partnership interest or joint venture interest which would cause the Initial Owners to own less than a Controlling Percentage of all general partnership or joint venture interests in such entity;

(2) if such entity is a limited partnership, (A) a Transfer of any general partnership interest, or (B) a Transfer of any
partnership interests which would cause the Initial Owners to own
less than a Controlling Percentage of all limited partnership
interests in such entity;

(3) if such entity is a limited liability company or a
limited liability partnership, (A) a Transfer of any membership or
other ownership interest which would cause the Initial Owners to
own less than a Controlling Percentage of all membership or other
ownership interests in such entity, (B) a Transfer of any
membership, or other interest of a manager, in such entity that
results in a change of manager, or (C) a change of the non-member
manager;

(4) if such entity is a corporation (other than a
Publicly-Held Corporation) with only one class of voting stock, a
Transfer of any voting stock which would cause the Initial Owners
to own less than a Controlling Percentage of voting stock in such
corporation;

(5) if such entity is a corporation (other than a
Publicly-Held Corporation) with more than one class of voting
stock, a Transfer of any voting stock which would cause the Initial
Owners to own less than a sufficient number of shares of voting
stock having the power to elect the majority of directors of such
corporation; and

(6) if such entity is a trust (other than a Publicly-Held
Trust), the removal, appointment or substitution of a trustee of
such trust other than (A) in the case of a land trust, or (B) if the
trustee of such trust after such removal, appointment, or
substitution is a trustee identified in the trust agreement approved
by Lender; and/or

(B) any agreement (including provisions contained in the
organizational and/or governing documents of Borrower or
Guarantor) or Transfer not specified in clause (A), the effect of
which, either immediately or after the passage of time or
occurrence of a specified event or condition, including the failure
of a specified event or condition to occur or be satisfied, would
(i) cause a change in or replacement of the Person that controls the
management and operations of the Borrower or Guarantor or
(ii) limit or otherwise modify the extent of such Person’s control
over the management and operations of Borrower or Guarantor.

(ii) “Controlling Percentage” shall mean (i) greater than 50% of the
ownership interests in an entity, or (ii) a percentage ownership
interest in an entity of 50% or less if the owner(s) of that interest

Deed of Trust

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actually direct(s) the business and affairs of the entity without requirement of consent of any other party.

(iii) “Publicly-Held Corporation” shall mean a corporation the outstanding voting stock of which is registered under Section 12(b) or 12(g) of the Securities and Exchange Act of 1934, as amended.

(iv) “Publicly-Held Trust” shall mean a real estate investment trust the outstanding voting shares or beneficial interests of which are registered under Section 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended.

(e) Lender shall be provided with written notice of all Transfers under this Section 21, whether or not such Transfers are permitted under Section 21(b) or approved by Lender under Section 21(c), no later than 10 days prior to the date of the Transfer.

22. EVENTS OF DEFAULT. The occurrence of any one or more of the following shall constitute an Event of Default under this Instrument:

(a) (i) any failure by Borrower to pay or deposit any payment of principal, interest, principal reserve fund deposit, any payment with a specified due date, or any other scheduled payment or deposit required by the Note, this Instrument or any other Loan Document when such payment or deposit is due or (ii) any failure by Borrower to pay or deposit any unscheduled payment or deposit, or other payment or deposit without a specified due date, required by the Note, this Instrument or any other Loan Document, within five (5) days after written notice from Lender;

(b) any failure by Borrower to maintain the insurance coverage required by Section 19;

(c) any failure by Borrower to comply with the provisions of Section 32;

(d) fraud or material misrepresentation or material omission by Borrower or Guarantor, any of their respective officers, directors, trustees, general partners, managing members, managers, agents or representatives in connection with (i) the application for the Loan, (ii) any financial statement, rent roll, or other report or information provided to Lender during the term of the Indebtedness, or (iii) any request for Lender’s consent to any proposed action, including a request for disbursement of funds under any Collateral Agreement;

(e) any of Borrower’s representations and warranties in this Instrument is false or misleading in any material respect;

(f) any Event of Default under Section 21;

(g) the commencement of a forfeiture action or proceeding, whether civil or criminal, which, in Lender’s judgment, could result in a forfeiture of the Mortgaged
Property or otherwise materially impair the lien created by this Instrument or Lender’s interest in the Mortgaged Property;

(h) any failure by Borrower to perform or comply with any of its obligations under this Instrument (other than those specified in this Section 22), as and when required, which continues for a period of thirty (30) days after written notice of such failure by Lender to Borrower; provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period, not to exceed sixty (60) days. However, no such notice or grace period shall apply to the extent such failure could, in Lender’s judgment, absent immediate exercise by Lender of a right or remedy under this Instrument, result in harm to Lender, impairment of the Note or this Instrument or any other security given under any other Loan Document;

(i) any failure by Borrower or any Guarantor to perform any of its obligations as and when required under any Loan Document other than this Instrument which continues beyond the applicable notice and cure period, if any, specified in that Loan Document;

(j) any exercise by the holder of any debt instrument secured by a mortgage, deed of trust or deed to secure debt on the Mortgaged Property of a right to declare all amounts due under that debt instrument immediately due and payable;

(k) the occurrence of a Bankruptcy Event;

(l) any Event of Default (as defined in any of the Loan Documents), which continues beyond the expiration of any applicable cure period;

(m) any breach of, or event of default by Borrower under, any other document or agreement relating to the Loan or the provision of low income housing tax credits to the Mortgaged Property to which Borrower is a party, which continues beyond the expiration of any applicable notice and cure period thereunder;

(n) any failure by Borrower or the Project to qualify for low income housing tax credits pursuant to the provisions of Section 42 of the Internal Revenue Code;

(o) any failure by the Borrower to satisfy the Conditions to Conversion on or before the Outside Conversion Date (as such date may be extended in accordance with the Loan Agreement);

(p) any amendment, modification, waiver or termination of any of the provisions of Borrower’s Organizational Documents without the prior written consent of Lender, other than (i) modifications necessary to reflect the occurrence of a Permitted Transfer or (ii) modifications that do not: (A) impose any additional or greater
obligations on Borrower or any of the partners, managers or members of Borrower, (B) reduce or relieve Borrower or any of the partners, managers or members of Borrower of any of their obligations, (C) modify the timing, amounts, number, conditions or other terms of the installments or other payment obligations of the partners or members of Borrower or (D) impair the collateral for the Loan; provided, however, that Borrower shall promptly provide to Lender a copy of any modifications to Borrower’s Organizational Documents that do not require Lender’s consent;

(q) (i) any breach of any Material Property Agreement by Borrower or its officers, directors, employees, agents or tenants that continues beyond any applicable notice and cure period; (ii) any failure by Borrower or its officers, directors, employees or agents or any other party to deliver concurrently (in case of notices given) or promptly (in case of notices received) copies of any and all notices received or given thereby to Lender with respect to any Material Property Agreement; or (iii) any breach of the representations, warranties, or covenants set forth in Section 7.1.61 of the Loan Agreement;

(r) if Borrower or any Guarantor is a trust, the termination or revocation of any such trust; unless the trust is terminated as a result of the death of an individual trustor, in which event Lender must be notified and such Borrower or Guarantor must be replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 21(c) hereof, within 90 days of such death (provided however that no property inspection shall be required and a 1% transfer fee will not be charged); or

(s) if any Guarantor is a natural person, the death of such individual; unless the Lender is notified and such individual is replaced with an individual or entity acceptable to Lender, in accordance with the provisions of Section 21(c) hereof, within 90 days of such death (provided however that no property inspection shall be required and a 1% transfer fee will not be charged).

23. REMEDIES CUMULATIVE. Each right and remedy provided in this Instrument is distinct from all other rights or remedies under this Instrument or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

24. FORBEARANCE.

(a) Lender may (but shall not be obligated to) agree with Borrower, from time to time, and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of, any guarantor or other third party obligor, to take any of the following actions: extend the time for payment of all or any part of the Indebtedness; reduce the payments due under this Instrument, the Note, or any other Loan Document; release anyone liable for the payment of any amounts under this Instrument, the Note, or any other Loan Document; accept a renewal of the Note; modify the terms and time of payment of the Indebtedness; join in any extension or subordination agreement; release any Mortgaged Property; take or release other or additional security; modify the rate of interest or period of amortization of the Note or change the amount of the monthly
installments payable under the Note; and otherwise modify this Instrument, the Note, or any other Loan Document.

(b) Any forbearance by Lender in exercising any right or remedy under the Note, this Instrument, or any other Loan Document 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 acceptance by Lender of payment of all or any part of the Indebtedness after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender’s right to require prompt payment when due of all other payments on account of the Indebtedness or to exercise any remedies for any failure to make prompt payment. Enforcement by Lender of any security for the Indebtedness shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right available to Lender. Lender’s receipt of any awards or proceeds under Sections 19 and 20 shall not operate to cure or waive any Event of Default.

25. WAIVER OF STATUTE OF LIMITATIONS. BORROWER HEREBY WAIVES THE RIGHT TO ASSERT ANY STATUTE OF LIMITATIONS AS A BAR TO THE ENFORCEMENT OF THE LIEN OF THIS INSTRUMENT OR TO ANY ACTION BROUGHT TO ENFORCE ANY LOAN DOCUMENT.

26. WAIVER OF MARSHALLING. Notwithstanding the existence of any other security interests in the Mortgaged Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Instrument, the Note, any other Loan Document or applicable law. Lender shall have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of such remedies. Borrower and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Instrument waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Instrument.

27. FURTHER ASSURANCES. Borrower shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements or amendments, transfers and assurances as Lender may require from time to time in order to better assure, grant, and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Instrument and the Loan Documents. In furtherance thereof, on the request of Lender, Borrower shall re-execute or ratify any of the Loan Documents or execute any other documents or take such other actions as may be necessary to effect the assignment, pledge or other transfer of the Loan to any party that may purchase, insure, credit enhance or otherwise finance all or any part of the Loan, including, without limitation, any Credit Enhancer (including Freddie Mac or Fannie Mae), the U.S. Department of Housing and Urban Development, or any insurance company, conduit lender or any other lender or investor. Notwithstanding the foregoing sentence, in no event shall Borrower be required to execute and deliver any document or perform any act otherwise required
pursuant to the foregoing sentence to the extent such document or act imposes a material additional obligation or liability on Borrower or materially adversely affects the rights of Borrower under any Loan Document.

28. **ESTOPPEL CERTIFICATE.** Within 10 days after a request from Lender, Borrower shall deliver to Lender a written statement, signed and acknowledged by Borrower, certifying to Lender or any person designated by Lender, as of the date of such statement, (i) that the Loan Documents are unmodified and in full force and effect (or, if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications); (ii) the unpaid principal balance of the Note; (iii) the date to which interest under the Note has been paid; (iv) that Borrower is not in default in paying the Indebtedness or in performing or observing any of the covenants or agreements contained in this Instrument or any of the other Loan Documents (or, if Borrower is in default, describing such default in reasonable detail); (v) whether or not there are then existing any setoffs or defenses known to Borrower against the enforcement of any right or remedy of Lender under the Loan Documents; and (vi) any additional facts requested by Lender.

29. **GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.**

   (a) This Instrument, and any Loan Document which does not itself expressly identify the law that is to apply to it, shall be governed by the laws of the Property Jurisdiction.

   (b) Borrower agrees that any controversy arising under or in relation to the Note, this Instrument, or any other Loan Document may be litigated in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have jurisdiction over all controversies that shall arise under or in relation to the Note, any security for the Indebtedness, or any other Loan Document. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing in this Section 29 is intended to limit Lender’s right to bring any suit, action or proceeding relating to matters arising under this Instrument in any court of any other jurisdiction.

30. **NOTICE.**

   (a) All notices, demands and other communications (“notice”) under or concerning this Instrument shall be in writing and addressed as set forth below. Each notice shall be deemed given on the earliest to occur of (i) the date when the notice is received by the addressee; (ii) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (iii) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested.

If to Borrower: Kaia Pointe, LLC
421 West 3rd Street, Suite 1504
Austin, Texas 78701
Attention: Lisa Stephens

With a copy to: Shutts & Bowen LLP
200 South Biscayne Boulevard, Suite 4100
Miami, Florida 33131
Attention: Robert Cheng
Facsimile: (305) 347-7783

With a copy to: Mark Ragsdale
330 Glendale Road
Hillsborough, California 95010

With a copy to: VLP Law Group
548 Market Street
San Francisco, California 94104
Attention: Bryon Rodriguez, Esq.
Facsimile: (415)-685-4866

If to Lender: Citibank, N.A.
388 Greenwich Street, 8th Floor
New York, New York 10013
Attention: Transaction Management Group
Re: Kaia Pointe Apartments Deal ID No. 24855
Facsimile: (212) 723-8209

With a copy to: Citibank, N.A.
325 East Hillcrest Drive, Suite 160
Thousand Oaks, California 91360
Attention: Operations Manager/Asset Manager
Re: Kaia Pointe Apartments Deal ID No. 24855
Facsimile: (805) 557-0924

Prior to the Conversion Date, with a copy to: Citibank, N.A.
388 Greenwich Street, 8th Floor
New York, New York 10013
Attention: Account Specialist
Re: Kaia Pointe Apartments Deal ID No. 24855
Facsimile: (212) 723-8209
Following the Conversion Date, with a copy to: Citibank N.A. c/o Berkadia Commercial Servicing Department 323 Norristown Road, Suite 300 Ambler, Pennsylvania 19002 Attention: Client Relations Manager Re: Kaia Pointe Apartments Deal ID No. 24855 Facsimile: (215) 328-0305

And a copy of any notices of default sent to: Citibank, N.A. 388 Greenwich Street New York, New York 10013 Attention: General Counsel’s Office Re: Kaia Pointe Apartments Deal ID No. 24855 Facsimile: (646) 291-5754

(b) Any party to this Instrument may change the address to which notices intended for it are to be directed by means of notice given to the other party in accordance with this Section 30. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section 30, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section 30 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

(c) Any notice under the Note and any other Loan Document that does not specify how notices are to be given shall be given in accordance with this Section 30.

31. CHANGE IN SERVICER. If there is a change of the Servicer, Borrower will be given notice of the change.

32. SINGLE ASSET BORROWER. Until the Indebtedness is paid in full, Borrower (a) shall not acquire any real or personal property other than the Mortgaged Property and personal property related to the operation and maintenance of the Mortgaged Property; (b) shall not operate any business other than the management and operation of the Mortgaged Property; and (c) shall not maintain its assets in a way difficult to segregate and identify.

33. SUCCESSORS AND ASSIGNS BOUND. This Instrument shall bind, and the rights granted by this Instrument shall inure to, the successors and assigns of Lender and the permitted successors and assigns of Borrower.

34. JOINT AND SEVERAL LIABILITY. If more than one person or entity signs this Instrument as Borrower, the obligations of such persons and entities shall be joint and several.

35. RELATIONSHIP OF PARTIES; NO THIRD PARTY BENEFICIARY.
(a) The relationship between Lender and Borrower shall be solely that of creditor and debtor, respectively, and nothing contained in this Instrument shall create any other relationship between Lender and Borrower.

(b) No creditor of any party to this Instrument and no other person (other than a holder of the Note and Servicer) shall be a third party beneficiary of this Instrument or any other Loan Document. Without limiting the generality of the preceding sentence, (i) any arrangement (a “Servicing Arrangement”) between Lender and any Servicer for loss sharing or interim advancement of funds shall constitute a contractual obligation of such Servicer that is independent of the obligation of Borrower for the payment of the Indebtedness, (ii) Borrower shall not be a third party beneficiary of any Servicing Arrangement, and (iii) no payment by Servicer under any Servicing Arrangement will reduce the amount of the Indebtedness.

36. SEVERABILITY; AMENDMENTS. The invalidity or unenforceability of any provision of this Instrument shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect. This Instrument contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Instrument. This Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought; provided, however, that in the event of a Transfer, any or some or all of the Modifications to Instrument set forth in Exhibit B (if any) may be modified or rendered void by Lender at Lender’s option by notice to Borrower or such transferee.

37. CONSTRUCTION. The captions and headings of the sections of this Instrument are for convenience only and shall be disregarded in construing this Instrument. Any reference in this Instrument to an “Exhibit” or a “Section” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Instrument or to a Section of this Instrument. All Exhibits attached to or referred to in this Instrument are incorporated by reference into this Instrument. Any reference in this Instrument to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Instrument includes the plural and use of the plural includes the singular. As used in this Instrument, the term “including” means “including, but not limited to.”

38. SERVICER.

(a) Borrower further acknowledges that Lender may from time to time and in accordance with the terms of the Loan Agreement, appoint a Servicer or a replacement servicer to collect payments, escrows and deposits, to give and receive notices under the Note, this Instrument, or the other Loan Documents, and to otherwise service the Loan. Borrower hereby acknowledges and agrees that, unless Borrower receives written notice from Lender to the contrary, any action or right which shall or may be taken or exercised by Lender may be taken or exercised by Servicer with the same force and effect, including, without limitation, the collection of payments, the giving of notice, the holding of escrows, inspection of the Mortgaged Property, inspections of books and records, the request for documents or information, and the granting of consents and approvals. Borrower further agrees that, unless Lender instructs Borrower to the contrary in writing,
(i) any notices, books or records, or other documents or information to be delivered under this Instrument, the Note, or any other Loan Document shall also be simultaneously delivered to the Servicer at the address provided for notices to Servicer pursuant to Section 30 hereof, and (ii) any payments to be made under the Note or for escrows under Section 7 of this Instrument or under any of the other Loan Documents shall be made to Servicer. In the event Borrower receives conflicting notices regarding the identity of the Servicer or any other subject, any such notice from Lender shall govern.

(b) Borrower further acknowledges and agrees that, for the purpose of determining whether a security interest is created or perfected under the Uniform Commercial Code of the Property Jurisdiction, any escrows or other funds held by Servicer pursuant to the Loan Documents shall be deemed to be held by Lender.

39. **DISCLOSURE OF INFORMATION.** Lender may furnish information regarding Borrower or the Mortgaged Property to third parties with an existing or prospective interest in the servicing, enforcement, evaluation, performance, purchase or securitization of the Indebtedness, including but not limited to trustees, master servicers, special servicers, rating agencies, and organizations maintaining databases on the underwriting and performance of multifamily mortgage loans. Without limiting the generality of the foregoing, without notice to or the consent of Borrower, Lender may disclose to any title insurance company which insures any interest of Lender under this Instrument (whether as primary insurer, coinsurer or reinsurer) any information, data or material in its possession relating to Borrower, the Loan, the Improvements or the Mortgaged Property. Borrower irrevocably waives any and all rights it may have under applicable law to prohibit such disclosure, including but not limited to any right of privacy.

40. **NO CHANGE IN FACTS OR CIRCUMSTANCES.** Borrower warrants that all information in Borrower’s application for the Loan and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with Borrower’s application for the Loan are complete and accurate in all material respects. There has been no material adverse change in any fact or circumstance that would make any such information incomplete or inaccurate.

41. **SUBROGATION.** If, and to the extent that, the proceeds of the Loan are used to pay, satisfy or discharge any obligation of Borrower for the payment of money that is secured by a pre-existing mortgage, deed of trust or other lien encumbering the Mortgaged Property (a “Prior Lien”), such loan proceeds shall be deemed to have been advanced by Lender at Borrower’s request, and Lender shall automatically, and without further action on its part, be subrogated to the rights, including lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

42. **FINANCING STATEMENT.** As provided in Section 2, this Instrument constitutes a financing statement with respect to any part of the Mortgaged Property which is or may become a Fixture and for the purposes of such financing statement: (a) the Debtor shall be Borrower and the Secured Party shall be Lender; (b) the addresses of Borrower as Debtor and of Lender as Secured Party are as specified above in the first paragraph of this Instrument; (c) the name of the record owner is Borrower; (d) the types or items of collateral consist of any part of
the Mortgaged Property which is or may become a Fixture; and (e) the organizational
identification number of Borrower (if any) as Debtor is set forth on Exhibit C.

43. STATE SPECIFIC PROVISIONS (TEXAS).

(a) Acceleration; Remedies.

(i) Except as otherwise expressly provided in the Loan Documents, at any
time during the existence of an Event of Default, Lender, at Lender’s option, may declare the Indebtedness to be immediately
due and payable without further demand, notice of intent to accelerate, notice of acceleration, or any other notice of or any
other action, all of which are hereby waived by Borrower and all other parties obligated in any manner whatsoever on the
Indebtedness, and upon such declaration, the entire unpaid balance of the Indebtedness shall be immediately due and payable. Lender
may invoke the power of sale and any other remedies permitted by Texas law or provided in this Instrument, the Loan Agreement or
in any other Loan Document. Borrower acknowledges that the power of sale granted in this Instrument may be exercised by
Lender without prior judicial hearing. Lender will be entitled to collect all costs and expenses incurred in pursuing such remedies,
including Attorneys’ Fees and Costs, costs of documentary evidence, abstracts and title reports.

(ii) If Lender invokes the power of sale, Lender may, by and through
the Trustee, or otherwise, sell or offer for sale the Mortgaged Property in such portions, order and parcels as Lender may
determine, with or without having first taken possession of the Mortgaged Property, to the highest bidder for cash at public
auction. Such sale will be made at the county courthouse in which all or any part of the Land to be sold is situated or at such other
place as designated by the commissioner’s court of said county and recorded on the real property records of such county (whether the
parts or parcel, if any, situated in different counties are contiguous or not, and without the necessity of having any Personalty present
at such sale) on the first Tuesday of any month between the hours of 10:00 a.m. and 4:00 p.m., after advertising the time, place and
terms of sale and that portion of the Mortgaged Property to be sold by posting or causing to be posted written or printed notice of sale
at least 14 days before the date of the sale at the courthouse door of the county in which the sale is to be made and at the courthouse
door of any other county in which a portion of the Land may be situated, and by filing such notice with the County Clerk(s) of the
county(s) in which all or a portion of the Land may be situated, which notice may be posted and filed by the Trustee acting, or by
any person acting for the Trustee, and Lender has, at least 14 days
before the date of the sale, served written or printed notice of the proposed sale by certified mail on each debtor obligated to pay the Indebtedness according to Lender’s records by the deposit of such notice, enclosed in a postpaid wrapper, properly addressed to such debtor at debtor’s most recent address as shown by Lender’s records, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed will be prima facie evidence of the fact of service.

(iii) Trustee will deliver to the purchaser at the sale, within a reasonable time after the sale, a deed conveying the Mortgaged Property so sold in fee simple with covenants of general warranty. Borrower covenants and agrees to defend generally the purchaser’s title to the Mortgaged Property against all claims and demands. The recitals in Trustee’s deed will be *prima facie* evidence of the truth of the statements contained in those recitals. Trustee will apply the proceeds of the sale in the following order: (i) to all reasonable costs and expenses of the sale, including reasonable Trustee’s fees not to exceed 5% of the gross sales price, Attorneys’ Fees and Costs and costs of title evidence; (ii) to the Indebtedness in such order as Lender, in Lender’s discretion, directs; and (iii) the excess, if any, to the person or persons legally entitled to the excess.

(iv) If all or any part of the Mortgaged Property is sold pursuant to this Section, Borrower will be divested of any and all interest and claim to the Mortgaged Property, including any interest or claim to all insurance policies, utility deposits, bonds, loan commitments and other intangible property included as a part of the Mortgaged Property. Additionally, after a sale of all or any part of the Land, Improvements, Fixtures and Personalty, Borrower will be considered a tenant at sufferance of the purchaser of the same, and the purchaser will be entitled to immediate possession of such property. If Borrower will fail to vacate the Mortgaged Property immediately, the purchaser may and will have the right, without further notice to Borrower, to go into any justice court in any precinct or county in which the Mortgaged Property is located and file an action in forcible entry and detainer, which action will lie against Borrower or its assigns or legal representatives, as a tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have under this Instrument or otherwise.

(v) In the event an interest in any of the Mortgaged Property is foreclosed upon pursuant to a judicial or nonjudicial foreclosure sale prior to the Conversion Date, Borrower agrees as follows:
notwithstanding the provisions of Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Borrower agrees that Lender will be entitled to seek a deficiency judgment from Borrower and any other party obligated on the Note equal to the difference between the amount owing on the Note and the amount for which the Mortgaged Property was sold pursuant to judicial or nonjudicial foreclosure sale. Borrower expressly recognizes that this Section constitutes a waiver of the above-cited provisions of the Texas Property Code which would otherwise permit Borrower and other persons against whom a recovery of deficiencies is sought or Guarantor independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Mortgaged Property as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Borrower further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Mortgaged Property for purposes of calculating deficiencies owed by Borrower, Guarantor, and others against whom recovery of a deficiency is sought. Alternatively, in the event the waiver provided for in this Section is determined by a court of competent jurisdiction to be unenforceable, in any action for a deficiency after a foreclosure under this Instrument, if any person against whom recovery is sought requests the court in which the action is pending to determine the fair market value of the Mortgaged Property, as of the date of the foreclosure sale, the following will be the basis of the court’s determination of fair market value:

(A) The Mortgaged Property will be valued “as is” and in its condition as of the date of foreclosure, and no assumption of increased value because of post-foreclosure repairs, refurbishment, restorations or improvements will be made.

(B) Any adverse effect on the marketability of title because of the foreclosure or because of any other title condition not existing as of the date of this Instrument will be considered.

(C) The valuation of the Mortgaged Property will be based upon an assumption that the foreclosure purchaser desires a prompt resale of the Mortgaged Property for cash within a 6 month-period after foreclosure.

(D) Although the Mortgaged Property may be disposed of more quickly by the foreclosure purchaser, the gross valuation of
the Mortgaged Property as of the date of foreclosure will be discounted for a hypothetical reasonable holding period (not to exceed 6 months) at a monthly rate equal to the average monthly interest rate on the Note for the 12 months before the date of foreclosure.

(E) The gross valuation of the Mortgaged Property as of the date of foreclosure will be further discounted and reduced by reasonable estimated costs of disposition, including brokerage commissions, title policy premiums, environmental assessment and clean-up costs, tax and assessment, prorations, costs to comply with legal requirements and Attorneys’ Fees and Costs.

(F) Expert opinion testimony will be considered only from a licensed appraiser certified by the State of Texas and, to the extent permitted under Texas law, a member of the Appraisal Institute, having at least 5 years’ experience in appraising property similar to the Mortgaged Property in the county where the Mortgaged Property is located, and who has conducted and prepared a complete written appraisal of the Mortgaged Property taking into considerations the factors set forth in this Instrument; no expert opinion testimony will be considered without such written appraisal.

(G) Evidence of comparable sales will be considered only if also included in the expert opinion testimony and written appraisal referred to in subsection (F), above.

(H) An affidavit executed by Lender to the effect that the foreclosure bid accepted by Trustee was equal to or greater than the value of the Mortgaged Property determined by Lender based upon the factors and methods set forth in subsections (A) through (G) above before the foreclosure will constitute prima facie evidence that the foreclosure bid was equal to or greater than the fair market value of the Mortgaged Property on the foreclosure date.

(vi) Lender may, at Lender’s option, comply with these provisions in the manner permitted or required by Title 5, Section 51.002 of the Texas Property Code (relating to the sale of real estate) or by Chapter 9 of the Texas Business and Commerce Code (relating to the sale of collateral after default by a debtor), as those titles and chapters now exist or may be amended or succeeded in the future, or by any other present or future articles or enactments relating to same subject. Unless expressly excluded, the Mortgaged Property
will include Rents collected before a foreclosure sale, but attributable to the period following the foreclosure sale, and Borrower will pay such Rents to the purchaser at such sale.

(vii) At any such sale, all of the following will be true:

(A) Whether made under the power contained in this Instrument, Section 51.002 of the Texas Property Code, Chapter 9 of the Texas Business and Commerce Code, any other legal requirement or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it will not be necessary for Trustee to have physically present, or to have constructive possession of, the Mortgaged Property. Borrower will deliver to Trustee any portion of the Mortgaged Property not actually or constructively possessed by Trustee immediately upon demand by Trustee and the title to and right of possession of any such property will pass to the purchaser as completely as if the property had been actually present and delivered to the purchaser at the sale.

(B) Each instrument of conveyance executed by Trustee will contain a general warranty of title, binding upon Borrower.

(C) The recitals contained in any instrument of conveyance made by Trustee will conclusively establish the truth and accuracy of the matters recited in the Instrument, including nonpayment of the Indebtedness and the advertisement and conduct of the sale in the manner provided in this Instrument and otherwise by law and the appointment of any successor Trustee.

(D) All prerequisites to the validity of the sale will be conclusively presumed to have been satisfied.

(E) The receipt of Trustee or of such other party or officer making the sale will be sufficient to discharge to the purchaser or purchasers for such purchaser(s)’ purchase money, and no such purchaser or purchasers, or such purchaser(s)’ assigns or personal representatives, will thereafter be obligated to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication of such purchase money.

(F) To the fullest extent permitted by law, Borrower will be completely and irrevocably divested of all of Borrower’s right, title, interest, claim and demand whatsoever, either at
law or in equity, in and to the property sold, and such sale will be a perpetual bar to any claim to all or any part of the property sold, both at law and in equity, against Borrower and against any person claiming by, through or under Borrower.

(G) To the extent and under such circumstances as are permitted by law, Lender may be a purchaser at any such sale.

(b) Release. Upon payment of the Indebtedness, Lender will release this Instrument. Borrower will pay Lender’s reasonable costs incurred in releasing this Instrument.

(c) Trustee.

(i) Trustee may resign by giving of notice of such resignation in writing to Lender. If Trustee will die, resign or become disqualified from acting under this Instrument or will fail or refuse to act in accordance with this Instrument when requested by Lender or if for any reason and without cause Lender will prefer to appoint a substitute trustee to act instead of the original Trustee named in this Instrument or any prior successor or substitute trustee, Lender will have full power to appoint a substitute trustee and, if preferred, several substitute trustees in succession who will succeed to all the estate, rights, powers and duties of the original Trustee named in this Instrument. Such appointment may be executed by an authorized officer, agent or attorney-in-fact of Lender (whether acting pursuant to a power of attorney or otherwise), and such appointment will be conclusively presumed to be executed with authority and will be valid and sufficient without proof of any action by Lender.

(ii) Any successor Trustee appointed pursuant to this Section will, without any further act, deed or conveyance, become vested with all the estates, properties, rights, powers and trusts of the predecessor Trustee with like effect as if originally named as Trustee in this Instrument; but, nevertheless, upon the written request of Lender or such successor Trustee, the Trustee ceasing to act will execute and deliver an instrument transferring to such successor Trustee, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and will duly assign, transfer and deliver any of the property and monies held by the Trustee ceasing to act to the successor Trustee.

(iii) Trustee may authorize one or more parties to act on Trustee’s behalf to perform the ministerial functions required of Trustee.
under this Instrument, including the transmittal and posting of any
notices.

(d) Vendor’s Lien. To the extent a vendor’s lien is retained in that certain
deed conveying the Mortgaged Property to Borrower, such vendor’s lien has been
assigned to Lender, the Note is primarily secured by said vendor’s lien, and this
Instrument is additional security therefor.

(e) No Fiduciary Duty. Lender owes no fiduciary or other special duty to
Borrower.

(f) Fixture Filing. This Instrument is also a fixture filing under the Uniform
Commercial Code of Texas.

(g) Additional Provisions Regarding Assignment of Rents. Section 3 will not
be construed to require a pro tanto or other reduction of the Indebtedness resulting from
the assignment of Rents. If the provisions of Section 3 and the preceding sentence cause
the assignment of Rents in Section 3 to be deemed to be an assignment for additional
security only, Lender will be entitled to all rights, benefits and remedies attendant to such
collateral assignment. The assignment of Rents contained in Section 3 will terminate
upon the release of this Instrument.

(h) Loan Charges. Borrower and Lender intend at all times to comply with the
laws of the State of Texas governing the maximum rate or amount of interest payable on
or in connection with the Indebtedness, including Chapter 1204 of the Texas Government
Code (or applicable United States federal law to the extent that it permits Lender to
contract for, charge, take, reserve or receive a greater amount of interest than under Texas
law). If the applicable law is ever judicially interpreted so as to render usurious any
amount payable under the Note, this Instrument or any other Loan Document, or
contracted for, charged, taken, reserved or received with respect to the Indebtedness, or if
acceleration of the maturity of the Indebtedness, or if any prepayment by Borrower
results in Borrower having paid any interest in excess of that permitted by any applicable
law, then Borrower and Lender expressly intend that all excess amounts collected by
Lender will be applied to reduce the unpaid principal balance of the Indebtedness (or, if
the Indebtedness has been or would thereby be paid in full, will be refunded to
Borrower), and the provisions of the Note, this Instrument and the other Loan Documents
immediately will be deemed reformed and the amounts thereafter collectible under the
Loan Documents reduced, without the necessity of the execution of any new documents,
so as to comply with any applicable law, but so as to permit the recovery of the fullest
amount otherwise payable under the Loan Documents. The right to accelerate the
maturity of the Indebtedness does not include the right to accelerate any interest which
has not otherwise accrued on the date of such acceleration, and Lender does not intend to
collect any unearned interest in the event of acceleration. All sums paid or agreed to be
paid to Lender for the use, forbearance or detention of the Indebtedness will, to the extent
permitted by any applicable law, be amortized, prorated, allocated and spread throughout
the full term of the Indebtedness until payment in full so that the rate or amount of
interest on account of the Indebtedness does not exceed the applicable usury ceiling.
Notwithstanding any provision contained in the Note, this Instrument or any other Loan Document that permits the compounding of interest, including any provision by which any accrued interest is added to the principal amount of the Indebtedness, the total amount of interest that Borrower is obligated to pay and Lender is entitled to receive with respect to the Indebtedness will not exceed the amount calculated on a simple (i.e., noncompounded) interest basis at the maximum rate on principal amounts actually advanced to or for the account of Borrower, including all current and prior advances and any advances made pursuant to the Instrument or any other Loan Document (such as for the payment of Impositions and similar expenses or costs).

(i) ENTIRE AGREEMENT. THIS INSTRUMENT, THE NOTE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

(j) Notice of Additional Provisions Regarding Insurance. Any terms to the contrary contained in this Instrument notwithstanding, the following requirements are hereby imposed pursuant to Section 307.052 of the Texas Finance Code:

(i) BORROWER IS REQUIRED TO: (i) KEEP THE MORTGAGED PROPERTY INSURED AGAINST DAMAGE IN AN AMOUNT EQUAL TO THE INDEBTEDNESS, (ii) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER, AND (iii) NAME THE LENDER AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF LOSS.

(ii) IF BORROWER FAILS TO COMPLY WITH SUBSECTION (a) ABOVE, LENDER MAY, BUT WILL NOT BE OBLIGATED TO, OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF BORROWER AT BORROWER’S EXPENSE.

44. WAIVER OF TRIAL BY JURY. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER AND LENDER EACH (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS INSTRUMENT OR THE RELATIONSHIP BETWEEN THE PARTIES AS BORROWER AND LENDER THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

45. ATTACHED EXHIBITS. The following Exhibits are attached to this Instrument and are incorporated by reference herein as if more fully set forth in the text hereof:
Exhibit A  Description of the Land.
Exhibit B  Modifications to Instrument.
Exhibit C  Financing Statement Information.

The terms of this Instrument are modified and supplemented as set forth in said Exhibits. To the extent of any conflict or inconsistency between the terms of said Exhibits and the text of this Instrument, the terms of said Exhibits shall be controlling in all respects.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Instrument or caused this Instrument to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this Instrument shall be deemed to be signed and delivered as a sealed instrument.

BORROWER:

KAIA POINTE, LLC,
a Florida limited liability company

By: Saigebrook Kaia, LLC,
a Florida limited liability company,
its Administrative Member

By: [Signature]
Name: Lisa Stephens
Title: President
STATE OF TEXAS

COUNTY OF

On this 3rd day of Oct, 2017, before me, ________, personally appeared Lisa Stephens, known to me or proven on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal.

My Commission expires: 03.25.21

Deed of Trust

Kaia Pointe Apartments
EXHIBIT A

DESCRIPTION OF THE LAND

Real property in the unincorporated area of the County of Williamson, State of Texas, described as follows:

BEING 5.001 ACRES OF LAND SITUATED WITHIN THE CITY OF GEORGETOWN, IN THE ISAAC JONES SURVEY, ABSTRACT NUMBER 361, WILLIAMSON COUNTY, TEXAS, AND BEING A PORTION OF THAT PARCEL OF LAND AS DESCRIBED IN THE DEED TO GEORGETOWN'S GATLIN CREEK LTD RECORDED UNDER INSTRUMENT NUMBER 2014074963 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS (HEREAFTER REFERRED TO AS THE GEORGETOWN'S GATLIN CREEK PARCEL). SAID 5.001 ACRES OF LAND SURVEYED ON THE GROUND IN THE MONTH OF JUNE 2016, UNDER THE DIRECTION AND SUPERVISION OF ROBERT A. HANSEN, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6439 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING" FOUND AT THE SOUTHWEST CORNER OF A CALLED 0.106 ACRE PARCEL AS DESCRIBED IN THE JUDGEMENT OF COURT IN ABSENCE OF OBJECTION TO THE STATE OF TEXAS RECORDED UNDER INSTRUMENT NUMBER 2007068146 OF SAID OFFICIAL PUBLIC RECORDS AND BEING THE BEGINNING OF A NON- TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 2930.73 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 55 DEGREES 03 MINUTES 47 SECONDS EAST, 175.36 FEET;

THENCE SOUTHEASTERLY WITH THE SOUTHWEST CURVING RIGHT OF WAY LINE OF WILLIAMS DRIVE, A VARIABLE WIDTH RIGHT OF WAY, AS DESCRIBED IN THE JUDGEMENT OF COURT IN ABSENCE OF OBJECTION RECORDED UNDER INSTRUMENT NUMBER 2008034153 OF SAID OFFICIAL PUBLIC RECORDS, AN ARC LENGTH OF 175.39 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING" FOUND AT THE BEGINNING OF A TANGENT LINE TO THE AFOREMENTIONED CURVE;

THENCE SOUTH 56 DEGREES 46 MINUTES 39 SECONDS EAST, 125.48 FEET WITH THE SOUTHWEST RIGHT OF WAY LINE OF SAID WILLIAMS DRIVE TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND;

THENCE THROUGH THE INTERIOR OF SAID GEORGETOWN'S GATLIN CREEK PARCEL THE FOLLOWING SIX (6) CALLS:

1. SOUTH 32 DEGREES 57 MINUTES 52 SECONDS WEST, 149.03 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING" FOUND AT THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST,
HAVING A RADIUS OF 200.00 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 26 DEGREES 24 MINUTES 09 SECONDS WEST, 45.71 FEET;

2. SOUTHWESTERLY AN ARC LENGTH OF 45.81 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE POINT OF REVERSE CURVE, CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 175.00 FEET AND CHORD BEARING AND DISTANCE OF SOUTH 36 DEGREES 33 MINUTES 26 SECONDS WEST, 100.67 FEET;

3. SOUTHWESTERLY AN ARC LENGTH OF 102.12 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE POINT OF REVERSE CURVE, CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 365.00 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 43 DEGREES 07 MINUTES 09 SECONDS WEST, 128.70 FEET;

4. SOUTHWESTERLY AN ARC LENGTH OF 129.38 FEET TO A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” FOUND AT THE BEGINNING OF A TANGENT LINE TO THE AFOREMENTIONED CURVE;

5. SOUTH 32 DEGREES 57 MINUTES 52 SECONDS WEST, 73.29 FEET TO A FOUND ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING”;

6. NORTH 50 DEGREES 22 MINUTES 40 SECONDS WEST, 611.08 FEET TO A POINT ON THE SOUTH LINE BLOCK 3, AS SHOWN ON THE PLAT TITLED “CASA LOMA” RECORDED IN CABINET D, SLIDE 9 OF THE PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS FROM WHICH A ½ INCH CAPPED REBAR STAMPED “DIAMOND SURVEYING” BEARS SOUTH 71 DEGREES WEST, 0.4 FEET AND A FOUND COTTON SPINDLE NEAR A 12 INCH DEAD CEDAR-ELM TREE BEARS SOUTH 71 DEGREES 27 MINUTES 45 SECONDS WEST, 49.92 FEET;

THENCE NORTH 71 DEGREES 22 MINUTES 33 SECONDS EAST, 89.59 FEET WITH THE SOUTH LINE OF SAID BLOCK 3 TO A 1/2 INCH REBAR FOUND AT AN ANGLE POINT IN THE SOUTH LINE OF SAID BLOCK 3;

THENCE NORTH 71 DEGREES 05 MINUTES 03 SECONDS EAST, 297.91 FEET WITH THE SOUTH LINE OF SAID BLOCK 3 TO THE CENTER OF A 16 INCH LIVE OAK FOUND AT A SALIENT CORNER OF SAID BLOCK 3 (A 60D NAIL AND WASHER STAMPED “RPLS 5043” WAS FOUND ON SAID 16 INCH LIVE OAK’S SOUTHERLY SIDE);

THENCE NORTH 68 DEGREES 36 MINUTES 58 SECONDS EAST, 155.15 FEET WITH THE SOUTH LINE OF SAID BLOCK 3 TO THE POINT OF BEGINNING, CONTAINING 5.001 ACRES. THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS GRID NORTH, TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE.
EXHIBIT B
MODIFICATIONS TO INSTRUMENT

The following modifications are made to the text of the Instrument that precedes this Exhibit:

1. Section 21(a) of the Instrument is amended by adding the following at the end of such Section:

“(xii) notwithstanding anything to the contrary herein or in Borrower’s Organizational Documents, a Transfer or pledge of a general partnership interest in Borrower or an interest in any general partner of Borrower to a 501(c)(3) nonprofit corporation, or a limited liability company whose sole member is a 501(c)(3) nonprofit corporation, without the prior written consent of Lender following full review and underwriting by Lender of the proposed transferee.”

2. Section 21(b) of the Instrument is amended by adding the following at the end of such Section:

“(viii) Provided that (i) Borrower owns the Mortgaged Property and remains the borrower under the Note, (ii) O-SDA Kaia, LLC (“Managing Member”) is a managing member in Borrower and (iii) Boston Capital Corporate Tax Credit Fund XLIV, A Limited Partnership, a Massachusetts limited partnership, or its permitted transferee (the “Equity Investor”), has not less than a 99% limited partnership interest in Borrower:

(A) the removal by Equity Investor of Managing Member or Saigebrook Kaia, LLC as a managing member or an administrative member of Borrower and their respective replacement as a managing member or an administrative member by Boston Capital Partners, Inc. (“Equity Investor Sponsor”), or by a wholly-owned affiliate of Equity Investor Sponsor, which removal shall be in accordance with the terms of the operating agreement of Borrower, provided that (i) the entity replacing such removed managing member or administrative member must be a single purpose entity, (ii) after such replacement, Equity Investor Sponsor or the Initial Owners of Equity Investor Sponsor must own directly or indirectly not less than a Controlling Percentage of the general partnership or managing membership interests, as applicable, in the entity which replaced such removed managing member or administrative member and (iii) each Guarantor shall be replaced as Guarantor by an individual or entity that is approved by Lender and satisfies Lender’s mortgage credit standards for guarantors; or

(B) (i) a Transfer of limited partnership interests of Equity Investor in Borrower to (A) a wholly-owned affiliate of Equity Investor or a wholly-owned affiliate of Equity Investor Sponsor, or (B) an entity whose management is controlled by Equity Investor, by a wholly-
owned affiliate of Equity Investor or by Equity Investor Sponsor, or (ii) so long as Equity Investor Sponsor remains the sole managing member, sole manager or sole general partner, as applicable, of Equity Investor, the transfer of non-managing membership interests or limited partnership interests, as applicable, in Equity Investor.

(ix) A withdrawal of Rdevkaia, LLC from the Borrower upon or after the Conversion Date without the payment of any review fee or transfer fee.

3. Section 30(a) of the Instrument is amended to add the following at the end of such Paragraph:

“Lender agrees that, so long as Equity Investor has a continuing ownership interest in Borrower, effective notice to Borrower under the Loan Documents shall require delivery of a copy of such notice to Equity Investor. Such notice shall be given in the manner provided in this Section 30(a), at Equity Investor’s address set forth below:

Boston Capital Corporate Tax Credit Fund XLIV, A Limited Partnership
One Boston Place, 21st Floor
Boston, MA 02108
Attention: Asset Management (Kaia Pointe)

with a copy to:

Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116
Attention: Douglas W. Clapp, Esq.

Lender agrees that, notwithstanding its rights to invoke the remedies permitted by Section 43 of this Instrument, upon the breach of any covenant or agreement by Borrower in this Instrument (including, but not limited to, the covenants to pay when due sums secured by this Instrument) or any other Loan Document, Lender shall not, so long as Equity Investor has a continuing ownership interest in Borrower, conduct a foreclosure sale of the Mortgaged Property or receive a deed-in-lieu of foreclosure, until such time as Equity Investor has first been given 30 days written notice of such default and has failed, within such 30-day period to cure such default; provided, however, that Lender shall be entitled, during such 30-day period, to continue to accelerate the Note and to pursue its remedies. Any cure tendered by Equity Investor will be accepted or rejected on the same basis as cures tendered by Borrower.”

4. The following new Sections are added to the Instrument after the last numbered Section:

“46. **RE COURSE LIABILITY.** After the Conversion Date, so long as Equity Investor has a continuing ownership interest in Borrower, the provisions of Section 9 of the B-2
Note, as they relate to Events of Default described in Section 9(e) of the Note, shall be operative only after Equity Investor has been given thirty (30) days’ notice of the applicable Event(s) of Default described in Section 9(e) of the Note, together with an opportunity within such thirty (30) day period to remedy the applicable Event(s) of Default. In all events, Lender shall be entitled during such thirty (30) day period to exercise all of its rights and remedies under this Instrument upon the occurrence of such Event of Default other than foreclosure of the Mortgaged Property.

47. EXTENDED LOW-INCOME HOUSING COMMITMENT. Lender agrees that the lien of this Instrument shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the “Extended Use Agreement”) recorded against the Mortgaged Property; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Instrument or upon a transfer of the Mortgaged Property by instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code.

48. ANNUAL LIHTC REPORTING REQUIREMENTS. Borrower must submit to Lender each year at the time of annual submission of Borrower’s financial analysis of operations, a copy of the following sections of Borrower’s federal tax return: Internal Revenue Forms 1065, 8586, 8609 and Form 8609, Schedule A, which must reflect the total low-income housing tax credits (“LIHTCs”) allocated to the Mortgaged Property and the LIHTCs claimed for the Mortgaged Property in the preceding year.

49. CROSS-DEFAULT. Borrower acknowledges and agrees that (a) any failure by Borrower or the Project to qualify for low income housing tax credits pursuant to the provisions of Section 42 of the Internal Revenue Code and (b) any default, event of default, or breach (however such terms may be defined) after the expiration of any applicable notice and/or cure periods under the Extended Use Agreement shall be an Event of Default under this Instrument and that any costs, damages or other amounts, including reasonable attorney’s fees incurred by Lender as a result of such an Event of Default by Borrower, including amounts paid to cure any default or event of default, under the Extended Use Agreement shall be an obligation of Borrower and become a part of the Indebtedness secured by this Instrument.

50. ANNUAL COMPLIANCE. Borrower shall submit to Lender on an annual basis, evidence that the Mortgaged Property is in ongoing compliance with all income, occupancy and rent restrictions under the Extended Use Agreement relating to the Mortgaged Property. Such submissions shall be made contemporaneously with Borrower’s reports required to be made to the regulator under the Extended Use Agreement.

51. VARIABLE RATE NOTE. The Multifamily Construction Note is subject to interest rate adjustment from time to time in accordance with its terms, which terms are incorporated herein by this reference.

All capitalized terms used in this Exhibit not specifically defined herein shall have the meanings set forth in the text of the Instrument that precedes this Exhibit.

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EXHIBIT C

FINANCING STATEMENT INFORMATION

1. Name and Address of Debtor: Kaia Pointe, LLC
   421 West 3rd Street, Suite 1504
   Austin, Texas 78701

2. Debtor’s State of Organization and Organizational I.D.:

   State of Formation: Florida
   Type of Entity: limited liability company
   Organizational I.D.#: L16000152738

3. Name and Address of Secured Party: Citibank, N.A.
   388 Greenwich Street, 8th Floor
   New York, New York 10013

4. The Collateral is: Fixtures (as that term is described in the Uniform Commercial Code of Texas) attached to the Land described in Exhibit A attached to this Instrument

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Deed of Trust

Kaia Pointe Apartments
Section 811 Project Rental Assistance (“PRA”) Program Supplement Packet
Documentation of Request for Consent Cover Page §11.9(c)(6)(A)(ii)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Kaia Pointe

ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program)

Describe and attach the request made by the Applicant or Affiliate to the Third Party asking for consent:
Letter to Citibank on Feb. 18 requesting to add 811 units

ATTACH PDF OF THE REQUEST FROM THE APPLICANT OR AFFILIATE TO THE THIRD PARTY BEHIND THIS PAGE.
February 18, 2019

Mr. Barry Krinsky  
Director  
Citi Community Capital  
7400 W. Camino Real, Ste. 130-A  
Boca Raton, FL 33433

Re: 811 Units – Kaia Pointe

Dear Barry:

Per the 2019 TDHCA Qualified Allocation Plan, we are hereby submitting a request for your consideration to add an additional ten 811 program units at Kaia Pointe, in Georgetown, Texas.

Under the Deed of Trust for Kaia Pointe, the Borrower has an obligation to not allow any liens or encumbrances other than the Permitted Encumbrances. The addition of 811 units would require a new Extended Use Agreement be recorded and as such, this requires the lender’s consent. Kaia Pointe already has ten 811 units as was contemplated during underwriting. An additional ten units would result in 20% of the property being 811 tenants.

A written response is required by TDHCA for submission in our 2019 applications. If you have any questions about this request, you may reach me at 352-213-8700.

Sincerely,

Lisa M. Stephens  
President  
Saigebrook Development, LLC
Section 811 Project Rental Assistance (“PRA”) Program Supplement Packet Documentation of Request for Consent Cover Page §11.9(c)(6)(A)(iii)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name: Kaia Pointe

iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party that they are denying an Existing Development from participation).

Describe and attach the response from the Third Party that was received by the Applicant or Owner that reflects their decision not to provide the requested consent:
Letter from Citibank denying the request to add 811 units at Kaia Pointe.

ATTACH PDF OF THE RESPONSE FROM THE THIRD PARTY THAT REFLECTS THEIR DECISION TO DENY THE REQUESTED CONSENT BEHIND THIS PAGE.
February 25, 2019

Lisa Stephens
Saigebrook Development, LLC
421 W 3rd Street, Ste 1504
Austin, TX 78701

Re: Kaia Pointe 811 units

Dear Lisa,

Regarding your inquiry about additional 811 units over and above the current 10 units committed, Citi would not be supportive of adding the additional units given that the current 10 units have yet to be filled despite considerable efforts by the management company and we have time sensitivities to get to stabilization and conversion.

We have a strong commitment to affordable housing in Texas and are always willing to consider additional community benefits that our clients and TDHCA may approach us with. Unfortunately, this project has a very tight time frame to get to conversion and lease-up needs to continue at a rapid pace to meet that timeline.

Please do not hesitate to contact me with any questions or concern.

Sincerely yours,

Mahesh
Director
(713) 752-5046
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Introduction

The purpose of this Packet is to formalize the process by which an Applicant establishes its lack of legal authority to commit Section 811 PRA Program Units in a Development as described pursuant to 10 TAC §11.9(c)(6)(A) of the Qualified Allocation Plan ("QAP").

This Packet is required only if all of the following conditions are true:

1) An Applicant is selecting points under Tenant Populations with Special Housing Needs pursuant to 10 TAC §11.9(c)(6) AND

2) An Applicant is seeking to establish its lack of legal authority where an Applicant or Affiliate Owns or Controls an Existing Development that otherwise meets the criteria established by 10 TAC §11.9(c)(6)(B) of the QAP.

One Packet must be submitted for each Existing Development for which the Applicant or Affiliate is seeking a determination that the needed legal authority is lacking and that the Development can be excluded from consideration.

Instructions: Complete the Questionnaire on page 2 of this packet, then complete the fields on each of the subsequent form cover pages, and attach the denoted documentation for each item behind each included cover pages. Submit each Packet, including Attachments in PDF format and include bookmarks for each item. The Packet must be saved and uploaded as one standalone file to the Serv-U folder associated with each 2019 Multifamily Application.

This Packet and all supporting documentation must be uploaded to the Department’s Serv-U system at the same time as, but as a separate document from, the Application. Refer to the Multifamily Programs Procedures Manual posted at http://www.tdhca.state.tx.us/multifamily/applyforfunds.htm for an explanation of the process to set-up a Serv-U Account if needed.

Questions about this Packet may be submitted to Spencer Duran: spencer.duran@tdhca.state.tx.us
Section 811 Project Rental Assistance (“PRA”) Program Supplement Packet

Questionnaire

2019 Uniform Multifamily Application #19285 & 19277

1) Selecting Points under 10 TAC §11.9(c)(6)?
☐ No – STOP. PACKET SUBMISSION NOT NEEDED
☒ Yes – CONTINUE TO QUESTION 2

2) To obtain Points under 10 TAC §11.9(c)(6), Applicants must first attempt to meet the requirements in §11.9(c)(6)(B).

Does the Applicant Own or Control and Existing Development that appears on the List of Qualified Existing Developments?
☐ No – STOP. PACKET SUBMISSION NOT NEEDED
☒ Yes – CONTINUE TO QUESTION 3

3) Is the Applicant seeking to establish its lack of legal authority where an Applicant Owns or Controls an Existing Development that appears on the List of Qualified Existing Developments?
☐ No - STOP. PACKET SUBMISSION NOT NEEDED
☒ Yes – CONTINUE TO QUESTION 4

4) Can the Applicant provide all three of the following items listed under §11.9(c)(6)(A)(i)-(iii)?
☐ No - STOP. PACKET SUBMISSION NOT NEEDED
☒ Yes – CONTINUE TO COVER PAGES

(i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement);

(ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program); AND

(iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party identified in (ii) that they are denying an Existing Development from participation).
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Legal Right to Withhold Cover Page §11.9(c)(6)(A)(i)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Mistletoe Station

(i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement)

Describe the specific legally enforceable agreement being attached: First Amended & Restated Operating Agreement

Provide the name of the Third Party: HCP-ILP, LLC

List the specific citation in the agreement that clearly denotes the Third Party has a legal right to withhold consent: Section 5.3 - Restrictions on Authority - para xviii

List the page number in the agreement that clearly denotes the Third Party has a legal right to withhold consent: 46-48 and definitions on page 23 & 25

ATTACH PDF OF THE LEGALLY ENFORCEABLE AGREEMENT BEHIND THIS PAGE.
MISTLETOE STATION, LLC
A TEXAS LIMITED LIABILITY COMPANY

FIRST AMENDED AND RESTATED
OPERATING AGREEMENT

Dated as of August 30, 2018

THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED BY THIS FIRST AMENDED AND RESTATED OPERATING AGREEMENT HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933 (“1933 ACT”) OR PURSUANT TO APPLICABLE STATE SECURITIES LAWS (“BLUE SKY LAWS”). ACCORDINGLY, THE LIMITED LIABILITY COMPANY INTERESTS CANNOT BE RESOLD OR TRANSFERRED BY ANY PURCHASER THEREOF WITHOUT REGISTRATION OF THE SAME UNDER THE 1933 ACT AND THE BLUE SKY LAWS OF SUCH STATE(S) AS MAY BE APPLICABLE, EXCEPT IN A TRANSACTION WHICH IS EXEMPT FROM THE REGISTRATION REQUIREMENTS OF THE 1933 ACT AND THE BLUE SKY LAWS OR WHICH IS OTHERWISE IN COMPLIANCE THEREWITH. IN ADDITION, THE SALE OR TRANSFER OF SUCH LIMITED LIABILITY COMPANY INTERESTS IS SUBJECT TO CERTAIN RESTRICTIONS SET FORTH IN THIS AGREEMENT.
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MISTLETOE STATION, LLC
A TEXAS LIMITED LIABILITY COMPANY

FIRST AMENDED AND RESTATED
OPERATING AGREEMENT

Preliminary Statement

Mistletoe Station, LLC (the “Company”) was formed as a Texas limited liability company as evidenced by a certificate of formation filed with the Office of the Secretary of the State of Texas (the “Filing Office”) on August 14, 2017 by and between Saigebrook Mistletoe, LLC, a Texas limited liability company, as a managing member (the “Co-Managing Member”) and Lisa M. Stephens, as an investor member (the “Withdrawing Investor Member”).

A Company Agreement was entered into with respect to the Company as of August 22, 2017 (the “Original Agreement”) by and between the Co-Managing Member and the Withdrawing Investor Member.

THIS FIRST AMENDED AND RESTATED OPERATING AGREEMENT (this “Agreement”) is made and entered into as of August 30, 2018 (the “Closing Date” or “Closing”) by and among the Co-Managing Member, O-SDA Mistletoe, LLC, a Texas limited liability company (the “Administrative Member”), HCP-ILP, LLC, a Nevada limited liability company (“Investor Member”), HCP-SLP, LLC, a Nevada limited liability company (the “Special Investor Member”), and the Withdrawing Investor Member.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties hereto agree that the Original Agreement is hereby amended and restated in its entirety to read as follows:

ARTICLE 1
DEFINED TERMS

In addition to the terms defined above, the following terms used in this Agreement shall have the meanings specified below:

Access Laws has the meaning set forth in Section 5.2(u).

Access Laws Certification means a certification to the Company concluding that the Apartment Complex is in compliance with applicable Access Laws, with such certification being prepared by the Architect.

Accountants means Tidwell Group of Birmingham, Alabama or such other firm of independent certified public accountants as may be engaged by the Managing Member at the expense of the Company with the Consent of the Investor Member, which Consent shall not be unreasonably withheld, conditioned or delayed, to prepare the Company income tax returns.

Actual Housing Tax Credits means, with respect to any period of time, the total amount of the Housing Tax Credits allocated by the Company to the Investor Member, representing
ninety-nine and ninety-nine hundredths percent (99.99%) of the Housing Tax Credits reported and claimed by the Company and its Members on their respective federal information and income tax returns, and not disallowed by any taxing authority.

**Additional Managing Member** has the meaning set forth in Section 9.2(a).

**Additional TIF Reimbursement** means the payments in the amount of $134,355 made by the City of Fort Worth to the Company pursuant to and in accordance with the City Council Action, which amount may be increased or decreased in an amount that may be forthcoming pursuant to another city council action or an agreement between the City of Fort Worth and the Company.

**Adjusted Capital Account** means, with respect to each Member, the Capital Account balance of such Member after giving effect to the following adjustments: (i) credit to such Capital Account the sum of (A) any amounts which such Member is obligated to restore pursuant to any provision of this Agreement, plus (B) an amount equal to such Member’s share of Company Minimum Gain as determined under Regulation Section 1.704-2(g)(1) and such Member’s share of Member Nonrecourse Debt Minimum Gain as determined under Regulation Section 1.704-2(i)(5), plus (C) any amounts which such Member is deemed to be obligated to restore pursuant to Regulation Section 1.704-1(b)(2)(ii)(c); and (ii) debit to such Capital Account the items described in Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition is intended to comply with the provisions of Regulation Section 1.704-1(b)(2)(ii)(d), and shall be interpreted consistently therewith.

**Administrative Member** means O-SDA Mistletoe, LLC, a Texas limited liability company, and any other Person admitted as an administrative member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including a Replacement Managing Member.

**Administrative Member Pledge** means the Pledge and Security Agreement dated as of the date hereof by the Administrative Member for the benefit of the Investor Member in the form of Exhibit G-2, wherein the Administrative Member pledges and grants a first priority security interest in the Administrative Member’s Interest in the Company to secure the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement.

**Affiliate** means, as to any named Person or Persons (or as to any Member if no Person is specifically named): (i) such Person; (ii) each member of the Immediate Family of such Person; (iii) each legal representative, successor or assignee of any Person referred to in the preceding clauses (i) or (ii); (iv) each trustee of a trust for the benefit of any Person referred to in the preceding clauses (i) or (ii); or (v) any other Person (a) who directly or indirectly controls, (b) who owns or controls ten percent (10%) or more of the outstanding voting securities of such Person, (c) of which ten percent (10%) or more of the outstanding voting securities is owned by such Person or any of the Persons referred to in the foregoing clauses (i) through (iii), (d) who is an officer, director, partner or trustee of such Person, or (e) for which such Person acts in the capacity of officer, director, partner or trustee.
**Affiliated Entity** means (a) a limited partnership in which the Managing Member, the Developer, any Guarantor or an Affiliate of the Managing Member, the Developer or the Guarantor is a general partner, and in which an Affiliate of Hunt is a limited partner, or (b) a limited liability company in which the Managing Member, the Developer, any Guarantor or an Affiliate of the Managing Member, the Developer or the Guarantor is a managing member, and in which an Affiliate of Hunt is a member.

**AFR** means the “applicable federal rate” as defined in Section 1274(d) of the Code.

**Agency** means Texas Department of Housing and Community Affairs, or any successor in its capacity as the housing credit agency of the State.

**Agreement** means this First Amended and Restated Operating Agreement, including all Exhibits hereto, as amended from time to time.

**AIA** means the American Institute of Architects.

**ALTA As-Built Survey** means a current recertification of the plat of survey for the Apartment Complex, which shall (i) be prepared by a land surveyor licensed in the state in which the Apartment Complex is located, (ii) be certified for the benefit of the Company, Investor Member and their successors and assigns, and Title Company as having been made in compliance with ALTA minimum detail requirements, and with such certification being otherwise in form and substance satisfactory to the Title Company and Investor Member, (iii) show the location of all improvements located within the boundaries of the Apartment Complex, and (iv) certifying at least: (a) the legal description and boundaries of the Apartment Complex; (b) that the location of each improvement located on the Apartment Complex does not encroach upon any setback lines or violate any building or other restriction of record; (c) the location of all easements appurtenant to or affecting the Apartment Complex, whether visible or of record; (d) the location of all encroachments onto the Apartment Complex from buildings or other improvements on adjacent property; (e) all lot, set-back and building lines on the Apartment Complex; (f) all encroachments by the improvements located on the Apartment Complex over or onto any such easements or over any such lot, set-back or building lines created since the date of the prior survey; and (g) indicate whether the Apartment Complex is in a flood plain and other such items as may apply detailed in Exhibit Q.

**ALTA Survey** means a survey for the Apartment Complex prepared by a land surveyor licensed in the state in which the Apartment Complex is located and certified for the benefit of the Company, Investor Member and Title Company as having been made in compliance with ALTA minimum detail requirements, and with such certification being otherwise in form and substance satisfactory to the Title Company and Investor Member. The survey shall indicate whether the Apartment Complex is in a flood plain and other such items as may apply detailed in Exhibit Q.

**Amendment** has the meaning set forth in Section 4.16.

**Annual Budget** means a pro forma budget of the Company’s expected Cash Receipts and Cash Expenditures for any particular year, which is to be prepared in a sufficiently detailed
format reasonably acceptable to the Investor Member, and is to be submitted to the Investor Member as set forth in Section 18.7(a).

**Anti-Corruption Laws** means all laws, rules, statutes, codes and regulations of any governmental entity applicable to the Managing Member, its Affiliates or the Company concerning or relating to corruption or bribery, including laws prohibiting an offer, payment, promise to pay, or authorization of the payment or giving of money or anything else of value, to anyone, while knowing or believing that all or some portion of the money or thing of value will be offered, given, promised to, or retained by a Government Official or any other person for the purposes of obtaining or retaining business, securing any improper advantage or the improper performance of that person’s or Government Official’s function, or misuse of that person’s or Government Official’s position.

**Apartment Complex** means the Land and the 110 unit multifamily rental housing development and other improvements to be constructed, owned and operated thereon by the Company and to be known as Mistletoe Station, 1916 Mistletoe Blvd., Fort Worth, Tarrant County, Texas.

**Applicable Fraction** has the meaning set forth in Section 42(c)(1)(B) of the Code.

**Applicable Percentage** means the percentage by which the Qualified Basis of a building in the Apartment Complex is multiplied in order to determine the amount of Housing Tax Credits available to such building in the Apartment Complex, as more particularly defined in Code Section 42(b).

**Application** means the Company’s Low Income Housing Tax Credit Application for Credit Reservation submitted to and approved by the Agency for any undertaking with respect to the development and operation of the Apartment Complex, including any amendments thereto approved by the Agency.

**Architect** means BGO Architects, a Texas corporation, as the architect for the Apartment Complex pursuant to the Architect’s Contract, or such other Architect as Consented to by the Investor Member.

**Architect’s Contract** means the AIA Standard Form of Agreement Between Owner and Architect dated January 30, 2018 by and between the Company and the Architect.

**Asset Management Fee** has the meaning set forth in Section 10.5.

**Assignment** means a valid sale, exchange, pledge, transfer or other disposition of all or any portion of an Interest made in accordance with the terms of this Agreement.

**Backstop Guaranty Agreement** shall mean that certain Backstop Guaranty Agreement by the Guarantors for the benefit of Hunt dated the date hereof.

**Bankruptcy Code** has the meaning set forth in Section 7.2(b)(v).
**Building One** means the first of two buildings at the Apartment Complex, consisting of 7 Market Rate Units and 13 Housing Tax Credit Units.

**Building Two** means the second of two buildings at the Apartment Complex consisting of 29 Market Rate Units and 61 Housing Tax Credit Units.

**Business Day** means a day (other than a Saturday or Sunday) on which banks generally are open in New York, New York for the conduct of substantially all of their commercial lending activities.

**Capital Account** means the capital account of a Member as described in Section 13.6.

**Capital Contribution** means, with respect to each Member, the total value of cash or property contributed and agreed to be contributed to the Company by each Member pursuant to Article 4. Any reference in this Agreement to the Capital Contribution of a then Member shall include a Capital Contribution previously made by any prior Member for the Interest of such then Member.

**Capital Contribution Account** has the meaning set forth in Section 4.2(b)(ix).

**Capital Transaction** means any transaction the proceeds of which are attributable to the sale, refinance, exchange, transfer, assignment or other disposition (including a condemnation, to the extent proceeds are not used to rebuild the Apartment Complex, or foreclosure) of all or any portion of the Apartment Complex or a casualty (to the extent proceeds are not used to rebuild the Apartment Complex) affecting the Apartment Complex, but excluding the payment of Capital Contributions.

**Carryover Allocation** means the carryover allocation of Housing Tax Credits issued to the Company by the Agency on December 19, 2017 in an annual amount of not less than $1,500,000 made pursuant to Code Section 42(h)(1)(E) which requires the Apartment Complex be Placed in Service by the end of the second year after the date of the Carryover Allocation.

**Carryover Certification** means the written certification of the Accountants that the Company had incurred capitalizable costs with respect to the Apartment Complex within one (1) year after the date of the Carryover Allocation of at least ten percent (10%) of the Company’s reasonably expected basis in the Apartment Complex.

**Cash Expenditures** means all disbursements of cash during the applicable period, including, without limitation, cash expenditures for Operating Expenses, Debt Service Expense, including, but not limited to, the monthly funding of the Replacement Reserve and any other reserves required under this Agreement or by any Lender. Cash Expenditures shall not include payments and distributions to be made pursuant to Article 14 of this Agreement, refunds to tenants of security deposits, and expenditures from the Replacement Reserve and other reserves required to be maintained under this Agreement or by any Lender. For purposes of this definition, Cash Expenditures without a specific maturity date shall be paid on a sixty (60) day current basis.
**Cash Flow** means, for any period of time, the excess, if any, of Cash Receipts for such period over Cash Expenditures for such period.

**Cash From Capital Transaction** means the proceeds of a Capital Transaction after (i) payment of all reasonable and customary expenses associated with the Capital Transaction, (ii) repayment of all secured Company debts required by any Lender to be paid with respect to such Capital Transaction, and (iii) application of such proceeds to the repair and restoration of the Apartment Complex as provided under the terms of this Agreement. Cash from Capital Transaction shall not include Cash Flow or proceeds of any Loan.

**Cash Receipts** means all cash receipts of the Company from whatever source, including, without limitation, operating income, subsidy payments, interest or investment earnings on the Replacement Reserve or other reserves required by any Lender and assets of the Company, cash from the forfeiture or application of tenant security deposits and the cash from the release of reserves held by any Lender to the Company other than for application to the expense for which they were set aside. Cash Receipts shall not include Cash From Capital Transaction, cash from Capital Contributions, proceeds from a loan to the Company (including, without limitation, Operating Deficit Loans, IM Loans and MM Loans) and the deposit by tenants of security deposits and any interest payable to tenants thereon.


**Certificate** means the Certificate of Formation of the Company filed with the Filing Office on August 14, 2017, as such certificate may be amended from time to time.

**City Council Action** means the City Council Action approved on June 26, 2018 relating to the authorization of the Additional TIF Reimbursement.

**Closing Date** or **Closing** has the meaning set forth in the Preliminary Statement.

**CO-Issuance Date** means the date on which the issuance of all necessary certificates of occupancy or equivalent permits or licenses from the applicable governmental jurisdictions and authorities authorizing the occupancy of one hundred percent (100%) of the units in the Apartment Complex shall have occurred.

**Co-Managing Member** means Saigebrook Mistletoe, LLC, a Texas limited liability company, and any other Person admitted as a co-managing member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including a Replacement Managing Member.

**Co-Managing Member Pledge** means the Pledge and Security Agreement dated as of the date hereof by the Co-Managing Member for the benefit of the Investor Member in the form of Exhibit G-1, wherein the Co-Managing Member pledges and grants a first priority security interest in the Co-Managing Member’s Interest in the Company to secure the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement.
**Code** means the Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of succeeding law.

**Company** means Mistletoe Station, LLC, a Texas limited liability company.

**Company Minimum Gain** means the amount determined by computing, with respect to each Company Nonrecourse Liability, the amount of gain, if any, that would be realized by the Company if it disposed of (in a taxable transaction) the property subject to such liability in full satisfaction of such liability, and by then aggregating the amounts so computed. Such computations shall be made in a manner consistent with Regulation Sections 1.704-2(d) and (k).

**Company Nonrecourse Liability** means any Company liability (or portion thereof) for which no Member or Related Person bears the Economic Risk of Loss.

**Completion** means the date on which all of the following have occurred, in the reasonable judgment of the Investor Member; (i) Substantial Completion has been achieved; (ii) the lien-free and defect-free completion of Construction of the Apartment Complex in a good and workmanlike manner, in compliance with the Plans and Specifications with only such immaterial variations as to which Consent is not required under this Agreement and other changes approved by the Investor Member in accordance with the terms and provisions of this Agreement and the terms and provisions of the Project Documents; (iii) the issuance of all necessary permanent certificates of occupancy (with no outstanding issues relating to improvements of the Apartment Complex) from the applicable governmental jurisdictions and authorities for the Apartment Complex, allowing for immediate occupancy of one hundred percent (100%) of the Units, and any other written acknowledgement required by the Project Documents that the Apartment Complex has been completed satisfactorily and Placed in Service; (iv) delivery and installation in the Apartment Complex of all necessary and appropriate fixtures, equipment and personal property, including, without limitation, installation of all required appliances in the residential units in the Apartment Complex has occurred; (v) all amounts owing to the Contractor for the construction or rehabilitation of the Apartment Complex have been or will be with the Fourth Installment paid-in-full, as evidenced by a final application for payment (as evidenced by the Architect’s Certificate for Payment AIA Forms G702 and G703); (vi) the payment and release of all liens of subcontractors, materialmen, and other providers of labor, equipment, material and/or services to the Land and the Apartment Complex as evidenced by the receipt of all unconditional lien releases from all such subcontractors, materialmen and all other providers of labor, equipment, material and/or services to the Land and the Apartment Complex and (vii) the Completion Documentation has been provided to, and approved by, the Investor Member, with such approval not to be unreasonably withheld.

**Completion Date** means the date on which Completion is achieved.

**Completion Documentation** means any documentation that the Investor Member may reasonably require to demonstrate that the criteria for Completion have been satisfied, including but not limited to: (i) fully-executed AIA documents G704, G706, G706A, and (if a payment and performance bond had been issued) G707; (ii) a letter from the Contractor to the Company stating that the Contractor’s warranty has commenced; (iii) a letter from the Architect to the Company stating that all “work” described in the Construction Contract, including completion of
all “punch work,” has been completed; (iv) the ALTA As-Built Survey; (v) electronic copies of the “as-built” plans and specifications; (vi) if applicable, chain-of-custody and disposal records for any Hazardous Material disposal; (vii) engineer certification pertaining to soil compaction and concrete stress testing; (viii) if applicable, written approval by appropriate professionals pertaining to the fulfillment of any “green building” or EnergyStar requirements; (ix) if requested by the Investor Member, or otherwise if required by the municipality, written approvals of completed work from the mechanical, electrical, plumbing, and/or landscape design professionals; (x) if applicable in the State, a copy of the filed public notice of completion; and (xi) if requested by the Investor Member due to reasonable concerns about the as-completed Apartment Complex’s compliance with Access Laws, an Access Laws Certification.

**Compliance Period** means with respect to each building in the Apartment Complex, the period of fifteen (15) taxable years beginning with the first taxable year of the Credit Period, as more particularly defined in Code Section 42(i).

**Consent** means the prior written consent or approval of the Investor Member at its sole discretion (except where otherwise stated) and/or any other Member, as the context may require, to do the act or thing for which the consent is solicited.

**Construction** means construction, renovation or rehabilitation, as applicable, of the Apartment Complex.

**Construction Contract** means, collectively, the General Contractor’s Construction Contract, the Sub-Contractor’s Construction Contract and the Public Bid Sub-Contractor Construction Contract.

**Construction Lender** means JPMorgan Chase Bank, N.A., in its capacity as holder of the Construction Loan, or its successors or assigns in such capacity, or such other Construction Lender subject to the Consent of the Investor Member.

**Construction Loan** means the construction loan in the maximum principal amount of $22,282,000 to be made to the Company by the Construction Lender at the Construction Loan Closing, which is to be evidenced by the promissory note given by the Company to the Construction Lender at the Construction Loan Closing, and which is to be secured by the Construction Mortgage and other related security documents and financing statements, the terms of which are subject to the Consent of the Investor Member.

**Construction Loan Draw** has the meaning set forth in Section 4.4.

**Construction Loan Closing** means the date upon which the Construction Loan is closed and the initial disbursement is made thereunder. The Construction Loan Closing is anticipated to occur on or before the Closing Date.

**Construction Mortgage** means the mortgage or deed of trust to be given by the Company at the Construction Loan Closing in favor of the Construction Lender, as holder of the Construction Loan, securing the Construction Loan.
**Construction Period** means the period commencing on Construction Loan Closing and ending on the Completion Date.

**Continued Compliance Sale** has the meaning set forth in Section 5.5.

**Contractor** means, collectively, General Contractor, the Sub-Contractor, the Public Bid Sub-Contractor or such other Contractor subject to the Consent of the Investor Member.

**Contribution Date** has the meaning set forth in Section 4.13.

**Controlling Interest** means the power to direct the management and policies of any Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

**Controlling Person** has the meaning given to it in the context of Section 15 of the Securities Act of 1933, as amended.

**Cost Certification** means the written certification of the Accountants, in form and substance satisfactory to the Investor Member, as to the itemized amounts of the acquisition, construction and development costs of the Apartment Complex and the Eligible Basis and Applicable Percentage pertaining to each building in the Apartment Complex, together with evidence of submission thereof to the Agency.

**Cost Savings** means the amount, if any, by which Permitted Sources exceed Development Costs.

**Counsel for the Company** means Shutts & Bowen LLP or such other firms as may be engaged by the Managing Member with Consent of the Investor Member.

**Credit Period** means the “credit period” with respect to each of the buildings in the Apartment Complex, as defined in Code Section 42(f).

**Credit Support and Funding Agreement** means that certain Credit Support and Funding Agreement by and between the Company and the Construction Lender dated as of August 30, 2018 relating to the Construction Loan.

**DDF Election** has the meaning set forth in Section 8.1(b).

**Debt Service Coverage Ratio** means, for the applicable period, the Net Operating Income divided by the Debt Service Expense. The calculation of the Debt Service Coverage Ratio shall be prepared by the Managing Member and approved in good faith by the Investor Member in its sole discretion, notwithstanding any other provision herein to the contrary.

**Debt Service Expense** means, with respect to any period, the debt service expense incurred by the Company on an accrual basis, including interest expense and required principal payments, late charges and any other fees and expenses incurred during such period and solely relating to the Permanent Loan; provided that where the Debt Service Expense is being calculated for purposes of Rental Achievement and Loan sizing pursuant to Section 8.4(a) for the
period prior to Permanent Loan Closing (other than in connection with calculation of Development Costs), it shall equal the Debt Service Expense that would have been incurred by the Company if Permanent Loan Closing (assuming the anticipated Permanent Loan terms at the time of the calculation) had occurred prior to such period.

**Default IM Loans** means IM Loans (or portions thereof) made pursuant to Section 4.12 that arise from a default by the Managing Member in its obligations to the Company under this Agreement. For example, an IM Loan made to fund Operating Deficits that the Managing Member failed to fund in breach of the Operating Deficit Guaranty shall constitute a Default IM Loan.

**Deferred Development Fee** means the deferred portion, if any, of the Development Fee payable by the Company to the Developer pursuant to the Development Agreement and Article 14. The amount of the Deferred Development Fee is expected to be $2,221,407.

**Deficit Restoration Contribution** has the meaning set forth in Section 4.2(c)(ii).

**Deficit Restoration Obligation** has the meaning set forth in Section 4.2(c)(ii).

**Developer** means, collectively, Saigebrook Development, LLC, a Florida limited liability company and O-SDA Industries, LLC, a Texas limited liability company.

**Developer Pledge** means the Pledge and Security Agreement dated as of the date hereof by the Developer for the benefit of the Investor Member in the form of Exhibit H.

**Development Agreement** means the Development Agreement dated as of August 30, 2018 between the Developer and the Company, in the form set forth in Exhibit E.

**Development Budget** means the construction, development and financing budget for the Apartment Complex, including, without limitation, the construction of the Apartment Complex, the furnishing of all personalty in connection therewith, and the operation of the Apartment Complex prior to Rental Achievement, which is attached hereto as Exhibit B, and any amendments thereto made with the Consent of the Investor Member.

**Development Costs** means all direct or indirect costs paid or accrued by the Company related to the acquisition of the Land and the development and Completion of the Apartment Complex through and including Rental Achievement, including, without limitation, all amounts due under and pursuant to the Construction Contract, all costs of completing punchlist items regardless of when incurred and all direct or indirect costs paid or accrued by the Company related to the operation of the Apartment Complex prior to and including Rental Achievement, including, without limitation, the following: (i) costs of acquiring, financing, developing and constructing the Apartment Complex, as described in and as contemplated by the Plans and Specifications and the Project Documents, including, without limitation, any construction cost overruns, the cost of any change orders and all costs necessary to achieve Completion and Rental Achievement; (ii) all Debt Service Expense which is due and payable or accrues at any time prior to Rental Achievement; (iii) all costs, payments and deposits needed to avoid a default under the Construction Loan, including, without limitation, all required deposits to satisfy any requirements of the Construction Lender and the Investor Member to keep the Construction Loan
“in balance”; (iv) all monthly payments required to be made to the Replacement Reserve upon and prior to Rental Achievement; (v) all costs and expenses relating to remedying any environmental problem or condition of Hazardous Materials that existed on or prior to Rental Achievement; (vi) all costs, expenses and other charges incurred in connection with the operation of the Apartment Complex on or prior to Rental Achievement, including, without limitation, local taxes, utilities, mortgage insurance premiums and casualty and liability insurance premiums and other amounts which are required pursuant to the Construction Loan; (vii) all other costs and expenses of the Company accrued on or prior to Rental Achievement, including, without limitation, legal fees, and fees of other professionals; (viii) any fees paid or due to the Managing Member and its Affiliates, including the Development Fee; (ix) all costs to achieve Construction Loan Closing, Permanent Loan Closing and Rental Achievement, including costs to date down Owner’s Title Policy; (x) funding of the Operating Reserve and any other reserve in accordance with Section 5.10 hereof; and (xi) the costs of on and off-site improvements required under the TIF Reimbursement Agreement and the City Council Action.

**Development Deficit** means, as of any date, the amount, if any, by which the Development Costs which the Company has an obligation to pay as of such date exceed the sum of Permitted Sources as of such date.

**Development Fee** means the fee payable by the Company to the Developer pursuant to the Development Agreement and as set forth in Section 5.9(a).

**Due Diligence Documents** means the documents requested and provided to the Investor Member in connection with its review of the transaction reflected herein.

**Economic Risk of Loss** has the meaning set forth in Regulation Section 1.752-2.

**Eligible Basis** has the meaning set forth in Code Section 42(d) and the Regulations and rulings thereunder.

**Entity** means any general partnership, limited partnership, corporation, limited liability company, joint venture, trust, business trust, cooperative, association, the State or any agency or political subdivision thereof.

Consultants and dated May 15, 2018, and (ix) Soil and Groundwater Management Plan prepared with respect to the Apartment Complex by Terracon Consultants and dated June 6, 2018.

**Environmental Laws** means any law, regulation, code, license, permit, order, judgment, decree or injunction from any governmental authority relating to the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substance Control Act, the Safe Drinking Water Control Act, CERCLA, the Occupational Safety and Health Act and any other federal, state or local laws, regulations, ordinances or decrees governing Hazardous Material or hazardous substances or the protection or preservation of public and/or human health or the environment (including air, water, soil and natural resources) or the presence, transportation, recycling, storage, treatment, use, handling, disposal, release or threat of release, or exposure to Hazardous Material, in each such case which has the force of law and is in force at the date of this Agreement.

**Equity Lender** means the financial institution which advances funds to the Investor Member to pay its Capital Contribution obligations under this Agreement.

**Event of Bankruptcy** means, with respect to the Company, a Managing Member, the Management Agent, a Guarantor or a Person with a Controlling Interest in any of them (i) the voluntary or involuntary filing of a petition in bankruptcy by or against such person under the federal Bankruptcy Code (11 U.S.C. §§1101 et seq.), as amended, or any successor statute thereto, or the commission of an act of bankruptcy (except if the filing of the petition in bankruptcy or act of bankruptcy is susceptible to cure or dismissal and is so cured or dismissed within ninety (90) days), (ii) the voluntary or involuntary commencement of an assignment for the benefit of creditors, a receivership or other insolvency proceeding pursuant to state law or as determined by court proceedings; or (iii) with respect to a Managing Member, any of the following:

(a) The making of an assignment for the benefit of creditors or the filing of a voluntary petition in bankruptcy by the Managing Member;

(b) The filing of an involuntary petition in bankruptcy against the Managing Member which is not dismissed within ninety (90) days after filing or the adjudication of the Managing Member as a bankrupt or insolvent;

(c) The filing by the Managing Member of a petition or answers seeking for the Managing Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule;

(d) The filing by the Managing Member of an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Managing Member in any proceeding of a nature described under sub-paragraph (c) above;

(e) The seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator by any Person with a Controlling Interest in the Managing Member or of all or a substantial part of the Managing Member’s properties;
(f) The commencement of a proceeding against the Managing Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule not dismissed within ninety (90) days after commencement of the proceeding;

(g) The appointment, without the Managing Member’s Consent, of a trustee, receiver or liquidator, either of the Managing Member or of all or a substantial part of the Managing Member’s properties, which is not vacated or stayed on or before the ninetieth (90th) day after such appointment and, if stayed, is not vacated on or before the ninetieth (90th) day after expiration of the stay;

(h) The inability of the Managing Member to pay its debts as they become due;

(i) The Managing Member becoming “insolvent” by the taking of any action or the making of any transfer or otherwise, as insolvency is or may be defined pursuant to the Federal Bankruptcy Code, the Uniform Fraudulent Transfers Act, any similar state or federal act or law, or the ruling of any court, or

(j) If either (I) any one or more judgments or orders against the Managing Member with respect to a claim or claims involving the aggregate liabilities exceeding $50,000.00, which judgment or order is not covered in full by insurance or is not stayed, bonded, paid or discharged within thirty (30) days after such judgment or order, or (II) any writ of attachment or execution or any similar process is (A) issued or levied against such Person’s property and (B) is not discharged or stayed within thirty (30) days thereof.

**Event of Default** means an event of default listed in Section 7.1.

**Excess IM Loan Amount** means the amount, if any, by which the outstanding balance of all IM Loans, including principal and accrued interest, exceeds the outstanding balance of all MM Loans, including principal and accrued interest.

**Excess MM Loan Amount** means the amount, if any, by which the outstanding balance of all MM Loans, including principal and accrued interest, exceeds the outstanding balance of all IM Loans, including principal and accrued interest.

**Extended Use Agreement** means the extended low-income housing commitment executed by the Company and the Agency related to the Apartment Complex, which commitment satisfies the requirements of Code Section 42(h)(6)(B) which is required to be recorded prior to the end of the first year in which Housing Tax Credits are claimed.

**Facility** has the meaning given to it in CERCLA, and shall also include any meaning given to it in any similar state or local statutes, ordinances or regulations.

**Fifth Installment** has the meaning set forth in Section 4.2(b)(v).

**Filing Office** has the meaning set forth in the Preliminary Statement.
**FinCen** has the meaning set forth in Section 6.1(ggg).

**First Installment** has the meaning set forth in Section 4.2(b)(i).

**Forms 8609** means the IRS Forms 8609 issued by the Agency for each residential building of the Apartment Complex which allocates Housing Tax Credits to such residential building.

**Fourth Installment** has the meaning set forth in Section 4.2(b)(iv).

**Funding Conditions** means the conditions to funding of the Investor Member’s Capital Contributions as set forth on Exhibit C hereto.

**FWHFC Lender** means Fort Worth Housing Finance Corporation, in its capacity as holder of the FWHFC Loan, or its successors or assigns in such capacity, or such other FWHFC subject to the Consent of the Investor Member.

**FWHFC Loan** means the construction and permanent loan in the maximum principal amount of $750,000, including accrued interest, to be made by the FWHFC Lender to the Company in part at the Construction Loan Closing, which is to be evidenced by the promissory note made by the Company in favor of the FWHFC Lender at the Construction Loan Closing, and which is to be secured by the FWHFC Mortgage and other related security documents and financing statements, the terms of which are subject to the Consent of the Investor Member.

**FWHFC Mortgage** means the mortgage or deed of trust made by the Company at the Construction Loan Closing in favor of the FWHFC Lender, as holder of the FWHFC Loan, securing the FWHFC Loan.

**General Contractor** means Fort Worth Housing Finance Corporation of Fort Worth, Texas, pursuant to the General Contractor’s Construction Contract.

**General Contractor’s Construction Contract** means the AIA Standard Form of Agreement Between Owner and Contractor dated August 16, 2018, by and between the Company and the General Contractor relating to the construction of the Apartment Complex, and subject to the Consent of the Investor Member.

**Government Official** means an officer, employee or official of a government, government owned or controlled entity, political party or public international organization, or a candidate for political office.

**Gross Operating Revenues** means, with respect to any given period of time, actual monthly collections from the customary operations of the Apartment Complex, including, without limitation, any and all of the following: (i) rent paid by tenants; (ii) rental assistance subsidy payments which are actually paid during such period or up to 90 days accrual; (iii) late charges and interest paid by tenants; (iv) rents, receipts and fees from cellular towers, laundry facilities and similar items; (v) fees from Apartment Complex amenities, including parking, cable television and telephone revenues; and (vi) earnings on the Replacement Reserve, Operating Reserve or other reserves, accounts and investments of the Company; (vii) tenant
security deposits forfeited by tenants or applied against amounts due from tenants; and (viii) any rental assistance subsidy payments received by the Company in excess of maximum rents allowed under Section 42 of the Code. Gross Operating Revenues shall not include any revenues from condemnation or casualty proceeds (other than rental interruption insurance), any cash advances from the Company, refunds or rebates from suppliers or vendors, revenue from the sale of any personal or real property of the Company. Gross Operating Revenues shall not include prepaid rent until such time the rent is due. For purposes of determining whether Rental Achievement has occurred, and the applicable Debt Service Coverage Ratio at any time, Gross Operating Revenues shall not exceed the amount of Gross Operating Revenues that could have been achieved by applying a 7% vacancy rate (5% for Section 8 Units) to potential gross income and shall specifically exclude (1) any non-project based rental assistance subsidy payments received by the Company in excess of maximum rents allowed under Section 42 of the Code, (2) fees from parking in excess of the amount underwritten by the Investor Member to be included in Gross Operating Revenues, (3) non-recurring or unpredictable sources of income such as late fees, penalties, security deposits, interest income on security deposits, prepaid rent and rental receipts prior to the month to which they relate, tenant application fees, interest or other income earned on investment of Company funds, and (4) rents paid by (a) any commercial space tenant, and (b) any tenant in a Housing Tax Credit Unit who does not qualify as low income under the requirements of Section 42 of the Code and the Project Documents.

**Groundbreaking Activities** has the meaning set forth in Section 6.1(eee).

**Guarantors** means, jointly and severally, the Co-Managing Member, the Administrative Member, the Developer, Lisa M. Stephens, individually and Megan D. Lasch, individually.

**Guaranty** means the guaranty of the performance of certain of the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement for the benefit of the Investor Member given by the Guarantors, which Guaranty is in the form of Exhibit F.

**HAP Award Letter** means that certain Award Letter dated as of July 30, 2018 relating to the Section 8 Units in connection with the Apartment Complex.

**HAP Contract** means that certain Housing Assistance Payments Contract (HAP) for the Section 8 Units between the Company and Fort Worth Housing Solutions to be delivered at Completion in connection with the Apartment Complex, having a term of not less than fifteen (15) years, to provide for rental assistance in the form of project-based housing vouchers.

**Hazardous Material** has the collective meanings given to the terms “hazardous material”, “hazardous substances” and “hazardous wastes” in CERCLA, and to the term “radioactive materials” (including, without limitation, any source and special nuclear by-product material) as defined by or in the context of the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., as amended or hereafter amended, and also includes any hazardous, toxic or polluting contaminant, substance or waste, including without limitation any solid waste, toxic substance, hazardous substance, hazardous material, hazardous chemical, pollutant or hazardous or acutely hazardous waste defined or qualifying as such in (or for purposes of) any Environmental Law. In addition, the term “Hazardous Material” also includes, but is not limited to, petroleum
(including, without limitation, crude oil and any fraction thereof), petroleum products, asbestos containing materials, microbial contaminants, polychlorinated biphenyls or lead-based paint, radon and any other substance known to be hazardous.

**HOME Act** has the meaning set forth in Section 6.1(q).

**HOME Lender** means the Agency, in its capacity as holder of the HOME Loan, or its successors or assigns in such capacity, or such other HOME Lender subject to the Consent of the Investor Member.

**HOME Loan** means the construction and permanent loan in the anticipated principal amount of $1,056,000 to be made to the Company by the HOME Lender in part at the Construction Loan Closing, which is to be evidenced by the promissory note given by the Company to the HOME Lender at the Construction Loan Closing, and which is to be secured by the HOME Mortgage and other related security documents and financing statements, the terms of which are subject to the Consent of the Investor Member.

**HOME Minimum Set-Aside Test** means the HOME Program set aside test required to be met by the Apartment Complex as set forth in the HOME Regulatory Agreement entered or to be entered into between the Company and the Agency in connection with the HOME Loan.

**HOME Mortgage** means the mortgage or deed of trust to be given by the Company at the Construction Loan Closing in favor of the HOME Lender, as holder of the HOME Loan, securing the HOME Loan.

**HOME Program** means the HOME Investment Partnerships Program established under the Cranston Gonzalez National Affordable Housing Act of 1990.

**Housing Tax Credit Compliance Guaranty** means the guaranty of the Managing Member to make payments described in Section 8.3.

**Housing Tax Credit Disallowance Event** means (a) the filing of a tax return by the Company or an amendment by the Company to a tax return evidencing a reduction in the Qualified Basis of the Apartment Complex causing a recapture or disallowance of Housing Tax Credits previously allocated to the Investor Member, (b) a reduction in the Qualified Basis or a change in the Applicable Percentage of the Apartment Complex following an assessment or audit by the Service which results in the assessment of a deficiency by the Service against the Company with respect to any Housing Tax Credits previously claimed in connection with the Apartment Complex, unless the Company shall timely file a petition with respect to such deficiency with the United States Tax Court or any other federal court of competent jurisdiction and the collection of such assessment shall be stayed pending the disposition of such petition, (c) a decision by the United States Tax Court or any other federal court of competent jurisdiction upholding the assessment of a deficiency against the Company associated with a reduction in Qualified Basis of the Apartment Complex or change in the Applicable Percentage with respect to any Housing Tax Credits previously claimed in connection with the Apartment Complex, unless the Company shall timely appeal such decision and the collection of such assessment shall be stayed pending the disposition of such appeal, or (d) the decision of a federal court of competent jurisdiction affirming such decision.
**Housing Tax Credit Excess** has the meaning set forth in Section 4.2(d).

**Housing Tax Credit Price** means $0.86.

**Housing Tax Credit Shortfall** means any reduction in Housing Tax Credits of which 99.99% are allocable to the Investor Member as a result of (a) Actual Housing Tax Credits being less than the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits), or (b) as a result of a Housing Tax Credit Disallowance Event.

**Housing Tax Credit Shortfall Payment** means any amounts payable by reason of the provisions of Section 4.2(d) or Section 8.3 as a result of a Housing Tax Credit Shortfall.

**Housing Tax Credit Units** has the meaning set forth in Section 6.1(p).

**Housing Tax Credits** means the low-income housing tax credits allowable to the Company pursuant to Code Section 42.

**Hunt** means Hunt Capital Partners, LLC, a Delaware limited liability company, or its successor in interest.

**Hunt Entity** means an Affiliate of Hunt or the Investor Member.

**Hunt Indemnified Parties** means the Investor Member, the Special Investor Member and their Affiliates, and all past and present officers, directors, managers, employees, partners, agents, shareholders, members, trustees, predecessors, successors, subrogees, attorneys, insurance carriers and assigns of the Investor Member, the Special Investor Member and their Affiliates. For the avoidance of doubt, any Person holding more than 10% of the investor member interests in the Investor Member or the Special Investor Member is an Affiliate of the Investor Member or the Special Investor Member, respectively, and shall constitute one of the Hunt Indemnified Parties.

**IM Loans** has the meaning set forth in Section 4.12.

**Immediate Family** means with respect to any Person, such Person’s spouse, parents, parents-in-law, descendants, nephews, nieces, brothers, sisters, brothers-in-law, sisters-in-law, children-in-law and grandchildren-in-law.

**Imputed Underpayment** means that amount of tax finally determined to be due under Section 6225 of the Code with respect to adjustments to the Company’s items of income, gain, loss, deduction, or credit for any Company taxable year.

**Initial 100% Occupancy** means that Construction has been completed and one hundred percent (100%) of all units (excluding the Market Rate Units) in the Apartment Complex including the Housing Tax Credit Units shall have been leased to and shall have been physically occupied by Qualified Tenants.

**Initial Operating Reserve Amount** has the meaning set forth in Section 5.10(b).
**Initiating Member** has the meaning set forth in Section 4.13.

**Installment or Installments** has the meaning set forth in Section 4.2(b).

**Interest** means the entire interest of a Member in the Company at any particular time, including the right of such Member to any and all benefits to which a Member may be entitled hereunder and the obligation of such Member to comply with the terms of this Agreement.

**Investor Member** means HCP-ILP, LLC, a Nevada limited liability company, its successors and/or assigns and any Person or Persons who replaces it as a Substitute Investor Member.

**Involuntary Withdrawal** has the meaning set forth in Section 7.2(b)(i).

**Land** means the tract of land currently owned or leased or to be purchased or leased by the Company upon which the Apartment Complex will be located, as more particularly described in Exhibit A hereto.

**Lender** means any Person who makes a loan to the Company for so long as such loan remains outstanding, or its successors and assigns in such capacity.

**Lending Member** has the meaning set forth in Section 4.16.

**Limited Guaranty Agreement** shall mean that certain Limited Guaranty by Hunt for the benefit of the Construction Lender dated the date hereof.

**Limited Recourse Liability** has the meaning set forth in Section 8.3(d).

**Liquid Assets** means cash or cash equivalents that can be converted to cash within forty-eight (48) hours.

**Liquidator** means the Managing Member or, if there is none at the time in question, such other Person who may be appointed in accordance with applicable law and who shall be responsible for taking all action necessary or appropriate to wind up the affairs of, and distribute the assets of, the Company upon its dissolution.

**Loans** means the Construction Loan, the Permanent Loan, the HOME Loan and the FWHFC Loan.

**Management Agent** means Accolade Property Management, Inc., a Texas corporation, and/or any successor or assign who is selected by the Managing Member with the Consent of the Investor Member to provide management services with respect to the Apartment Complex in accordance with Article 16.

**Management Agreement** means the agreement between the Company and the Management Agent substantially in the form attached hereto as Exhibit I, providing for the marketing and property management of the Apartment Complex by the Management Agent.
**Management Fee** means the fee payable by the Company to the Management Agent pursuant to the Management Agreement.

**Managing Member** means the Co-Managing Member and the Administrative Member and any other Person admitted as a managing member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including the Replacement Managing Member.

**Managing Member Pledge** means the Co-Managing Member Pledge and the Administrative Member Pledge.

**Managing Member’s Special Capital Contribution** has the meaning set forth in Section 4.1(c).

**Market Rate Units** means the thirty six (36) dwelling units in the Apartment Complex not eligible for Housing Tax Credits and rented at market rates.

**Member** means the Co-Managing Member, the Administrative Member, the Investor Member and the Special Investor Member.

**Member Loans** means collectively the IM Loans and the MM Loans.

**Member Nonrecourse Debt** means any Company liability (a) that is considered nonrecourse under Regulation Section 1.1001-2 or for which the creditor’s right to repayment is limited to one or more assets of the Company and (b) for which any Member or Related Person bears the Economic Risk of Loss.

**Member Nonrecourse Debt Minimum Gain** means the amount of partner nonrecourse debt minimum gain and the net increase or decrease, as the case may be, in partner nonrecourse debt minimum gain determined in a manner consistent with Regulation Sections 1.704-2(d), 1.704-2(g)(3), 1.704-2(i)(3) and 1.704-2(k).

**Minimum Set-Aside Test** means the set aside test selected by the Company pursuant to Code Section 42(g) whereby at least forty percent (40%) of the Housing Tax Credit Units in the Apartment Complex must be occupied by individuals with incomes equal to sixty percent (60%) or less of area median income; *provided, that* 8 of the Housing Tax Credit Units must be occupied by persons whose incomes are at or below 30% of the established median gross income, 30 of the Housing Tax Credit Units must be occupied by persons whose incomes are at or below 50% of the established median gross income and 36 of the Housing Tax Credit Units must be occupied by persons whose incomes are at or below 60% of the established median gross income, as set forth in the Application and in all cases as adjusted for family size. There will be thirty six (36) Market Rate Units.

**MM Incentive Management Fee** means the fee payable by the Company to the Managing Member pursuant to the provisions of Sections 5.9(b) and 14.1(a).

**MM Loans** have the meaning set forth in Section 4.11.
Net Operating Income means, with respect to any given period of time, the aggregate Gross Operating Revenues for such period of time minus the aggregate Operating Expenses for such period of time.

New Allocation has the meaning set forth in Section 13.5(b).

No Cure Sections has the meaning set forth in Section 7.2(c)(i).

Non-Initiating Members has the meaning set forth in Section 4.13.

Notice, Notification and Notify each have the meaning set forth in Section 19.1.

Notice of Default has the meaning set forth in Section 7.2(a).

O&M has the meaning set forth in Section 6.2.

Occupancy Commencement Date means the first date a Unit is leased and occupied.

Operating Deficit means, for any specified period of time, the amount by which Cash Expenditures for such period exceeds Cash Receipts for such period.

Operating Deficit Guaranty means the guaranty of the Managing Member to fund Operating Deficits during the Operating Deficit Guaranty Period.

Operating Deficit Loan means a loan from a Managing Member to the Company to fund Operating Deficits pursuant to Section 8.2.

Operating Deficit Loan Cap has the meaning set forth in Section 8.2.

Operating Deficit Guaranty Period means the period commencing on Rental Achievement and terminating sixty (60) months after Rental Achievement, provided that such sixty (60) month period shall be extended for additional periods of twelve (12) consecutive months unless and until (i) the Company achieves an average Debt Service Coverage Ratio of at least 1.15 to 1.0 during the last twelve (12) calendar months of the Operating Deficit Guaranty Period as so extended and (ii) the balance of the Operating Reserve is at least the $540,000.

Operating Expenses means, with respect to any given period of time, all expenses of the Company in connection with the ownership, operation, leasing and occupancy of buildings in the Apartment Complex attributable to such period as determined on an accrual basis, excluding Debt Service Expense and all expenses and payments set forth in Section 14.1(a), but including, without limitation, any and all of the following: (i) general real estate taxes; (ii) special assessments or similar charges; (iii) personal property taxes, if any; (iv) sales and use taxes applicable to such operating expenses; (v) cost of utilities for the Apartment Complex; (vi) maintenance and repair costs of the Apartment Complex (to the extent not funded from the Replacement Reserve); (vii) operating and management expenses and fees; (viii) premiums of insurance carried on or with respect to the Apartment Complex; (ix) marketing costs, leasing commissions and advertisement and promotional costs, to obtain leases and the cost of work performed to ready space in the
Apartment Complex for occupancy under leases; (x) accounting and auditing fees and costs, attorneys’ fees and other administrative and general expenses and disbursements of the Company (excluding the Asset Management Fee and the MM Incentive Management Fee) in connection with the ownership, operation, leasing and management of the Apartment Complex and the Company; (xi) amounts required to fund the Replacement Reserve and any other reserve required pursuant hereto or under the Project Documents; and (xii) any capital expenditures not funded from reserves. For purposes of calculating the Debt Service Coverage Ratio at any time, Operating Expenses (excluding annual deposits for Replacement Reserves) means the greater of (1) actual Operating Expenses, as calculated in the preceding sentence, inclusive of fully assessed real estate taxes, or (2) $3,986 per unit times 110 per year plus actual real estate taxes if available, otherwise $1,318 per unit per year.

**Operating Reserve** has the meaning set forth in Section 5.10(b).

**Opinion of Counsel** means the opinion(s) of counsel to be rendered by Counsel for the Company and the Managing Member to the Investor Member and its counsel, as required herein, in form and substance satisfactory to the Investor Member.

**Original Agreement** has the meaning set forth in the Preliminary Statement.

**Partnership Representative** has the meaning set forth in Section 15.2(a).

**Payment Date** means the date which is seventy-five (75) days after the end of the Company’s fiscal year with respect to the preceding fiscal year.

**Percentage Interest** means ninety-nine and ninety-nine hundredths percent (99.99%) as to the Investor Member, two one-thousandth percent (0.002%) as to the Special Investor Member, forty eight one-thousandth percent (0.0048%) as to the Co-Managing Member and thirty two one-thousandth percent (0.0032%) as to the Administrative Member; provided, however, if a Replacement Managing Member replaces the Managing Member pursuant to Section 7.2(b)(i) and (ii), then the Replacement Managing Member shall have a Percentage Interest of eight one-thousandth percent (0.008%).

**Permanent Lender** means Hunt Mortgage Partners, LLC, in its capacity as maker and holder of the Permanent Loan, together with its successors and assigns in such capacity, or such other Permanent Lender subject to the Consent of the Investor Member.

**Permanent Loan** means the mortgage or deed of trust loan in the anticipated principal amount of $8,300,000 to be made to the Company by the Permanent Lender at Permanent Loan Closing, which will be evidenced by the promissory note to be given by the Company to the Permanent Lender at Permanent Loan Closing, which will be secured by the Permanent Mortgage and other related security documents and financing statements, the terms of which will be subject to the Consent of the Investor Member, and which will be nonrecourse to the Company and the Members from and after Permanent Loan Closing. Such Permanent Loan may be the Construction Loan that has satisfied the conditions to convert to a Permanent Loan.

**Permanent Loan Agreement** means that certain Multifamily Loan and Security Agreement entered into by and between the Permanent Lender and the Company.
Permanent Loan Closing means the first date upon which each of the following shall have occurred as reasonably determined and approved in writing by the Investor Member: (a) the Completion Date, (b) the Construction Loan shall have been repaid in full and all liens and pledges relating thereto shall have been released or the Construction Loan shall have been converted to a Permanent Loan, (c) the disbursement by the Permanent Lender of the proceeds of the Permanent Loan unless the Construction Loan shall have been converted to a Permanent Loan, (d) amortization of the Permanent Mortgage shall commence within thirty (30) days of the closing of the Permanent Loan; (e) receipt by the Investor Member of a date down of the Title Policy, if available; (f) full funding of all Loans; and (g) such other conditions as the Investor Member may require.

Permanent Loan Commitment means the written commitment of the Permanent Lender to make the Permanent Loan to the Company on the terms set forth in the Permanent Loan Commitment.

Permanent Loan Shortfall has the meaning set forth in Section 8.4(b).

Permanent Mortgage means the mortgage or deed of trust to be given by the Company at Permanent Loan Closing in favor of the Permanent Lender, as holder of the Permanent Loan, securing the Permanent Loan, which shall be the Construction Mortgage if the Construction Loan converts to the Permanent Loan.

Permitted Sources means (i) proceeds of the Loans; (ii) the right to defer the Development Fee pursuant to this Agreement and the Development Agreement; (iii) the Capital Contributions required by the Members under this Agreement (other than the Special Additional Capital Contribution, the Managing Member’s Special Capital Contribution and the Special Investor Member’s Special Capital Contribution); (iv) Cash Receipts prior to Rental Achievement; and (v) the TIF Reimbursement for costs incurred pursuant to the TIF Reimbursement Agreement and the Additional TIF Reimbursement for costs incurred pursuant to the City Council Action.

Person means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such individual or Entity as the context may require.

Placed in Service or Placement in Service means the placement in service of all dwelling units in the Apartment Complex for purposes of Section 42 of the Code.

Placed in Service Date means the date by which all dwelling units in the Apartment Complex have been Placed in Service.

Plans and Specifications means the plans and specifications for the Apartment Complex stamped with the seal of an architect and/or engineer, which have been approved in writing by the Investor Member, and any changes thereto made in accordance with the terms of this Agreement. The Plans and Specifications approved by the Investor Member, and the date thereof, are listed on Exhibit P.

Pledged Payments has the meaning set forth in Section 5.11.
Predevelopment Loan means the pre-development loan made to the Company by HCP-ILP, LLC, a Nevada limited liability company on April 13, 2018 in the principal amount of $850,000, evidenced by the promissory note given by the Company to the HCP-ILP, LLC, a Nevada limited liability company, as amended by the Amendment to Predevelopment Loan dated as of June 21, 2018, and to be paid off with proceeds of the First Installment.

Prime Rate means the “prime rate” of interest as published in The Wall Street Journal from time to time.

Project Documents means and includes (i) all documentation related to the Loans; (ii) the Construction Contract, the Architect’s Agreement, the Development Agreement, the Guaranty, the Management Agreement and documentation relating thereto, (iii) the Plans and Specifications, (iv) the Application, (v) the reservation, Carryover Allocation, Carryover Certification and related documents pertaining to the Housing Tax Credits, (vi) the Extended Use Agreement, (vii) the HAP Award Letter, the HAP Contract and the Section 811 Subsidy Contract, (viii) the TIF Reimbursement Agreement and the City Council Action (ix) all other instruments delivered to (or required by) any Lender and/or any Agency, (x) the Managing Member Pledge and the Developer Pledge, (xi) the Purchase Option Agreement, and (xii) all other documents relating to the Apartment Complex and by which the Company is bound, in each case as amended or supplemented from time to time.

Projected Housing Tax Credits means Housing Tax Credits that the Managing Member has projected to be the total amount of the Housing Tax Credits which will be allocated to the Investor Member by the Company, constituting 99.99% of the Housing Tax Credits which are projected to be available to the Company. The Projected Housing Tax Credits as of the date hereof are allocated to the following Fiscal Years in the following respective amounts (subject to adjustment if the Projected Housing Tax Credits are revised pursuant to Section 4.2(d)):

<table>
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<th>Year</th>
<th>Amount</th>
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<tbody>
<tr>
<td>2019</td>
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<tr>
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<tr>
<td>2021-2028</td>
<td>$1,499,850</td>
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<tr>
<td>2029</td>
<td>$1,455,935</td>
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<tr>
<td>2030</td>
<td>$64,183</td>
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</tbody>
</table>

Public Bid Sub-Contractor means Rumsey Construction LLC, pursuant to that Public Bid Sub-Contractor’s Construction Contract.

Public Bid Sub-Contractor’s Construction Contract means the construction contract on DAP Bid Form, Project #101561 dated August 1, 2018, by and among the Company, the Public Bid Sub-Contractor and the City of Fort Worth relating to the construction of the Apartment Complex, and subject to the Consent of the Investor Member.
**Purchase Option Agreement** means the Purchase Option Agreement attached hereto as Exhibit O.

**Purposes** means the various reasons and purposes for which the Company has been formed as recited in Section 3.1.

**Qualified Basis** means that portion of the Eligible Basis of the Apartment Complex upon which the Company is able to receive Housing Tax Credits, as more particularly defined in Code Section 42(c).

**Qualified Income Offset Item** means (1) an allocation of loss or deduction that, as of the end of each year, reasonably is expected to be made (a) pursuant to Section 704(e)(2) of the Code to a donee of an interest in the Company, (b) pursuant to Section 706(d) of the Code as the result of a change in any Member’s Interest, or (c) pursuant to Regulation Section 1.751-1(b)(2)(ii) as the result of a distribution by the Company of unrealized receivables or inventory items and (2) a distribution that, as of the end of such year, reasonably is expected to be made to a Member to the extent it exceeds offsetting increases to such Member’s Capital Account which reasonably are expected to occur during or prior to the Company taxable year in which such distribution reasonably is expected to occur.

**Qualified Tenant** means a tenant (i) with income on the date of the initial occupancy of the tenant’s unit not exceeding that permitted by the Minimum Set-Aside Test or the HOME Minimum Set-Aside Test, as applicable, and any other additional set-asides applicable to the Apartment Complex, who leases a Unit in the Apartment Complex under a lease having an original term of not less than twelve (12) months and at a rent which satisfies the Rent Restriction Test and (ii) complying with any other requirements imposed by the Project Documents.

**Recourse Obligations** has the meaning set forth in Section 13.4(a).

**Regulations** means the regulations promulgated under the Code.

**Related Person** means a Person related to a Member within the meaning of Regulation Section 1.752-4(b).

**Rent Restriction Test** means the test pursuant to Code Section 42(g) whereby the gross rent, including utility allowances, charged to tenants of Housing Tax Credit Units in the Apartment Complex is not allowed to exceed thirty percent (30%) of the imputed income limitation levels applicable to such Housing Tax Credit Units based on the applicable area median income levels under the Minimum Set-Aside Test or the HOME Minimum Set-Aside Test, as applicable.

**Rental Achievement** means the first date on which the Apartment Complex has attained, as reasonably determined and approved by the Investor Member in writing, all of the following: (a) a 1.15 to 1.00 Debt Service Coverage Ratio with respect to the Permanent Loan, each month for a period of three (3) consecutive calendar months of operations ending within 60 days immediately preceding the anticipated date of Rental Achievement, (b) physical occupancy of at least ninety percent (90%) of the units in the Apartment Complex each month over the same
three (3) month period, including at least ninety percent (90%) of (i) Market Rate Units, and (ii) the Housing Tax Credit Units each month over the same three (3) month period by Qualified Tenants, (c) Permanent Loan Closing, (d) Initial 100% Occupancy, (e) no continuing Event of Default hereunder, and (f) continuing compliance with the Minimum Set Aside Test.

**Rental Assistance Agreement** means, collectively, the HAP Contract and, if applicable, the Section 811 Subsidy Contract.

**Replacement Managing Member** has the meaning set forth in Section 7.2(b)(ii).

**Replacement Reserve** means (a) the Replacement Reserve to be established by the Company and administered in accordance with Section 5.10(a), and (b) any funds of the Company held by any Lender as a reserve for repairs and replacements.

**Revised Projected Housing Tax Credits** has the meaning set forth in Section 4.2(d)(vii).

**Second Installment** has the meaning set forth in Section 4.2(b)(ii).

**Section 4.16 Capital Contributions** has the meaning set forth in Section 4.16.

**Section 8 Units** means the 8 units that are eligible to receive rental assistance in the form of project-based housing vouchers to be provided to the Company in connection with the HAP Contract.

**Section 811 Subsidy Contract** means, if applicable, a Section 811 Project Rental Assistance Contract to be entered into by the Company, as outlined in the Section 811 Project Rental Assistance Program Owner Participation Agreement to provide rental subsidy for any units that may be restricted at 50% or 60% of the established median gross income and occupied by Eligible Tenants (as defined in the Section 811 Subsidy Contract) for a term of not less than fifteen (15) years.

**Service** means the Internal Revenue Service.

**Shortfall Year** has the meaning set forth in Section 4.2(d)(ii).

**Special Additional Capital Contribution** has the meaning set forth in Section 4.2(c).

**Special Investor Member** means HCP-SLP, LLC, a Nevada limited liability company, and any Person or Persons who replace it as Substitute Investor Member.

**Special Investor Member’s Special Capital Contribution** has the meaning set forth in Section 4.1(c).

**State** means the State of Texas.

**Sub-Contractor** means Maker Bros Construction, of Addison, Texas, pursuant to that certain agreement between the City of Fort Worth and the Sub-Contractor.
**Sub-Contractor’s Construction Contract** means, collectively, (a) the AIA Standard Form of Agreement Between Contractor and Subcontractor dated August 16, 2018, by and between the Sub-Contractor and the General Contractor relating to the construction of the Apartment Complex, (b) the Supplemental Agreement by and between the Company and the Sub-Contractor dated as of August 20, 2018, and (c) the contract with the City of Fort Worth under a separate DAP Bid Form and DAP Agreement Project #101-489 dated August 6, 2018 between the Sub-Contractor and the Company.

**Substantial Completion** means the date on which all of the following have occurred to the reasonable satisfaction of the Investor Member: (i) the issuance of all necessary certificates of occupancy (which may be temporary or conditional) from the applicable governmental jurisdictions and authorities for the Apartment Complex, allowing for immediate occupancy of one hundred percent (100%) of the Units; (ii) completion of all “work” described in the Construction Contract, with the exception of “punch work” items; (iii) AIA document G704 containing a list of all “punch work” items and cost estimates provided by the Architect to the Company, with a copy to the Investor Member; and (iv) any necessary radon mitigation has occurred and all planned and required actions pertaining to Hazardous Materials have been properly completed.

**Substantial Completion Date** means the date on which Substantial Completion was achieved.

**Substitute Investor Member** means any Person admitted to the Company as an Investor Member or Special Investor Member pursuant to Section 11.2.

**Tax Law Change** means any change in the Code which occurs after the date of this Agreement. A Tax Law Change includes any changes in the Regulations.

**Ten Percent Test** means, with respect to the Carryover Allocation of Housing Tax Credits, that the Company’s basis in the Apartment Complex, which shall be determined by the Accountants, as of the date which is one year from the issuance date of the Carryover Allocation or such earlier date required by the Credit Agency, is greater than ten percent (10%) of the reasonably expected basis of the Apartment Complex as provided in Section 42(h)(1)(E) of the Code.

**Third Installment** has the meaning set forth in Section 4.2(b)(iii).

**TIF** means tax increment finance.

**TIF Reimbursement** means the TIF payments in the amount of $2,600,000 made by the City of Fort Worth to the Company in accordance with that certain TIF Reimbursement Agreement.

**TIF Reimbursement Agreement** means the Tax Increment Financing Development Agreement by and between the Board of Directors of Tax Increment Reinvestment Zone Number TIF District Number Four, City of Fort Worth, Texas and the Company relating to the TIF Reimbursement dated as of August 23, 2017.
**Title Commitment** means the commitment for title insurance issued by the Title Company evidencing ownership of the Apartment Complex in a form and substance acceptable to the Investor Member.

**Title Company** means First American Title Insurance Company.

**Title Policy** means the owner’s title insurance policy conforming to the requirements set forth in Exhibit Q to be issued to the Company by the Title Company pursuant to the Title Commitment, which policy will, among other things, update the title of the Apartment Complex through a date not earlier than the Construction Loan Closing, provide for insurance in an amount equal to not less than $27,960,472 and evidence the Company’s ownership of the Apartment Complex. The Title Policy shall be amended and, if available, its effective date brought forward in the manner set forth in this Agreement.

**Uniform Act** means the Texas Business Organizations Code, Title 3, Chapter 101, as may be amended from time to time during the term of the Company.

**Units** has the meaning set forth in Section 5.2(b).

**USA Patriot Act** means Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 of the United States of America, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

**Vessel** has the meaning given to it in CERCLA, and shall also include any meaning given to it in any similar state or local statutes, ordinances or regulations.

**Voluntary Withdrawal** means, as to any Managing Member, a Withdrawal or the assignment, pledge or encumbrance of any part of its Interest in violation of Section 9.1.

**Withdrawal** (including the forms “Withdraw,” “Withdrawing” and “Withdrawn”) means, as to a Managing Member, dissolution, liquidation, voluntary withdrawal or removal of the Managing Member from the Company for any reason, including whenever a Managing Member may no longer continue as Managing Member by law or pursuant to any terms of this Agreement. “Withdrawal” shall also mean the sale, assignment or transfer by a Managing Member of its interest as Managing Member.

**Withdrawing Investor Member** means Lisa M. Stephens, who is hereby withdrawing as Investor Member from the Company simultaneously with the admission of the Investor Member.

**ARTICLE 2**

**NAME AND BUSINESS**

2.1 Name; Continuation. The name of the Company is Mistletoe Station, LLC. The Members agree to continue the Company, which was formed pursuant to the provisions of the Uniform Act.
2.2 Admission. The Investor Member, Administrative Member and Special Investor Member are hereby admitted to the Company.

2.3 Withdrawal. The Withdrawing Investor Member hereby withdraws as a Member of the Company, and represents and warrants that she has no direct interest in the Company and is not directly entitled to any fees, distributions, compensation or payments from the Company and that she has no direct interest in any property or assets of the Company.

2.4 Office and Resident Agent. The principal office of the Company is 689 FM 3028, Millsap, Texas 76066 at which office there shall be maintained those records required by the Uniform Act to be kept by the Company. The Company may have such other or additional offices as The Managing Member shall deem desirable. The Managing Member may at any time change the location of the Company offices and shall give Notice thereof to the Investor Member. The Managing Member shall at all times maintain the principal office in the State.

(a) The name and address of the resident agent in the State for the Company for service of process is Antoinette M. Jackson, 811 Main Street, Suite 2900, Houston, Texas 77002.

2.5 Term and Dissolution. The term of the Company commenced August 17, 2017, the date of filing of the Certificate with the Secretary of State of the State, and shall continue until December 31, 2068, unless the Company is sooner dissolved in accordance with the provisions of this Agreement.

2.6 Filing of Certificate. Upon the execution of this Agreement by the parties hereto, the Managing Member shall take all actions necessary to assure the prompt filing of an amendment to the Certificate if and as required by the Uniform Act, including filing with the Secretary of the State of the State. All fees for filing shall be paid out of the Company’s assets. The Managing Member shall take all other necessary action required by law to perfect and maintain the Company as a limited liability company under the laws of the State, and shall register the Company under any assumed or fictitious name statute or similar law in force and effect in the State.

ARTICLE 3
PURPOSE OF THE COMPANY

3.1 Purpose of the Company. The purposes for which the Company has been formed and which shall determine its activities shall be the following: (a) to acquire, hold, invest in, construct, develop, improve, maintain, operate, lease, sell, mortgage and otherwise deal with the Apartment Complex; (b) to operate the Apartment Complex in accordance with Code Section 42 and any applicable Lender and Agency regulations and requirements; (c) to secure for the Investor Member the economic and tax advantages afforded by Code Section 42 pertaining to low income housing tax credits, and any other Federal or state tax credit programs, as applicable, and allocated under this Agreement; and (d) to assure all Members the economic, tax, investment and operational advantages allocated to them under this Agreement. The Company shall not engage in any other business or activity.
ARTICLE 4
MEMBERS, PERCENTAGE INTERESTS, CAPITAL CONTRIBUTIONS, MEMBER LOANS

4.1 Managing Member.

(a) Name, Address and Percentage Interest. The Co-Managing Member’s name and address is Saigebrook Mistletoe, LLC, 220 Adams Drive Ste. 280 #138, Weatherford, Texas 76086. The Co-Managing Member’s Percentage Interest is forty eight one-thousandth percent (0.0048%). The Administrative Member’s name and address is O-SDA Mistletoe, LLC, 5714 Sam Houston Circle, Austin, Texas 78731. The Administrative Member’s Percentage Interest is thirty two one-thousandth percent (0.0032%)

(b) Capital Contributions. Concurrently with the execution of this Agreement, each Managing Member shall make a Capital Contribution to the Company in an amount equal to $100.00. Each Managing Member represents and warrants that as of the date of this Agreement the balance of its Capital Account is $100.00.

(c) Managing Member’s and Special Investor Member’s Special Capital Contributions. If the Company has not paid all or part of the Deferred Development Fee when the final payment is due pursuant to the terms of the Development Agreement (i.e. by the earlier of thirteen (13) years following the Placed in Service Date or December 31, 2032 or the date of liquidation of the Company) or, solely with respect to the Managing Member’s Special Capital Contribution, if the Managing Member Withdraws pursuant to Article 9 (including Involuntary Withdrawal), the Special Investor Member shall contribute to the Company an amount equal to its portion of the remaining balance of the Deferred Development Fee as set forth in the Development Agreement (the “Special Investor Member’s Special Capital Contribution”) and the Managing Member shall contribute to the Company an amount equal to the remaining balance of the Deferred Development Fee (the “Managing Member’s Special Capital Contribution”) and the Company shall thereupon pay the Deferred Development Fee. Notwithstanding the foregoing, the amount of the Special Investor Member’s Special Capital Contribution and the amount of the Managing Member’s Special Capital Contribution shall be reduced pro rata to the extent the Investor Member reasonably determines on or before the end of the first year of the Credit Period that any portion of the remaining balance of the Deferred Development Fee is not necessary to be included in Eligible Basis in order to allocate Projected Housing Tax Credits to the Investor Member throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Payments of the Deferred Development Fee pursuant to Section 14.1(a)(vi) shall be deemed applied first to the portion of the Deferred Development Fee represented by the Special Investor Member’s Special Capital Contribution and the Managing Member’s Special Capital Contribution, as adjusted herein, and then to the remaining balance of the Deferred Development Fee, if any. Other than as set forth in this Section 4.1(c) or as may be required by this Agreement, in no event shall any Managing Member make any additional Capital Contributions to the Company without the Consent of the Investor Member.

4.2 Investor Member.
(a) **Name, Address and Percentage Interest.** The Investor Member’s name and address is HCP-ILP, LLC. The name of the Special Investor Member is HCP-SLP, LLC. The address for each of the Investor Member and the Special Investor Member is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436. The Investor Member’s Percentage Interest is ninety-nine and ninety-nine hundredths percent (99.99%) and the Special Investor Member’s Percentage Interest is two one-thousandth percent (0.002%).

(b) **Capital Contributions.** The Special Investor Member is not required to make any Capital Contribution except as provided in Section 4.1(c). The Investor Member will make Capital Contributions to the Company, subject to adjustment as provided in Section 4.2(d), of $12,898,710 representing the product of the Projected Housing Tax Credits and the Housing Tax Credit Price which will be paid to the Company in five installments (the “Installments”) as follows:

   (i) **First Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $1,289,871 (the “First Installment”) upon the latest of (i) the Closing Date and (ii) satisfaction of the Funding Conditions relating to the First Installment, with such funds to be used solely for site acquisition, development and construction costs, including an expense reimbursement of $65,000 to the Investor Member or an Affiliate of the Investor Member for its review and approval costs in connection with the Closing.

   (ii) **Second Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $644,963 (the “Second Installment”), subject to reduction as provided in Section 4.2(d), after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Second Installment have been fully satisfied, with such funds to be used to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member.

   (iii) **Third Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $8,309,161 (the “Third Installment”), subject to reduction as provided in Section 4.2(d), after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Third Installment have been fully satisfied, with such funds to be used first to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member and second to repay a portion of the Construction Loan.

   (iv) **Fourth Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $2,579,742 (the “Fourth Installment”), subject to adjustment as provided in Section 4.2(d) after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Fourth Installment have been fully satisfied, with such funds to be used to first pay to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member, second to pay off the Construction Loan, third to fund the Operating Reserve and fourth to pay a portion of the Development Fee.

   (v) **Fifth Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $75,000 (the “Fifth Installment”), subject to adjustment as
provided in Section 4.2(d) after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Fifth Installment have been fully satisfied, with such funds to be used to pay a portion of the Development Fee.

(vi) **Source of Funding of Installments.** The Investor Member, in its sole discretion, may fund any Installment on or prior to satisfaction of the Funding Conditions by providing funds from one or more of the following: (A) itself or (B) funds arranged by Hunt to be provided from any Entity as equity or debt but without any security interest in or lien on the Apartment Complex.

(vii) **Withholding of Capital Contributions.** The Investor Member may withhold any Installment if at any time it determines, in its sole discretion, that a Development Deficit exists or is projected to exist prior to such Installment, and shall not fund such Installment until such Development Deficit or projected Development Deficit is cured by the Managing Member.

(viii) **Changes in Capital Contributions.** The Members agree that so long as Permanent Loan Closing has not occurred and the Construction Loan remains outstanding, the Members shall not amend Section 4.2(b) of this Agreement without the written approval of the Construction Lender. Any amendment to this Agreement which is in violation of the terms of this Section 4.2(b)(viii) shall not be effective.

(ix) **Capital Contribution Account.** Notwithstanding anything in this Agreement to the contrary, the Members agree that so long as Permanent Loan Closing has not occurred and the Construction Loan remains outstanding, all Capital Contributions made by the Investor Member pursuant to this Agreement shall be paid by and deposited in an account established with the Construction Lender (the “Capital Contribution Account”). Amounts on deposit in the Capital Contribution Account will be disbursed by the Construction Lender as provided for in that certain Credit Support and Funding Agreement, of even date herewith, between the Company and the Construction Lender and relating to the Construction Loan.

(c) **Special Additional Capital Contributions and Investor Member Deficit Restoration Obligation.**

(i) If, in any fiscal year of the Company, the Investor Member’s Capital Account balance may be reduced to or below zero, the Investor Member may, in its sole and absolute discretion, make a special additional Capital Contribution to the Company in an amount reasonably required to avoid the reduction of the Investor Member’s Account balance to or below zero (a “Special Additional Capital Contribution”).

(ii) Notwithstanding any other provision herein to the contrary, the Investor Member hereby agrees, pursuant to this Section 4.2(c), that if there is a deficit balance in its Capital Account as of the last day of 2019, determined after taking into account all Capital Account adjustments for 2019, the Investor Member shall be unconditionally obligated to restore the amount of such deficit by contributing to the Company the dollar amount of such deficit (a “Deficit Restoration Contribution”), as so determined, not later than the last day of the year in which the liquidation of the Company or the Investor Member’s Interest in the Company occurs.
(or, if later, within 90 days after the date of such liquidation) (the “Deficit Restoration Obligation”); provided, however, that in no event shall the Deficit Restoration Obligation exceed the unpaid Capital Contribution Obligations of the Investor Member, as adjusted pursuant to Section 4.2(d). Any subsequent Capital Contributions of the Investor Member made in 2019 or thereafter shall reduce the Deficit Restoration Obligation on a dollar-for-dollar basis. If the dollar amount of such subsequent Capital Contributions equals or exceeds the Deficit Restoration Obligation, then the Deficit Restoration Obligation shall be deemed satisfied in full.

(iii) If the Investor Member makes a Special Additional Capital Contribution or a Deficit Restoration Contribution to the Company pursuant to this Section 4.2(c), the Investor Member shall receive a guaranteed payment pursuant to Section 4.9 for the use of its Special Additional Capital Contribution or Deficit Restoration Contribution, as applicable.

(d) Adjustment to Capital Contributions of the Investor Member.

(i) If upon the issuance of Forms 8609 by the Agency for any or all of the buildings comprising the Apartment Complex, or if upon delivery of the Cost Certification, the Investor Member (in its reasonable discretion) or the Accountants determine that there is a Housing Tax Credit Shortfall for the Credit Period because the Actual Housing Tax Credits available to the Investor Member pursuant to Section 42(a) of the Code are less than the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits for such year), the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment equal to the Housing Tax Credit Shortfall multiplied by the Housing Tax Credit Price. If upon such issuance of Forms 8609 by the Agency, the Investor Member (in its reasonable discretion) or the Accountants determine that the Actual Housing Tax Credits available to the Investor Member pursuant to Section 42(a) of the Code are greater than the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits for such year), giving rise to a “Housing Tax Credit Excess,” then the Investor Member’s Capital Contribution shall be increased by an amount equal to the Housing Tax Credit Price multiplied by the Housing Tax Credit Excess; provided, however, that any such increase shall be subject to the limitation set forth in Section 4.2(d)(vi) hereof.

(ii) In the event that there is a Housing Tax Credit Shortfall because the Actual Housing Tax Credits for any of 2019 or 2020 (determined separately for each year) are less than the Projected Housing Tax Credits for such year (or, if applicable, the Revised Projected Housing Tax Credits for such year) solely by reason that the Applicable Fraction for such year with respect to any buildings in the Apartment Complex was, by reason of the application of Section 42(f)(2) of the Code, lower than the Applicable Fraction projected in the Projected Housing Tax Credits (or Revised Projected Housing Tax Credits, if applicable) (each, a “Shortfall Year”), as determined by the Investor Member, upon receipt of final Company tax returns for the subject year or in advance of receipt of such final Company tax returns, estimated on a monthly basis by the Investor Member, the Service or the Accountants, the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment in an aggregate amount equal to the product of (x) Projected Housing Tax Credits (or if applicable, Revised Projected Housing Tax Credits) less Actual Housing Tax Credits delivered to the Investor Member for such Shortfall Year (determined separately for each year) and (y) $0.60.
Notwithstanding the foregoing, if any building in the Apartment Complex does not achieve Initial 100% Occupancy by the end of the first year of the Credit Period for such building and, as a result, any portion of the Housing Tax Credits with respect to such building will be available over 15 years, then the reduction to the Investor Member's Capital Contribution shall be the sum of (1) the amount determined under the first sentence of this Section 4.2(d)(ii), plus (2) the amount, if any, that the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits) for years 2019 (year 1) through 2029 (year 11) exceed the Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits) projected to be available in years 2019 (year 1) through 2029 (year 11), as calculated by the Investor Member at the end of the first year of the Credit Period.

(iii) If at any time the Investor Member (in its reasonable discretion) or the Accountants determine that, for any Fiscal Year or portion thereof during the Company’s operation, by reason of any event other than an event described in Sections 4.2(d)(i) and/or 4.2(d)(ii) hereof (but not including a Tax Law Change or a transfer by the Investor Member of its Interests), there is (a) a Housing Tax Credit Shortfall because the Actual Housing Tax Credits for such Fiscal Year or portion thereof are less than the Projected Housing Tax Credits, or the Revised Projected Housing Tax Credits, if applicable, for such Fiscal Year or portion thereof, including, without limitation, the Apartment Complex not being Placed in Service by the end of the second calendar year after the year in which the Housing Tax Credits were allocated or the failure of the Company to operate the Apartment Complex so as to have 100% of the Housing Tax Credit Units therein eligible for the Housing Tax Credits, (b) a Housing Tax Credit Disallowance Event, or (c) a failure of the Company to allocate 99.99% of the Housing Tax Credits shown on the IRS Forms 8609 for each building comprising the Apartment Complex to the Investor Member over the Credit Period, the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment equal to the Housing Tax Credit Shortfall and further reduced by all additions to the tax of the Investor Member, and all penalties and interest assessed (including, without limitation, the “recapture amount” provided for in Section 42(j)(2) of the Code) against the Investor Member or any of its constituent partners as a result of the event giving rise to the Housing Tax Credit Shortfall.

(iv) Whenever in this Section 4.2(d) it is provided that the Investor Member’s Capital Contribution shall be reduced, each remaining installment of the Investor Member’s Capital Contribution then outstanding shall be reduced first, if such deferral is permitted pursuant to Section 8.1(b), for scheduled payments of Development Fees, which shall become Deferred Development Fees and second, pro rata so that the aggregate contributions, when made, will total the new reduced amount of the Investor Member’s Capital Contribution. If the outstanding balance of the Investor Member’s Capital Contribution has been reduced to zero by reason of the aforesaid adjustments to the Investor Member’s Capital Contribution and/or payments previously made thereon or offsets applied thereto, then either (1) the Managing Member shall within fifteen (15) days make a Capital Contribution to the Company in the amount owed to the Investor Member (including, without limitation, interest thereon at 12% per annum from the date that the Investor Member’s Capital Contribution(s) were made), from its own funds, and shall cause the Company immediately to distribute such amount to the Investor Member, or (2) if tax counsel to the Investor Member determines that such a Capital Contribution and distribution would cause Company profits, losses, and credits to be allocated other than in accordance with the Percentage Interests of the Members, the Managing Member
shall pay the amount owed to the Investor Member (including, without limitation, any interest thereon at 12% per annum from the date that the Investor Member’s Capital Contribution(s) were made) plus any amount needed to cause the net amount of the payment received by the Investor Member to be the same, on an after-tax basis as the amount of payment that would have been received under clause (1) above, from their own funds, directly to the Investor Member; provided, however, to the extent that the Managing Member fails to pay any such amount owed to the Investor Member, such unpaid amounts shall be payable from Cash Flow and Sale or Refinancing Transaction Proceeds as provided in Sections 14.1(a) and 14.1(b), respectively, hereof, but the Managing Member shall remain in default hereunder.

(v) In the event that the Actual Housing Tax Credits for any of 2019 or 2020 (determined separately for each year) exceeds the Projected Housing Tax Credits for such year (or, if applicable, the Revised Projected Housing Tax Credits for such year) (an “Excess Year”), as determined by the Investor Member, upon receipt of the Company’s final tax returns for the subject year, the Investor Member’s Fourth Installment with respect to 2019 shall be increased by the “Housing Tax Credit Surplus Payment”, which is an aggregate amount equal to the product of (x) Actual Housing Tax Credits delivered to the Investor Member, less the Projected Housing Tax Credits (or if applicable, Revised Projected Housing Tax Credits) for the Excess Year, and (y) $0.45. With respect to 2020, the Housing Tax Credit Surplus Payment shall be paid within 30 days of such determination or, if the Fifth Installment is not yet due, upon the payment of the Fifth Installment. In no event shall any Housing Tax Credit Surplus Payment exceed $200,000 and shall be subject to the limitations set forth in Section 4.2(d)(vi). The Company shall use the increase in the Fourth Installment, Fifth Installment or, if the Fifth Installment has been paid, within 30 days of such determination, to (i) pay any amounts then owed to the Investor Member and/or Hunt, (ii) then to pay any unpaid Development Fee or Deferred Development Fee, (iii) then to repay any Development Deficit Loans then outstanding, and (iv) then distributed in accordance with Section 14.1(a) of this Agreement.

(vi) With respect to any increase in the Investor Member’s Capital Contribution pursuant to this Section 4.2(d), in no event shall the amount of the Investor Member’s Capital Contribution increase exceed 5% of the Investor Member’s Capital Contribution as originally set forth herein. To the extent that an increase in the amount of Housing Tax Credits would have otherwise resulted in an increase in excess of 5% of the Investor Member’s Capital Contribution, the Investor Member shall have the option to either (1) increase the Investor Member’s Capital Contribution in excess of such 5%, provided that such additional increase over 5% shall be based on the lesser of the Housing Tax Credit Price or the Investor Member’s then-current pricing available generally for investments in Housing Tax Credits, or (2) reduce its Interest so that the Investor Member shall be in the same economic position (i.e., the allocations provided in this Agreement shall be adjusted accordingly by the Managing Member) as if the increase in Housing Tax Credits had not resulted in an increase in the Investor Member’s Capital Contribution in excess of 5% thereof. Any Investor Member’s Capital Contribution payable as a result of any such increase in the available Housing Tax Credits pursuant to Section 4.2(d)(i) shall be payable with the Fifth Installment of the Investor Member’s Capital Contribution set forth herein, provided that all IRS Forms 8609 have been received.
(vii) Whenever there is an adjustment pursuant to this Section 4.2(d) to the Investor Member’s Capital Contribution and/or the Interest of the Investor Member, then the amount of the Projected Housing Tax Credits shall be increased or reduced, as the case may be, and shall thereafter be referred to as the “Revised Projected Housing Tax Credits”.

4.3 Reserved.

4.4 Draws. Prior to Permanent Loan Closing, the Investor Member shall be entitled to conduct monthly inspections of the progress of construction of the Apartment Complex, and review and approve construction draw requests (“Construction Loan Draw”). Each month prior to Permanent Loan Closing, the Managing Member shall provide proposed Construction Loan Draw requests to the Investor Member simultaneous with submission to the Construction Lender. The Investor Member shall notify the Managing Member to the extent that it disapproves and requires changes in a Construction Loan Draw request within ten (10) Business Days after submission. The Managing Member will cause the Construction Loan documentation to require that the Managing Member shall not accept and the Construction Lender shall not disburse on Construction Loan Draws until approved by Construction Lender based on the finding of the Construction Lender’s construction consultant or the written approval of the Investor Member. In the event of conflict or inconsistency between this Section and the Credit Support and Funding Agreement, the terms and provisions of the Credit Support and Funding Agreement will dictate and govern the processing of Construction Loan Draws,

4.5 Liability of the Investor Member. No Investor Member shall be liable for any debts, liabilities, contracts or obligations of the Company and each Investor Member shall only be liable to pay their respective Capital Contributions as and when the same are due hereunder and under the Uniform Act.

4.6 Interest on Capital Contributions. No interest shall be paid on any Capital Contribution. No Member shall have the right to withdraw its Capital Contribution or to demand and receive property of the Company in return for its Capital Contribution, except as may be specifically provided in this Agreement or required by law.

4.7 Deposit of Capital Contributions. The cash portion of the Capital Contributions of each Member shall be deposited at the Managing Member’s discretion in a checking, savings and/or money market or similar account to be established and maintained in the name of the Company or invested in government securities or certificates of deposit issued by any bank. Thereafter, such amounts shall be utilized for the conduct of the Company business pursuant to the terms of this Agreement and withdrawals can only be made upon the signatures as the Managing Member determines with the Consent of the Investor Member.

4.8 Payment of Third Party Costs. The Company shall pay the legal fees, costs and expenses incurred by the Investor Member in connection with this Agreement, the due diligence activities of the Investor Member, the Closing and costs incurred in making the Capital Contributions pursuant to Section 4.2(b) of this Agreement in an amount of $65,000. To the extent that third party costs exceed $65,000, the Investor Member’s Capital Contribution may be increased at the option of the Investor Member and used by the Company to pay such costs.
4.9 Guaranteed Payment. No later than ninety (90) days after the end of the Company’s fiscal year, if the Investor Member has made a Special Additional Capital Contribution pursuant to Section 4.2(c), it shall receive, as a guaranteed payment for the use of its capital, an amount equal to the annual interest earned by the Company, if any, on such Special Capital Contributions. The Company shall invest any amounts contributed pursuant to Section 4.2(c) in a federally insured interest-bearing account in such banking institutions as the Managing Member shall determine in accordance with Section 4.7. Any guaranteed payment due to a Member shall be deemed an expense of the Company for purposes of determining Cash Flow. Any guaranteed payment which is not paid when due shall remain a liability of the Company and shall bear interest at the rate of 15% per year.

4.10 Return of Capital Contributions. Except as provided in this Agreement, no Member shall be entitled to demand or receive the return of its Capital Contribution.

4.11 MM Loans. The Managing Member has the right, but not the obligation, after funding all other obligations under this Agreement, including, without limitation, its obligation to fund Development Deficits under its Construction Completion Guaranty in accordance with Section 8.1 hereof or to fund Operating Deficits under its Operating Deficit Guaranty in accordance with Section 8.2 hereof, to make loans pursuant to this Section 4.11 to fund Operating Deficits of the Company or to fund other reasonable and necessary obligations of the Company (together with interest thereon, “MM Loans”); provided, however, that the Managing Member shall not have such right to make such MM Loans at any time when it has an unsatisfied obligation to pay Development Deficits and to make Operating Deficit Loans or to make a Managing Member Capital Contribution as required under this Agreement. MM Loans shall be on the following terms: (i) interest shall accrue on the MM Loans at an annual interest rate not to exceed 5% per annum, compounded annually; (ii) MM Loans shall be repayable solely as set forth in Sections 14.1(a), 14.1(b) and 17.2 of this Agreement; and (iii) MM Loans shall be an unsecured, nonrecourse obligation of the Company. By making a MM Loan, the Managing Member does not waive any claim of, or remedies with respect to, a default, if any, by the Investor Member in its obligations under this Agreement. Notwithstanding the foregoing, no MM Loan shall be made without the Consent of the Investor Member, which Consent shall not be unreasonably withheld, delayed or conditioned.

4.12 IM Loans. The Investor Member or its designee has the right, but not the obligation, to make loans pursuant to this Section to fund Operating Deficits of the Company or to fund other reasonable and necessary obligations of the Company (together with interest thereon, “IM Loans”). IM Loans shall be on the following terms: (i) interest shall accrue on Default IM Loans at an annual interest rate of eight percent (8%) per annum, compounded annually; (ii) interest shall accrue on the Excess IM Loan Amount (other than Default IM Loans) at an annual interest rate of eight percent (8%) per annum, compounded annually, and on any other IM Loans at an annual interest rate of eight percent (8%) per annum, compounded annually; (iii) IM Loans shall be repayable solely as set forth in Sections 14.1(a), 14.1(b) and 17.2 of this Agreement; and (iv) IM Loans shall be an unsecured, nonrecourse obligation of the Company. By making an IM Loan, neither the Investor Member, nor its designee, waives any claim of, or remedies with respect to, a default, if any, by the Managing Member in its obligations under this Agreement. Notwithstanding the foregoing, any Hunt Loan (as defined the Backstop Guaranty Agreement) shall be treated as an IM Loan.
4.13 Notice of Member Loans. Except for any Operating Deficit Loans that may be required of the Managing Member under the terms of this Agreement, if the Company shall require a Member Loan to fund Operating Deficits or to satisfy other reasonable and necessary obligations of the Company, a Member (the “Initiating Member”) may give the other Members (the “Non-Initiating Members”) Notice of the Initiating Member’s intent to fund a Member Loan, which Notice shall state (i) the total amount of such Member Loan proposed to be funded, (ii) the purpose for such Member Loan, and (iii) the proposed funding date of such Member Loan, which date (the “Contribution Date”) shall not be less than ten (10) days following the date of such Notice; provided that the Notice requirement shall be shortened to the extent necessary to permit a Member to fund a Member Loan for the purpose of curing a default under a Loan. The Initiating Member and the Non-Initiating Members shall each fund the portion of the Member Loan it agreed to make by the Contribution Date. If a Member fails to make such Member Loan to the Company on or before the Contribution Date, any Member who makes such Member’s share of the Member Loan may, at such Member’s option, advance to the Company the amount of the non-lending Member’s share of the Member Loan. No Member has the right to propose and fund a Member Loan to fund distributions and/or payments to be made pursuant to Sections 14.1(a), 14.1(b) or 17.2. Notwithstanding anything herein to the contrary, the Managing Member is obligated to make an Operating Deficit Loan during the Operating Deficit Guaranty Period and a MM Loan after the expiration of the Operating Deficit Guaranty Period to fund any Operating Deficits.

4.14 Documentation of Member Loans. At the request of a Member, any Member Loan shall be evidenced by a non-negotiable promissory note or notes reflecting any such Member Loans made during or prior to the preceding calendar quarter. Member Loans shall be unsecured loans by such Member. Except as set forth in Section 4.16, Member Loans shall not be considered Capital Contributions, and shall not increase such Member’s Capital Account.

4.15 Usury Savings Clause. Notwithstanding anything to the contrary herein or in any note evidencing a Member Loan, in no event shall interest accrue on any Member Loan at a rate in excess of the highest rate permitted by applicable law.

4.16 Capital Contribution Alternative. If a Member which has made or intends to make a Member Loan (a “Lending Member”) reasonably concludes that the operation of the usury savings clause in Section 4.15 will result in a reduction in the interest rate otherwise specified in Article 4, or if the Investor Member reasonably concludes that it may now have or sometime in the future likely will have a negative Capital Account, then the Lending Member may request that its existing or proposed Member Loans be restructured as Capital Contributions. In such event, all the Members shall cooperate to negotiate and execute an amendment to this Agreement (the “Amendment”), at the expense of the requesting Member, which shall include the following terms: (i) each of the Investor Member (or its designee) and the Managing Member has the right to make Capital Contributions pursuant to the Amendment (“Section 4.16 Capital Contributions”) either instead of making IM Loans and MM Loans, respectively, or to fund the concurrent repayment by the Company of IM Loans or MM Loans, respectively; (ii) with respect to such Section 4.16 Capital Contributions, the Member(s) making them shall be entitled to receive (A) guaranteed payments or a preferred return in amounts and at times corresponding to interest payments that would have been due had the Section 4.16 Capital Contributions been made as Member Loans, and (B) distributions as a return of capital in amounts and at times
corresponding to principal payments that would have been due had the Section 4.16 Capital Contributions been made as Member Loans; and (iii) Article 14 shall be revised to the maximum extent feasible to provide that such guaranteed payments or a preferred return and return of capital distributions shall have the same amounts, timing, priority of payment and tax consequences as the corresponding payments of Member Loans would have had. Notwithstanding the foregoing, the Investor Member shall have no obligation to consent to any Amendment pursuant to this Section 4.16, which it concludes could adversely affect the timing or amount of the allocation to the Investor Member of Housing Tax Credits, losses, income or gains.

ARTICLE 5
MANAGING MEMBER RIGHTS, DUTIES AND OBLIGATIONS

5.1 Management of the Company. Subject to the terms of this Agreement, the Managing Member shall have the sole and exclusive right to manage the business and affairs of the Company; provided, however, that the Managing Member must do so only so as to accomplish the Purposes of this Company. In so doing, the Managing Member shall take all actions necessary or appropriate to protect the interests of the Investor Member and the Company.

5.2 Duties and Obligations.

(a) The Managing Member shall ensure that all requirements shall be met which are necessary to obtain or achieve (i) compliance with the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test, the Rent Restriction Test, and any other requirements necessary for the Apartment Complex to initially qualify, and to continue to qualify, for Housing Tax Credits, including all applicable requirements set forth in the Extended Use Agreement, (ii) issuance of Forms 8609, (iii) issuance of all necessary permanent, unconditional certificates of occupancy, including all governmental approvals required to permit occupancy of all of the apartment units in the Apartment Complex, (iv) Construction Loan Closing and Permanent Loan Closing; (v) compliance with all material provisions of the Project Documents, (vi) compliance with all provisions contained in the Application, including, without limitation, those as to which the Agency awarded points pursuant to its scoring or award procedures, and (vii) compliance with all provisions contained in the Carryover Allocation.

(b) During the period the Extended Use Agreement is in effect, the Managing Member shall (i) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that (A) sixty-seven (67%) of the residential rental units (not including any manager units) in the Apartment Complex will qualify as “low-income units” under Code Section 42(i)(3), (B) and the Applicable Fraction as defined in Section 42(c) of the Code is at least 65% for Building One and 67.8% for Building Two; (ii) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that no less than eighty percent (80%) of the gross income from the Apartment Complex in every year is rental income from or with respect to dwelling units in the Apartment Complex used to provide living accommodations not on a transient basis (“Units”); (iii) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that the Apartment Complex will qualify as a “qualified low-income housing
(c) The Managing Member shall promptly take all action which may be necessary or appropriate for the proper development, construction, maintenance and operation of the Apartment Complex in accordance with the provisions of this Agreement, the Project Documents and applicable laws and regulations including making any required Capital Contributions pursuant to Section 4.1 and as otherwise required by this Agreement.

(d) While conducting the business of the Company, the Managing Member shall not act in any manner which it knows or should have reasonably known after due inquiry will (i) cause the termination of the Company for federal income tax purposes without the Consent of the Investor Member, or (ii) cause the Company to be treated for federal income tax purposes as an association taxable as a corporation.

(e) The Managing Member shall, during and after the period in which it is a Member, provide the Company with such information and sign such documents as are necessary for the Company to make timely, accurate and complete submissions of federal and state income tax returns.

(f) The Managing Member shall use its best efforts to cause the Company to generate Cash Flow for distribution to the Members at the maximum realizable level in view of (i) any applicable Agency and other regulations, (ii) the Minimum Set-Aside Test and the HOME Minimum Set-Aside Test and (iii) the Rent Restriction Test, and, if necessary, the Managing Member shall also use its best efforts to obtain approvals and implementation of appropriate adjustments in the rental schedule of the Apartment Complex.

(g) The Managing Member shall cause the Company to obtain and keep in force, during the term of the Company, insurance in accordance with Exhibit D hereto. The Managing Member shall provide the Investor Member with written evidence of all insurance required by Exhibit D hereto, in each case in form and substance reasonably acceptable to the Investor Member and, for each particular insurance coverage, both (i) within fifteen (15) days after the first day on which such coverage is required by Exhibit D hereto and (ii) from time to time, as the Investor Member may reasonably request. The Managing Member shall provide the Investor Member with Notice of any cancellation, reduction in coverage, or other coverage changes within 15 days of receipt of notice from the insurance provider. The Investor Member shall have the right to acquire any insurance required by Exhibit D at the expense of the Company if the Managing Member fails to do so and such purchase shall not cure the Managing Member’s default hereunder. In addition, the Managing Member shall indemnify and hold the Hunt Indemnified Parties harmless from any loss suffered by the Hunt Indemnified Parties with respect to its investment in the Company and arising out of any uninsured loss suffered by the Company which would have been insured against by one or more of the policies of insurance described on Exhibit D hereto but which lapsed or which were not in force at the time of such loss because the Managing Member did not obtain or keep said policy or policies in force.
(h) The Managing Member has made (if applicable) and shall make such elections, or refrain from making such elections, with respect to the Housing Tax Credits as are necessary to achieve and maintain the maximum allowable Housing Tax Credits to the Investor Member, unless otherwise directed by the Investor Member. Any such elections (including elections made at the direction or with the Consent of the Investor Member) shall not reduce the obligations of the Managing Member pursuant to this Agreement. Notwithstanding the foregoing, the Investor Member must Consent, before any election is made to defer commencement of the Credit Period pursuant to Code Section 42(f)(1). In the event Building One is Placed in Service in 2019, but the Company is unable to deliver all or a portion of the Projected Housing Tax Credits for 2019, the Managing Member may defer the commencement of the Credit Period to 2020 without the Consent of the Investor Member.

(i) The Managing Member shall (i) not store or dispose of (except in compliance with all laws, including all Environmental Laws, ordinances, and regulations pertaining thereto) any Hazardous Material at the Apartment Complex; (ii) neither directly nor indirectly transport or arrange for the transport of any Hazardous Material (except in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) to or from the Apartment Complex; (iii) provide the Investor Member with Notice (A) upon any Managing Member’s obtaining knowledge of any potential or known release, or threat of release, of any Hazardous Material at or from the Apartment Complex; (B) upon any Managing Member’s receipt of any Notice to such effect from any federal, state, or other governmental authority by any other Person; and (C) upon any Managing Member’s obtaining knowledge of any incurrence of any expense or loss by any such governmental authority or third party in connection with the assessment, containment, or removal of any Hazardous Material at or from the Apartment Complex or any claim for loss or damage associated with Hazardous Materials at or from the Apartment Complex for which expense or loss the Managing Member may be liable or for which expense or loss a lien may be imposed on the Apartment Complex.

(j) The Managing Member shall use all reasonable efforts to maintain the Apartment Complex and the Land upon which it is located so that there is no discharge, release, spillage, uncontrolled loss or seepage of any oil, petroleum or chemical liquids or solids, liquid or gaseous products or Hazardous Material. The Managing Member shall use all best efforts to maintain the Apartment Complex and the Land so as not to violate any Environmental Laws. If any Hunt Indemnified Party becomes liable with respect to the Apartment Complex under any Environmental Law, the Managing Member shall indemnify and hold harmless such Hunt Indemnified Party (except to the extent attributable solely to direct actions of such Hunt Indemnified Party) for any and all costs, expenses (including reasonable attorneys’ fees necessarily incurred), damages or liabilities to the extent that such Hunt Indemnified Party is required to discharge such costs, expenses, damages, or liabilities in whole or in part. If any claim or loss described in the immediately preceding sentence is brought against any Hunt Indemnified Party, and such Hunt Indemnified Party notifies the Managing Member of the commencement thereof, as soon as practicable but in any event no later than 45 days after receipt of notice by the Investor Member, the Managing Member will be entitled to participate in, and, to the extent that it chooses to do so, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof.
provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, or (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received notice in writing as hereinabove required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment. The foregoing indemnification shall be a recourse obligation of the Managing Member, and shall survive the Withdrawal of the Managing Member. The Managing Member shall not be liable for any claims that arise from actions of others after its withdrawal or removal as a Managing Member under this Agreement, and no settlement of a claim of loss shall occur without the prior written Consent of the Managing Member.

(k) The Managing Member shall promptly request in writing of each Lender that such Lender provide the Investor Member copies of all notices delivered to the Managing Member or the Company under its Loan, and grant an opportunity for the Investor Member to cure any default under such Loan.

(l) The Managing Member shall cause the Company to maintain tenant deposits in separate accounts, which must be used solely to hold tenant deposits as security for the tenant rents and as security for damages. No funds may be used from such account for any other purpose, including payment of Operating Deficits of the Company.

(m) The Managing Member will execute on behalf of the Company all documents necessary to elect, pursuant to Sections 732, 734, 743, and 754 of the Code, to adjust the basis of the Company’s property upon the request of the Investor Member. The Managing Member shall cause the Company’s property to be depreciated in accordance with Sections 5.2(nn) and 18.4. The Managing Member will execute on behalf of the Company all documents necessary to elect, pursuant to Sections 732, 734, 743, and 754 of the Code, to adjust the basis of the Company’s property upon the request of the Investor Member. The Managing Member shall cause the Company to depreciate all of its applicable property in accordance with Section 5.2(nn) and 18.4(a).
(n) The Managing Member shall provide to the Investor Member for its approval a draft of the Cost Certification to be used by the Company in applying to the Agency for issuance of Form 8609 with respect to each building in the Apartment Complex at least five (5) Business Days prior to the date the Cost Certification is to be provided to the Agency. The Managing Member shall provide the initial Forms 8609 to the Investor Member within ten (10) days of receipt thereof by the Managing Member. Subject to the Agency providing the same, the Managing Member shall cause the Extended Use Agreement to be recorded in the appropriate real estate records no later than the last day of the year in which the Apartment Complex is Placed in Service.

(o) The Managing Member shall furnish to the Investor Member within three (3) Business Days of receipt thereof, a copy of any notice of default under a Loan or any of the Project Documents given to the Company or to the Managing Member by the Lender, and Notice of any occurrence which has or would, with the giving of notice or the passage of time, or both, become a violation or default under a Loan or any of the Project Documents. The Managing Member shall also furnish to the Investor Member within seven (7) Business Days of execution a copy of all amendments or changes to the articles, bylaws, certificates, partnership agreement, operating agreement or other organizational documents of the Managing Member or any Guarantor. The Managing Member shall promptly respond to all requests or inquiries made in writing by the Investor Member regarding matters affecting the Apartment Complex or the Company.

(p) The Managing Member shall use all reasonable efforts to cause the Apartment Complex to be kept in compliance with all applicable land use laws, regulations and ordinances.

(q) The Managing Member shall provide the Investor Member with Notice (and with copies of appropriate correspondence) within three (3) Business Days if the Company receives any writing from the Service or the Agency that the Apartment Complex or any portion thereof is not in compliance with the requirements of Code Section 42 or is subject to a Housing Tax Credit Disallowance Event or any other event that could result in an adjustment to the Housing Tax Credits, or losses allocable to the Investor Member.

(r) If any of the Housing Tax Credit Units fail at any time during the Compliance Period to constitute low-income units or if the Apartment Complex is not in compliance with the requirements contained in Code Section 42, the Managing Member agrees to Notify the Investor Member within three (3) Business Days of its knowledge of such event or occurrence and the Managing Member shall take all actions reasonably necessary to bring the Units or the Apartment Complex, as the case may be, into compliance with the requirements of Code Section 42, such that the Apartment Complex will qualify and continue to qualify for Housing Tax Credits during the Compliance Period as projected.

(s) The Managing Member is exclusively responsible for negotiating and performing all services incidental to (i) the Company’s acquisition of the Land, (ii) arranging of appropriate zoning, (iii) arranging of equity and permanent financing with respect to the Apartment Complex (including reviewing the State’s qualified allocation plan, applying for Housing Tax Credits and obtaining such marketing and feasibility studies and appraisals as it
(t) The Apartment Complex will be operated in accordance with the Fair Housing Act, 42 U.S.C. § 3601 et seq., as amended, and in this regard, all employees and agents of the Managing Member will be appropriately trained and all required notices to tenants specified by the Fair Housing Act will occur in a timely manner. The Managing Member shall promptly provide to the Investor Member a copy of (i) the annual certification required to be submitted by the Company to the Agency pursuant to Regulation Section 1.42-5, including a copy of all required reports with respect to building code violations and the certification with respect to compliance with the Fair Housing Act and (ii) all communications received by the Managing Member or the Company with respect to compliance with, non-compliance with, or other matters relating to the Fair Housing Act.

(u) The Managing Member shall ensure that the Apartment Complex shall at all times comply with the applicable requirements of Section 504 of the Uniform Federal Accessibility Standards, where applicable and as amended, the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, as now existing or hereafter amended or adopted, the Fair Housing Act Design Manual implemented in connection the Fair Housing Act, 42 U.S.C. § 3601 et seq., as amended as now existing or hereafter amended or adopted, any other federal and state and local laws and ordinances related to disabled access, and all statutes, rules, regulations, and orders of governmental bodies and regulatory agencies or orders or decrees of any court adopted or enacted with respect thereto including (collectively, the “Access Laws”). The Investor Member may also require from the Company an Access Laws Certification. Notwithstanding any provisions set forth herein or in any other document, the Managing Member shall not alter or permit any tenant or other person to alter the Apartment Complex in any manner which would increase the Managing Member’s responsibilities for compliance with the Access Laws without the prior written approval of the Investor Member. In connection with any such approval, the Investor Member may require from the Company an Access Laws Certification. Following Substantial Completion, the Apartment Complex will be operated in a manner that fully complies with applicable accessibility and barrier-free regulations such that if an enforcement action is brought against the Company, the Managing Member will use any and all of its own resources to promptly correct recorded deficiencies and shall immediately Notify the Investor Member of any such claims.

(v) The Managing Member shall give Notice to the Investor Member within three (3) Business Days of any violation or event of default, or any occurrence which would, with the giving of notice or the passage of time, or both, become a violation or event of default under any document executed by the Agency and relating to the Company. Neither the Company nor any Managing Member shall consent to any amendment or modification to any document executed by the Agency and relating to the Company without the prior Consent of the Investor Member.
(w) Without limitation, the Company, the Managing Member, and their Affiliates (i) are in compliance with Anti-Corruption Laws, and (ii) shall remain in compliance with Anti-Corruption Laws.

(x) The Managing Member shall from time to time take all actions as are necessary and appropriate to: (i) effectuate and permit the continuation of the Company as a limited liability company under the laws of the State, (ii) enable the Company to do business in the State, and (iii) protect the limited liability of the Investor Member under the laws and regulations of the State, including the preparation and filing of any certificate, document or instrument of the Company as may be required under the laws and regulations of the State.

(y) The Managing Member shall maintain books, files and records including tenant leasing files in compliance with the Code and the Regulations and which will adequately document the timing, amount and availability of the Housing Tax Credits. The Managing Member shall cause construction related files and files which document the initial qualification of the apartment units for Housing Tax Credits to be copied and stored off-site until the later of sixth (6th) year after the last day of the Compliance Period or for the time period required by Section 42 of the Code at the Managing Member’s principal place of business (which shall not be at the Apartment Complex) or at another off-site location over which the Managing Member has control. The Managing Member shall allow any Investor Member and its agents access to all such files during ordinary business hours; provided, however, that files stored off-site shall be provided within three (3) Business Days’ Notice from the Investor Member. All such files are property of the Company and not of the Managing Member.

(z) Except as otherwise required or permitted by this Agreement, the Managing Member shall not, without the Consent of the Investor Member, assign, pledge or otherwise encumber, for security or otherwise, any fees, payments or distributions to which the Managing Member is entitled from the Company or any Person pursuant to this Agreement or any Project Document, or any portion thereof or any right of the Managing Member thereto.

(aa) Each Managing Member shall not engage in any other business or activity other than that of being a Managing Member of the Company. Each Managing Member was formed exclusively for the purpose of acting as Managing Member of the Company and has never engaged in any other activity, business or endeavor. As of the date of this Agreement, neither Managing Member has liabilities nor indebtedness other than its liability for the debts of the Company, and neither Managing Member shall incur any indebtedness other than its liability for the debts of the Company. If either Managing Member determines it needs additional funds for any purpose, it shall obtain such funds solely from capital contributions from its members. Each Managing Member has observed and shall continue to observe all necessary or appropriate entity formalities in the conduct of its business. Each Managing Member shall keep its books and records and the Company’s books and records separate and distinct from those of its members and Affiliates. Each Managing Member shall clearly identify itself as a legal entity separate and distinct from its members and its Affiliates in all dealings with other Persons.

(bb) The construction and development of the Apartment Complex shall be undertaken and shall be completed in a timely and workmanlike manner in accordance with (i) all applicable requirements of the Construction Loan and the Project Documents, (ii) all
applicable requirements of all appropriate governmental entities, the violation of which would have, or would be likely to have, an adverse effect on the Apartment Complex or the Company, and (iii) the Plans and Specifications of the Apartment Complex as shown on Exhibit P that have been or shall be hereafter approved by the Investor Member and, to the extent required, the Lenders, and any applicable governmental entities, as such Plans and Specifications may be changed from time to time with the approval of the Investor Member and, to the extent required, the Lenders, and any applicable governmental entities. The Managing Member shall provide copies of all change orders to the Investor Member for its written approval promptly after the preparation and prior to the execution thereof.

(cc) The Managing Member shall cause the Company to keep all sources of funding “in balance,” as required by the Lenders and the Investor Member, and ensure that the Company has adequate sources of funds to timely achieve Permanent Loan Closing and satisfaction of other obligations of the Company in accordance with this Agreement.

(dd) Reserved.

(ee) The Managing Member shall prevent a default from occurring under the Project Documents resulting from a breach by the Managing Member, the Guarantors or their Affiliates of any term, condition or restriction applicable to such parties under the Project Documents, including, without limitation, a breach of a restriction on the ownership of the Managing Member or the financial condition of the Managing Member, the Guarantors or their Affiliates.

(ff) Neither the Managing Member nor its Affiliates will receive, directly or indirectly, from the Company or from any other Person, any fee, commission, compensation or other consideration in connection with (i) this Agreement, (ii) the acquisition of the Land and/or (iii) the construction or operation of the Apartment Complex, except for the payment of fees and distributions to the Managing Member under this Agreement and to the Developer under the Development Agreement.

(gg) The Company received points under the Agency’s Low-Income Housing Tax Credit ranking system pursuant to the Application. The Managing Member shall cause the Company to develop the Apartment Complex and manage the Company in a manner which is consistent with the award of the number of points assigned to the Application by the Agency, unless otherwise consented to by the Agency in writing and Consented to by the Investor Member.

(hh) The Managing Member shall cause the Accountants to certify the Eligible Basis of the Apartment Complex in conjunction with the Company’s application to the Agency for Forms 8609 and in conjunction with the audited cost certification of Eligible Basis.

(ii) The Managing Member shall provide to the Accountants and the Investor Member, promptly upon their request, such written documentation as is reasonably requested by the Accountants and the Investor Member in order to verify the determination of Eligible Basis, including documentation supporting the allocation of any costs incurred by the Company into the determination of Eligible Basis.
(jj) The Company will include in Eligible Basis only the Development Fee which is earned on or prior to the date the Apartment Complex is Placed in Service.

(kk) The Apartment Complex and all of (i) the fixtures, maintenance supplies, tools, equipment and the like now and to be owned by the Company or to be appurtenant to, or to be used in the operation of, the Apartment Complex, as well as (ii) the rents, revenues and profits earned from the operation of, the Apartment Complex, will be free and clear of all security interests and encumbrances except for any mortgages or security agreements (including financing statements) executed in connection with the Loans.

(ll) To the extent required by the Investor Member, ninety-seven percent (97%) payment and performance bonds issued by a financially viable, nationally recognized bonding company, or a letter of credit, in forms acceptable to the Investor Member naming the Investor Member as a dual obligee or payee, and in amounts satisfactory to the Investor Member, will be obtained by the Sub-Contractor and the Public-Bid Sub-Contractor at or before Construction Loan Closing and shall remain in full force and effect under terms and conditions as shall be acceptable to the Investor Member. The Managing Member shall promptly Notify the Investor Member of any claims made under the bonds or the letter of credit, as applicable.

(mm) In connection with the requirements of the Carryover Allocation, the Managing Member shall take all actions necessary and prepare all documents required in connection with the Company’s satisfaction of the Ten Percent Test and submit to the Agency the supporting documents therefor, including, without limitation, the Carryover Certification, by the date required by the Agency. The Managing Member shall deliver to the Investor Member all documents in support thereof, including, without limitation, the Carryover Certification, prior to submitting the Ten Percent Test documents to the Agency. Upon the Investor Member’s Consent, the Managing Member shall submit the Ten Percent Test documentation and the supporting documents therefor, including, without limitation, the Carryover Certification, to the Agency.

(nn) If a material defect is discovered in the construction of the Apartment Complex and such defect was known to the Managing Member or an Affiliate of the Managing Member and was not disclosed to the Investor Member in writing or was intentionally concealed by the Managing Member or such Affiliate, then the Managing Member shall promptly take such action as may be necessary, at the Managing Member’s sole expense, to correct such defective work to the satisfaction of the Investor Member.

(oo) The Managing Member shall cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code. The Managing Member shall seek the direction and/or Consent of the Investor Member prior to filing of the Company’s 2018 tax returns or such earlier time as such election is to be made. Once made, the election will be irrevocable.

5.3 Restrictions on Authority.

(a) Notwithstanding any other provision of this Agreement, the Managing Member shall have no authority to (1) knowingly perform any act in violation of applicable law,
Agency or other government regulations, requirements of the Lenders or the Project Documents or (2) even unknowingly, perform any act in violation of applicable law, Agency or other government regulations, requirements of the Lenders or the Project Documents if such act would or could materially adversely affect the Apartment Complex, the Company, any Investor Member or the Housing Tax Credits. In the event of any conflict between the terms of this Agreement and any applicable Agency or other government regulations or requirements of the Lender, the terms of such regulations or requirements shall govern. **The Managing Member shall not have any authority to do any of the following acts without the Consent of the Investor Member:**

1. To have borrowings in excess of $10,000 in the aggregate at any one time outstanding on the general credit of the Company, except for the Loans, Operating Deficit Loans and IM Loans;
2. To borrow from the Company or commingle Company funds with funds of any other Person;
3. Following the Completion Date, to construct any new or replacement capital improvements on the Apartment Complex except as contemplated in the applicable Annual Budget, unless under emergency conditions;
4. To acquire any real property in addition to the Apartment Complex (including easements or similar rights necessary or convenient for the operation of the Apartment Complex);
5. To finance or enter into any mortgage loan or other indebtedness, or to increase, decrease, amend or modify the terms of or refinance or repay (other than in accordance with its scheduled term or amortization) any Loan;
6. To acquire any personal property (tangible or intangible) at a cost in excess of $10,000 in any year except to the extent approved in the applicable Annual Budget, or use any Company property other than for a purpose of the Company as set forth in this Agreement;
7. To rent apartments in the Apartment Complex such that the Apartment Complex would not meet the requirements of the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test and/or the Rent Restriction Test;
8. To sell, exchange, pledge or otherwise convey or transfer any portion of the Apartment Complex (including any land owned by the Company) or, all or any significant portion of the assets of the Company or any Member’s Interest in the Company, which Consent shall not be unreasonably withheld, conditioned or delayed after year fifteen (15) of the Credit Period;
9. To terminate or modify any agreement with any Agency;
10. To cause the Company to commence a proceeding seeking any decree, relief, order or appointment in respect to the Company under the federal bankruptcy.
laws, as now or hereafter constituted, or under any other federal or state bankruptcy, insolvency or similar law, or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) for the Company or for any substantial part of the Company’s business or property, or to cause the Company to consent to any such decree, relief, order or appointment instituted by any Person other than the Company;

(xi) To pledge or assign any of the Capital Contribution of the Investor Member or any proceeds thereof;

(xii) To amend the Architect’s Contract or the Construction Contract, including, without limitation, any change orders in excess of $50,000.00 per single change order and $250,000 in the aggregate; provided, however, that all deductive change orders, no matter how small and all change order that materially alter the scope of work, shall be subject to the Consent of the Investor Member;

(xiii) To cause the Company to amend the Development Agreement or any other agreement between the Company and any Managing Member or an Affiliate thereof;

(xiv) To do any act required to be approved or ratified by the Investor Member under the Uniform Act;

(xv) To admit an additional Investor Member;

(xvi) To substantially change the nature of the Company’s business;

(xvii) To permit the Company to engage in any activity inconsistent with the Company’s Purposes;

(xviii) To enter into any Project Document not executed prior to the date hereof, and/or to amend any Project Document;

(xix) To adopt any Annual Budget or make any modification to an approved Annual Budget, which Consent shall not be unreasonably withheld, conditioned or delayed;

(xx) To modify the Development Budget;

(xx) To increase the Company’s total initial cost basis allocable to a class of property other than residential rental property by more than 25% of the amount set forth in the LIHTC Certificate attached hereto as Exhibit S;

(xxii) To change the Accountant or the Management Agent;

(xxiii) To sell, transfer, assign, pledge or otherwise convey the Interest of the Managing Member in the Company, or sell, transfer, assign, pledge or otherwise convey any interest in the Managing Member, except in connection with estate planning purposes (but only if (A) the Interest of the Managing Member is conveyed to a trust for the benefit of the spouse or children of Lisa M. Stephens and/or Megan D. Lasch, as the case may be, and (B) Lisa M.
Stephens or Megan D. Lasch continues to control the Co-Managing Member and Megan D. Lasch or Lisa M. Stephens continues to control the Administrative Member), or in any member, partner or shareholder of the Managing Member, as the case may be, or any other party in the line of ownership of such member, partner or shareholder, or permit the Developer to sell, transfer, assign, pledge or otherwise convey the interest of the Developer in the Development Agreement, or sell, transfer, assign, pledge or otherwise convey any interest in the Developer, or in any controlling member, partner or shareholder of the Developer, as the case may be, or any other party in the line of ownership of such member, partner or shareholder of the Developer, or voluntarily retire, withdraw or resign as the Managing Member of the Company; or

(xxiv) To make, amend or revoke any tax election required of or permitted to be made by the Company under the Code or the Regulations, including, without limitation, any election under Section 42 or Section 754 of the Code or make an election to defer the first year of Housing Tax Credits. In this regard, the Managing Member shall make any elections required or permitted under Section 42 of the Code requested in writing by the Investor Member;

(xxv) To accept any grants on behalf of the Company.

5.4 Personal Services. The Managing Member or any Affiliates thereof shall have the right to contract or otherwise deal with the Company for the sale of goods or services to the Company in addition to those set forth herein, if (a) compensation paid or promised for such goods or services is reasonable (i.e., at fair market value) and is paid only for goods or services actually furnished to the Company, (b) the goods or services to be furnished shall be reasonable for and necessary to the Company, (c) the fees, terms and conditions of such transaction are at least as favorable to the Company as would be obtainable in an arm’s-length transaction, and (d) the Investor Member has given its Consent to the particular contract or other dealings between the Company and the Managing Member or its Affiliates. Any contract covering such transactions shall be in writing and shall be terminable without penalty on sixty (60) days’ Notice. Any payment made to the Managing Member or any Affiliate for such goods or services shall be fully disclosed to the Investor Member in writing in the reports required under Section 18.7. Neither the Managing Member nor any Affiliate shall, by the making of lump sum payments to any other Person for disbursement by such other Person, circumvent the provisions of this Section 5.4.

5.5 Continued Compliance Sale. Notwithstanding the foregoing, subject to the Purchase Option Agreement commitments in the Application, at any time after the Compliance Period, the Investor Member may request that the Company sell the Apartment Complex subject to the Extended Use Agreement (a “Continued Compliance Sale”)

(a) After receipt of a request for a Continued Compliance Sale, the Managing Member shall use its best efforts to find a third party purchaser for the Apartment Complex and to cause the Company to consummate a sale of the Apartment Complex subject to the Extended Use Agreement and on terms Consented to by the Investor Member. If such efforts are not successful on terms reasonably satisfactory to the Investor Member within six (6) months of the date of the Investor Member’s request, the Investor Member shall have the right thereafter to locate a purchaser for the Apartment Complex. If the Investor Member locates such a purchaser,
then the Managing Member shall be obligated to either (i) consent to the sale to such purchaser and execute all documents in connection with such sale or (ii) purchase the Investor Member’s Interest for an amount equal to what the Investor Member would have received for a sale of the Apartment Complex.

(b) At all times after the end of the Compliance Period, the Investor Member shall have the right, exercisable in its sole and absolute discretion, to put its entire Interest to the Managing Member (or its designee) for a price equal to $100.

5.6 Other Activities. Any Investor Member may engage independently or with others in other business ventures of every nature and description including the ownership, operation, management, syndication and development of competing real estate; neither the Company nor any other Member shall have any rights in and to such independent ventures or the income or profits derived therefrom.

5.7 Indemnification of the Managing Member.

(a) No Managing Member nor any Affiliate thereof shall have liability to the Company or to any Investor Member for any loss suffered by the Company which arises out of any action or inaction of such Managing Member or Affiliate thereof if such Managing Member or Affiliate thereof in good faith determined that such course of conduct was in the best interest of the Company and such course of conduct did not constitute gross negligence, misconduct, fraud or any breach of fiduciary duty of such Managing Member or Affiliate thereof.

(b) A Managing Member or any Affiliate thereof shall be indemnified by the Company against losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained in connection with the Company, provided that all of the following conditions are met: (i) such Managing Member has determined, in good faith, that the course of conduct which caused the loss, judgment, liability, expense or amount paid in settlement was in the best interests of the Company; and (ii) such loss, judgment, liability, expense or amount paid in settlement was not the result of gross negligence, misconduct, fraud, breach of fiduciary duty on the part of such Managing Member or Affiliate thereof or breach of this Agreement; and (iii) such indemnification or agreement to hold harmless is recoverable only out of the assets of the Company, and not from the Investor Member.

(c) Subject to the provisions of Section 5.7(b), no Managing Member or any Affiliate thereof performing services for the Company shall be indemnified for any losses, liabilities or expenses arising from or out of an alleged violation of federal or state securities laws unless (i) there has been a successful adjudication on the merits of each count involving securities laws violations as to the particular indemnitee and the court approves the indemnification of such litigation costs, (ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee and the court approves the indemnification of such litigation costs or (iii) a court of competent jurisdiction approves a settlement of the claims against a particular indemnitee and the court finds that indemnification of the settlement and related costs should be made. In any claim for indemnification for federal or state securities law violations, the party seeking indemnification
shall, prior to seeking court approval for such indemnification, place before the court the positions of the Securities and Exchange Commission and any applicable state securities administrator with respect to the issue of indemnification for securities law violations.

(d) The Company shall not incur the cost of the portion of any insurance, other than public liability insurance, which insures any party against any liability as to which such party is herein prohibited from being indemnified.

5.8 Indemnification of the Company and the Hunt Indemnified Parties.

(a) The Managing Member shall indemnify, defend and hold harmless the Company and the Hunt Indemnified Parties, and the Company shall indemnify, defend, and hold harmless the Hunt Indemnified Parties, from and against any and all loss, damage and liability, cost or expense (including reasonable attorneys’ fees) which the Company or any Hunt Indemnified Party may incur by reason of the past, present or future actions or omissions of the Managing Member or any of their Affiliates constituting gross negligence, misconduct, fraud, breach of fiduciary duty or a breach or an Event of Default with respect to or under this Agreement; provided, however, that the foregoing indemnification shall not constitute a guaranty of the Permanent Loan.

(b) Notwithstanding the foregoing, no Managing Member shall be liable to a Hunt Indemnified Party or the Company for any act or omission for which the Company is required to indemnify such Managing Member under Section 5.7.

(c) The Managing Member shall indemnify, defend, and hold the Company and the Hunt Indemnified Parties harmless from and against any claims, suits, actions, debts, damages, costs, charges, losses, obligations, judgments and expenses of any nature whatsoever (other than actions caused by a third party on property outside of the Apartment Complex over which the Managing Member has no control and about which the Managing Member had no prior knowledge and no ability to prevent or mitigate the impact of those actions on the Apartment Complex) suffered or incurred by the Hunt Indemnified Parties and arising directly or indirectly out of the presence on, under or about the Apartment Complex of any Hazardous Substance, the use, generation, manufacture, storage or disposal of any Hazardous Substance on, under or about the Apartment Complex, or the violation of any Environmental Laws by the Managing Member or its representatives. The Managing Member shall further indemnify and hold harmless the Company and the Hunt Indemnified Parties and their respective Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, reasonable 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 contained in this Agreement. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified
Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, or (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received notice in writing as hereinabove required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment. In addition to the foregoing indemnification, the Hunt Indemnified Parties may pursue any other available legal or equitable remedy against the Managing Member with respect to the Managing Member’s breach of any of the representations, warranties or covenants contained herein, including, without limitation, the Investor Member’s deferral of the payment of its Capital Contribution pursuant to Section 4.2.

(d) The indemnification rights contained in this Section 5.8 shall be recourse obligations of the Managing Member and shall survive dissolution of the Company and Withdrawal or Involuntary Withdrawal of the Managing Member (except that the Managing Member shall not be liable for claims arising solely from the actions of others after its Withdrawal or Involuntary Withdrawal) and shall be cumulative of, and in addition to, any and all rights, remedies and recourse to which the Hunt Indemnified Parties shall be entitled, whether pursuant to the provisions of this Agreement, at law or in equity.

(e) The Managing Member, on behalf of itself and the Company, hereby waives any and all claims it may now or in the future have against any Lender and the Investor Member relating to the Construction Mortgage or the Permanent Mortgage based in any way upon Lender’s status as an investor in the Investor Member.

5.9 Certain Payments to the Managing Member and Affiliates.

(a) Development Fee. The Company shall pay the Developer the Development Fee on the terms, at the times and in the manner set forth in the Development Agreement. The Development Agreement provides for a Development Fee equal to $2,527,585. No Development Fee shall be paid by the Company upon the occurrence of an Event of Default.
or the occurrence of an event, which with the giving of notice or the passage of time or both would result in an Event of Default.

(b) MM Incentive Management Fee. The Company shall pay the Managing Member an annual non-cumulative fee payable in arrears (the “MM Incentive Management Fee”), for services commencing at Rental Achievement in connection with the administration of the day-to-day business of the Company in an annual amount not to exceed $120,000. The MM Incentive Management Fee for each fiscal year of the Company shall be payable from Cash Flow in the manner and priority set forth in Section 14.1(a) and shall be prorated for a partial fiscal year.

(c) Payment of Development Fee and MM Incentive Management Fee. In the event of the occurrence of an Event of Default by the Managing Member under this Agreement, no Development Fee or MM Incentive Management Fee shall be paid, and there shall be no payments on any Operating Deficit Loans, MM Loans, and Excess MM Loans.

5.10 Reserve Accounts.

(a) The Managing Member shall establish and maintain the Replacement Reserve (the “Replacement Reserve”) to provide for working capital needs, improvements, replacements and any other contingencies of the Company as required by the Lenders and/or any Agency. Commencing on the date on which the first building in the Apartment Complex receives a certificate of occupancy or other license or permit allowing for the occupancy of such first building, the Managing Member shall cause the Company to deposit into Replacement Reserve from its Cash Receipts, the amount of $27,500 annually (the annual amount of contributions to the Replacement Reserve shall be funded in twelve (12) equal monthly payments), which amount shall be adjusted upward each year, commencing on the one year anniversary of the due date for the initial deposit to the Replacement Reserve, by three percent (3%). Following the 10th year of the Compliance Period, and every five (5) years thereafter, the Investor Member shall have the right to require a physical needs assessment for the Apartment Complex at the Company’s expense, which may result in adjustments to the Replacement Reserve. Withdrawals and expenditures from the Replacement Reserve shall be made only with the Consent of the Investor Member and are subject to any written approval which may be required by any Lender or Agency. If the terms of any loan impose more strict requirements regarding the funding and/or use of Replacement Reserve, such more strict requirements shall apply. If the Permanent Lender does not require that it shall hold and control the Replacement Reserve, then the Replacement Reserve shall be deposited at an FDIC commercial member bank selected by the Investor Member, in an account requiring the signature of the Investor Member for any withdrawals (including any interest earned on the account).

(b) The Managing Member shall cause to be established and maintained the Operating Reserve to fund Operating Deficits (the “Operating Reserve”). Concurrently with the Fourth Installment, the Managing Member shall cause the Company to deposit into the Operating Reserve the greater of $540,000 or an amount equal to six months of Operating Expenses and Debt Service Expense, as determined at the time of Rental Achievement and any contributions to the Operating Reserve required by the Agency or any Lender (the “Initial Operating Reserve Amount”). The Operating Reserve shall be deposited at an FDIC commercial member bank
selected by the Investor Member, in an account requiring the signature of the Investor Member for any withdrawals (including any interest earned on the account). Withdrawals and expenditures from the Operating Reserve shall be made only with the Consent of the Investor Member, which Consent shall not be unreasonably withheld, conditioned or delayed, and are not subject to any approval by any Lender or Agency. The Investor Member shall facilitate withdrawals without condition or delay, to such extent that the Managing Member requests to use any funds in the Operating Reserve in excess of $250,000 to pay Operating Deficits prior to funding under its Operating Deficit Guaranty; provided, however, that such funds shall not be applied against the Operating Deficit Loan Cap and shall not be available to pay fees to the Management Agent if it is an Affiliate of the Managing Member, the Developer, or Guarantors. Notwithstanding anything to the contrary, the Managing Member shall cause the Company to increase the Operating Reserve from time to time to the extent necessary to cause the Company to comply with all Operating Reserve (or comparable reserve) requirements imposed, from time to time, by any Lender or the Agency. The Operating Reserve shall be maintained from Cash Flow throughout the Compliance Period at an amount equal to or exceeding the Initial Operating Reserve Amount, and shall not be subject to release prior to the end of the Compliance Period. Upon expiration of the Compliance Period, funds in the Operating Reserve shall be distributed pursuant to Section 14.1(a), except to the extent otherwise required by Section 17.2 of this Agreement, provided, however, that no distribution shall be made to the Managing Member pursuant to such sections if an Event of Default has occurred and is continuing under this Agreement. The release of the Operating Reserve shall not require the consent of the Permanent Lender.

5.11 Pledged Payments. To secure the payment and performance by the Managing Member and the Developer to Investor Member of the Managing Member’s obligations under this Agreement and the Developer’s obligations under the Development Agreement, the Managing Member, in accordance with the Managing Member Pledge, hereby collaterally assigns, pledges and grants a security interest to the Investor Member in all right, title and interest the Managing Member has in the right to receive any distributions and payments under this Agreement, payments with respect to Operating Deficit Loans and MM Loans and distributions of Cash Flow and Cash From Capital Transaction, and the Developer, in accordance with the Developer Pledge, hereby collaterally assigns, pledges and grants a security interest to the Investor Member in all right, title and interest the Developer has in the Development Agreement, including, without limitation, any payments of the Development Fee (collectively, the “Pledged Payments”). The Managing Member and the Developer, in accordance with the terms of the Managing Member Pledge and Developer Pledge, respectively, irrevocably direct the Company to pay to the Investor Member any Pledged Payments at any time that there is an unsatisfied obligation secured by the Pledged Payments. The Company and the Members shall treat any Pledged Payments made by the Company to the Investor Member as a payment by the Company to the Managing Member or the Developer, as applicable, of the particular Pledged Payment and a payment by the Managing Member or Developer, to the Investor Member, of the particular obligation which it secures. If there is more than one type of outstanding obligation secured at the time a Pledged Payment is made to the Investor Member, the Investor Member, in its sole discretion shall decide to which secured obligation the Pledged Payments shall be applied. This Section 5.11 shall constitute a security agreement under the laws of the State. In addition, the Managing Member and the Developer each grant the Investor Member a right of
offset against Pledged Payments with respect to all amounts due to the Managing Member under this Agreement and the Developer under the Development Agreement.

5.12 Assignment to Company. The Managing Member hereby transfers and assigns to the Company all of its right, title and interest in and to the Apartment Complex and in and to all of the Project Documents, including, without limitation, the following: (i) all contracts with architects, supervising architects, engineers and contractors with respect to the development of the Apartment Complex; (ii) all plans, specifications and working drawings heretofore prepared or obtained in connection with the Apartment Complex; (iii) all governmental commitments and approvals obtained, and applications therefor, including those relating to planning, zoning, building permits, Housing Tax Credits; (iv) any and all commitments with respect to the Loans; (v) any and all contracts or rights with respect to any agreements with the Lenders and any Agency; and (vi) any other work product related to the Apartment Complex and/or the Company, all of which, with respect to the Managing Member, shall have an agreed to value of $1.00.

5.13 Meetings. Any Member may call meetings of the Company for any matters for which the Investor Member may vote as set forth in this Agreement. Within seven (7) days after receipt of Notice requesting a meeting, which Notice shall state the purpose of a meeting, the Managing Member shall provide the Investor Member with Notice (either in person or by certified mail) of a meeting and the purpose of such meeting to be held on a date not less than ten (10) nor more than twenty (20) days after receipt of said request, at a time convenient to the Investor Member, except in the case of an emergency such meeting to be held within two (2) days after receipt of a request. All meetings shall be held at the principal office of the Company.

5.14 Purchase Option. The Co-Managing Member shall have the right to purchase with respect to the Apartment Complex in accordance with the terms set forth in the Purchase Option Agreement.

ARTICLE 6
MANAGING MEMBER REPRESENTATIONS AND WARRANTIES

6.1 Representations, Warranties and Covenants. The Managing Member represents, warrants and covenants to the Company and the Investor Member, and their counsel for purposes of providing certain tax and other opinions, that the following are presently true and accurate:

(a) The Company is a duly organized limited liability company validly existing and in good standing under the laws of the State and has complied with all filing requirements necessary for the protection of the Investor Member, and it has no assets other than those relating to the Apartment Complex and has never engaged in any business or incurred any liabilities other than in respect of the Apartment Complex. The Company has taken all requisite action in order to conduct lawfully its business in the State and is not qualified to do business in and is not required to so qualify in any jurisdiction other than the State.

(b) The Land is and will be zoned for the operation of the Apartment Complex as a permitted use. There is no violation by the Company or the Managing Member of any zoning or similar regulation applicable to the Apartment Complex which could have a material adverse effect thereon, or, to the best of the knowledge of the Managing Member after
due inquiry, of any environmental or similar regulation applicable to the Apartment Complex which could have a material adverse effect thereon, and the Company has complied with all applicable municipal and other laws, ordinances and regulations relating to such construction and use of the Apartment Complex.

(c) All appropriate public utilities, including water, electricity and gas (if called for in the Plans and Specifications), are or will be available and operating properly for each apartment unit in the Apartment Complex on the Occupancy Commencement Date.

(d) No event or proceeding (including, without limitation, legal actions or proceedings before any court, commission, administrative body or other governmental authority having jurisdiction over the zoning applicable to the Apartment Complex, labor disputes and acts of any governmental authority) has occurred or is pending or threatened to the best of the Managing Member’s knowledge after due inquiry, which may (i) materially adversely affect the Company, the Apartment Complex or related to the business or assets of the Company or of the Apartment Complex, or (ii) materially adversely affect the ability of the Managing Member or any of its Affiliates to perform their respective obligations hereunder or under any other agreement with respect to the Apartment Complex, other than legal proceedings which have been bonded against in such manner as to stay the effect of the proceedings or otherwise have been adequately provided for.

(e) No default (or event which, with the giving of notice or the passage of time or both, would constitute a default) has occurred and is continuing under this Agreement or under any material provision of the Project Documents, and the same are in full force and effect.

(f) There has been no violation by the Company, the Managing Member, the Guarantors or any Affiliate of the Managing Member or the Guarantors of Anti-Corruption Laws in connection with the execution of this Agreement, the Project Documents and all other instruments, documents and agreements pertaining to the Company or the Apartment Complex.

(g) After Permanent Loan Closing, no Member or Related Person will bear the Economic Risk of Loss with respect to the Permanent Loan. No Managing Member has, either on its own behalf or on behalf of the Company, incurred any financial responsibility with respect to the Company prior to the Closing Date, other than as disclosed in writing to the Investor Member or which will be satisfied at or prior to the execution of this Agreement.

(h) Reserved.

(i) Reserved.

(j) The Company owns a fee simple interest in the Apartment Complex, subject to no material liens, charges or encumbrances other than those which (i) are permitted by the Project Documents and are noted or excepted in the Title Commitment, or, after the issuance thereof, the Title Policy, and (ii) do not materially interfere with use of the Apartment Complex (or any part thereof) for its intended purpose or have a material adverse effect on the value of the Apartment Complex. The Managing Member has not made any misrepresentations or failed to make any disclosure that will or could result in the Company lacking title insurance coverage based on imputation of knowledge of the Managing Member to the Company.
(k) In the event there is an Additional TIF Reimbursement granted to the Company in excess of the $134,355 provided pursuant to the City Council Action, such excess funds shall be subject to the Consent of the Investor Member and shall be used first to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member and second to pay the portion of the Development Fee payable at the Fourth Installment.

(l) Reserved.

(m) The execution and delivery of all instruments and the performance of all acts heretofore or hereafter made or taken pertaining to the Company or the Apartment Complex by each Affiliate of the Managing Member which is a corporation or limited liability company have been or will be duly authorized by all necessary organizational action, and the consummation of any such transactions with or on behalf of the Company will not constitute a breach or violation of, or a default under, the charter, bylaws, operating agreement or other organizational documents of such Affiliate or any agreement by which such Affiliate or any of its properties is bound, nor constitute a violation of any law, administrative regulation or court decree.

(n) Any Managing Member which is a corporation or limited liability company has been duly organized, is validly existing and in good standing under the laws of its state of organization and has all requisite power to be a Managing Member and to perform its duties and obligations as contemplated by this Agreement and the Project Documents. Neither the execution and delivery by such Managing Member of this Agreement nor the performance of any of the actions of such Managing Member contemplated hereby has constituted or will constitute a violation of (i) the articles of organization, by-laws, operating agreements or other organizational documents of such Managing Member, (ii) any agreement by which such Managing Member is bound or to which any of its property or assets is subject, or (iii) any law, administrative regulation or court decree.

(o) The General Contractor’s Construction Contract has been entered into between the Company and the General Contractor, the Sub-Contractor’s Construction Contract has been entered into between the General Contractor and the Sub-Contractor and by and between the Company and the Sub-Contractor and the Public Bid Sub-Contractor’s Construction Contract has been entered into by and among the Company, the Public Bid Sub-Contractor and the City of Fort Worth. No other consideration or fee shall be paid to the General Contractor, Sub-Contractor and Public Bid Sub-Contractor in their capacity as the General Contractor, Sub-Contractor and Public Bid Sub-Contractor, respectively, for the Apartment Complex and work required pursuant to the TIF Reimbursement Agreement and the City Council Action, other than the amounts set forth in the General Contractor’s Construction Contract, Sub-Contractor’s Construction Contract and Public Bid Sub-Contractor’s Construction Contract, as applicable, the amount paid to the General Contractor by the Company at Closing pursuant to invoice #30 dated August 22, 2018 totaling $42,089 (constituting the first half of the total payment), the amount paid to the General Contractor by the Company totaling $42,089 (constituting the second half of the total payment), or as evidenced by change orders approved by the applicable Lenders and Consented to by the Investor Member; and all change orders to date have been paid in full. In addition, no consideration or fee shall be paid to the Developer or Managing Member by the General Contractor, Sub-Contractor or Public Bid Sub-Contractor.
(p) The only tenant eligibility requirements or rent restrictions with which the Apartment Complex and the Company must comply, including restrictions necessary to receive the full amount of the Projected Housing Tax Credits, are the following:

(i) 74 of the 110 units are subject to the rent restrictions and occupancy limitations that apply to residential units that satisfy the Minimum Set-Aside Test or the HOME Minimum Set-Aside Test, as applicable for the term of the Extended Use Agreement and are leased to Qualified Tenants (the “Housing Tax Credit Units”).

(A) 8 of the 74 Housing Tax Credit Units are Section 8 Units.

(B) 11 of the 74 Housing Tax Credit Units are subject to requirements set forth in the HOME Act.

(ii) Unless the Investor Member gives its Consent, 36 of the 110 units shall be Market Rate Units and shall at all times be rented or available for rent as “free market” units without regard to any rent restrictions and occupancy limitations imposed under the Code, the Agency, the Extended Use Agreement or from any other source.

(q) The Managing Member acknowledges that the HOME Loan has been funded with the proceeds of HOME Program funds pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1990, which is implemented by the HOME Investment Partnerships Program, 24 CFR Part 92, as amended (collectively, the “HOME Act”). The Managing Member shall cause the Company to comply in full with the HOME Act, if applicable, including, without limitation, rental restrictions and tenant income limitations, Davis-Bacon Act compliance requirements, and all requirements set forth in any regulatory agreement executed by the Company in connection with the HOME Loan.

(r) The term of the Extended Use Agreement will not exceed thirty-five (35) years and under the Extended Use Agreement.

(s) Saigebrook Development, LLC owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of the Co-Managing Member and Lisa M. Stephens owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of Saigebrook Development, LLC (subject to any estate planning transfers; provided that (A) any direct or indirect interest of Lisa M. Stephens in the Co-Managing Member is conveyed to a trust for the benefit of the spouse or children of Lisa M. Stephens, and (B) Lisa M. Stephens or Megan D. Lasch continues to control the Co-Managing Member). O-SDA Industries, LLC owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of the Administrative Member and Megan D. Lasch owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of O-SDA Industries, LLC (subject to any estate planning transfers; provided that (A) any direct or indirect interest of Megan D. Lasch in the Administrative Member is conveyed to a trust for the benefit of the spouse or children of Megan D. Lasch, and (B) Megan D. Lasch or Lisa M. Stephens continues to control the Administrative Member).

(t) Single Purpose Requirements.
(i) The Managing Member shall not engage, has not engaged and does not engage, in any business other than the business of making housing available to persons of low and moderate income other than with respect to the Market Rate Units and promoting social welfare and combating community deterioration, through acquisition, investment, funding, construction, rehabilitation, or any other means consistent with its charitable purposes.

(ii) The Managing Member shall not enter into and has not entered into any contract or agreement with any Affiliate of the Managing Member, any constituent party of the Managing Member, or any Affiliate of any constituent party, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm’s length basis with third parties other than any such party.

(iii) The Managing Member has and shall continue to pay its debts and liabilities from its own assets as the same shall become due. No Affiliate has paid any debts or liabilities on behalf of the Managing Member.

(iv) The Managing Member has and shall continue to maintain books, financial records and bank accounts that are separate and distinct from the books, financial records and bank accounts of any other Person including any Affiliate.

(v) The Managing Member has and shall continue to maintain separate annual financial statements prepared in accordance with generally accepted accounting principles, consistently applied, showing its assets and liabilities separate and distinct from those of any other entity; in the event the financial statements of the Managing Member are consolidated with the financial statements of any other entity, the Managing Member has and shall continue to cause to be included in such consolidated financial statements: (i) a narrative description of the separate assets, liabilities, business functions, operations and existence of the Managing Member to ensure that such separate assets, liabilities, business functions, operations and existence are readily distinguishable by any entity receiving or relying upon a copy of such consolidated financial statements; and (ii) a statement that the Managing Member’s assets and credit are not available to satisfy the debts of such other entity or any other person.

(vi) The Managing Member or its members has and shall continue to file its own tax returns and pay its own taxes required to be paid under applicable law.

(vii) The Managing Member has and shall continue to (i) hold itself out as an entity separate and distinct from any other Person; (ii) not identify itself or any of its affiliates as a division or part of the other; (iii) correct any known misunderstanding regarding its separate status; and (iv) use separate stationery, invoices, checks, and the like bearing its own name.

(viii) The Managing Member has and shall continue to conduct its business in its own name so as to avoid or correct any misunderstanding on the part of any creditor concerning the fact that any invoices and other statements of account from creditors of the Managing Member are to be addressed and mailed directly to the Managing Member, though this provision shall not prohibit such mail to be delivered to the Managing Member c/o any other entity.
(ix) The Managing Member has and intends to 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.

(x) The Managing Member has not and shall not commingle any of its assets, funds or liabilities with the assets, funds or liabilities of any other Person or Affiliate.

(xi) The Managing Member has and shall continue to maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any party.

(xii) Except as provided for in this Agreement or under the Loan documents, the Managing Member has not and shall not, (i) assume or guaranty the debts of any other Person in a manner that includes a pledge, encumbrance, transfer or hypothecation (whether by operation of law or otherwise) of any assets or interests of the Company or, (ii) hold itself out to be responsible for the debts of another Person in a manner that includes the pledge, encumbrance, transfer or hypothecation of any assets or interests of the Company (whether by operation of law or otherwise), or (iii) otherwise pledge, encumber, transfer or hypothecate the assets of the Company for the benefit of another Person or permit the same to occur, or (iv) hold the Company’s credit as being available to satisfy the obligations of any other Person.

(xiii) All transactions carried out by the Managing Member have been and will be, in all instances, made in good faith and without intent to hinder, delay or defraud creditors of the Managing Member.

(u) On each date of funding by the Investor Member of a Capital Contribution, the Company shall have good and marketable title to the Apartment Complex, subject only to the permitted exceptions set forth in Section 6.1(f). All real estate taxes, assessments, water and sewer charges and other municipal charges, to the extent due and owing, have been paid in full on the Apartment Complex.

(v) No representation, warranty or statement of the Managing Member in this Agreement or in any document, certificate or schedule furnished or to be furnished to any Investor Member pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

(w) The Apartment Complex is not a scattered site project within the meaning of Code Section 42(g)(7).

(x) Reserved.

(y) The Managing Member represents, warrants and covenants that:

(i) By the Fourth Installment, the Accountants have certified that all amounts included in the determination of Eligible Basis as set forth in the Development Budget and in the Application are properly includable pursuant to the Code and Service rulings.
(ii) The Company’s total initial cost basis allocable to a class of property other than residential rental property shall not be increased by more than 25% of the amount set forth in the LIHTC Certificate attached hereto as Exhibit S.

(iii) No portion of the Apartment Complex’s Eligible Basis, including the portion of the Development Fee included in Eligible Basis, is allocable, under the Code and rulings issued by the Service, to land costs, organizational or syndication costs. Land preparation costs included in Eligible Basis are inextricably associated with depreciable assets of the Company.

(iv) Any portion of the Development Fee that is included in Eligible Basis, including any portion the payment of which is deferred, is properly includable in Eligible Basis under the Code and Service rulings.

(z) No Event of Bankruptcy has occurred with respect to the Managing Member, any Guarantor or any Affiliate of the Managing Member or any Guarantor.

(aa) Neither the Company nor any Managing Member has liabilities, contingent or otherwise, or pending or threatened litigation or any unasserted claim against any of them which would have a material adverse effect on the Managing Member, the Apartment Complex or the Company that have not been disclosed in writing to the Investor Member.

(bb) There is no litigation, demand, suit, action, inquiry, proceeding, investigation or claim pending or, to the best of the Managing Member’s knowledge, threatened, relating to any Anti-Corruption Laws with respect to the Company, the Managing Member, the Guarantor(s) or any Affiliate with respect to the Managing Member or the Guarantor(s).

(cc) All accounts of the Company required to be maintained under the terms of the Project Documents, including the Replacement Reserve, are currently funded to the levels required by the Lenders and/or any Agency, to the extent required by each such Lender and Agency.

(dd) Prior to Rental Achievement, the Guarantors will maintain collectively at least $1,000,000 in Liquid Assets. From the date of Rental Achievement through and including the Operating Deficit Guarantee Period, the Guarantors will maintain collectively at least $750,000 in Liquid Assets. After the expiration of the Operating Deficit Guarantee Period, the Guarantors will maintain collectively at least $500,000 in Liquid Assets; provided, that the requirements of this subsection shall be deemed satisfied in accordance with the Backstop Guaranty Agreement, so long as such agreement is in full force and effect regardless of whether Hunt is in default thereunder. The Managing Member shall Notify the Investor Member whenever the requirements of this Section 6.1(dd) are not satisfied. Any Development Fee paid at Closing will count towards the Guarantor’s Liquid Asset requirement on the date of Closing and any Development Fee paid at Rental Achievement shall count towards the Guarantor’s Liquid Asset requirement at Rental Achievement.

(ee) All payments and expenses required to be made or incurred in order to achieve Completion of the Apartment Complex in conformity with the Project Documents, to satisfy all requirements under the Project Documents and/or which form the basis for
determining the principal sum of the Permanent Loan and to pay the Development Fee (other than the Deferred Development Fee) have been or will be paid or provided for utilizing only the Permitted Sources.

(ff) The amount of Housing Tax Credits which are expected to be allocated by the Company to the Investor Member is as set forth in the definition of Projected Housing Tax Credits.

(gg) The Apartment Complex is being developed in a manner which satisfies, and shall continue to satisfy, all restrictions, including tenant income and rent restrictions, applicable to projects generating Housing Tax Credits.

(hh) None of the costs to develop and construct the Apartment Complex has been paid for, directly or indirectly, from the proceeds of bonds the interest on which is exempt from tax under Section 103 of the Code, and the Eligible Basis of the Apartment Complex shall not include any costs financed with the proceeds of a federally funded grant pursuant to Section 42(d)(5)(A) of the Code.

(ii) (A) The Managing Member has provided to the Investor Member a complete copy of the Environmental Documents. To the best of the knowledge of the Managing Member after due inquiry, except as disclosed in the Environmental Documents, no Managing Member, Affiliate of any Managing Member or Person for whose conduct any Managing Member is or was responsible has ever: (i) owned, occupied, or operated a Facility or Vessel on the Apartment Complex on which any Hazardous Material was or is stored, transported or disposed of (except if such storage, transport or disposal was and is at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto); (ii) directly or indirectly transported, or arranged for transport, of any Hazardous Material (except if such transport was and is at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) to or from the Apartment Complex; (iii) caused or was legally responsible for any release or threat of release of any Hazardous Material to or from the Apartment Complex or the property adjacent thereto; (iv) received notification from any federal, state or other governmental authority or by any other Person of (x) any potential, known, or threat of release of any Hazardous Material at or from the Apartment Complex; or (y) the incurrence of any expense or loss by any such governmental authority or by any other Person in connection with the assessment, containment, or removal of any release or threat of release of any Hazardous Material from the Apartment Complex.

(B) In connection with the acquisition of the Apartment Complex, the Company obtained a “Phase I” environmental site assessment of the Apartment Complex which establishes an innocent landowner defense pursuant to Section 9601(35) of CERCLA. The Managing Member has reviewed the “Phase I” environmental site assessment (and any subsequent studies recommended therein) and believes the same to be true, correct and complete in all respects. To the best knowledge of the Managing Member, after due inquiry, there is no fact, circumstance, event or condition, previously or subsequently occurring, which would or does make any statement in such survey untrue, false or misleading. None of the Company, the Managing Member nor any of its Affiliates has given any waiver or release of
liability pursuant to any Environmental Law to any Person in the chain of title of the Land or the Apartment Complex.

(jj) To the best of the Managing Member’s knowledge, after due inquiry, except as disclosed by the Managing Member to the Investor Member in writing, neither the Company nor the Apartment Complex is in violation of any Environmental Law. Neither the Managing Member nor the Company has received any notice from any governmental agency or by any other Person that the Company, Apartment Complex or Land upon which it is located is in violation of any Environmental Law.

(kk) To the best of the Managing Member’s knowledge, after due inquiry, except as disclosed by the Managing Member to the Investor Member in writing or in the Environmental Documents, no Hazardous Material was ever or is now stored, transported or disposed of (except to the extent any such storage, transport or disposal was at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) on the Land.

(ll) No Person or Entity other than the Company and those Persons holding indirect interests through the Company holds any equity interest in the Apartment Complex.

(mm) The Company has the sole responsibility to pay all maintenance and operating costs, including all taxes levied upon, and all insurance costs attributable to the Apartment Complex.

(nn) The Company, except to the extent that it is protected by insurance and excluding any risk borne by any Lender, bears the sole risk of loss if the Apartment Complex is destroyed or condemned, or if there is a diminution in value of the Apartment Complex.

(oo) No Person except the Company has the right to any proceeds after payment of all indebtedness, from the sale, refinancing or leasing of the Apartment Complex.

(pp) The fair market value of the Apartment Complex exceeds or, once constructed, is expected to exceed the total amount of indebtedness, including accrued interest thereon, encumbering the Apartment Complex and is expected to do so throughout the term of such indebtedness.

(qq) The Managing Member represents and warrants that (i) neither the Managing Member nor the Company has entered into any other enforceable agreement or commitment with any other Person to acquire the Housing Tax Credits, or, in the alternative, (ii) the Managing Member and/or the Company has obtained legally enforceable releases or termination agreements from other Persons with whom the Managing Member and/or the Company has previously entered into an agreement whereby said Persons may acquire the Housing Tax Credits. The Managing Member further warrants that it shall at all times indemnify and hold harmless the Hunt Indemnified Parties against and from any and all claims, suits, actions, damages, costs, judgments and expenses, of any nature whatsoever, suffered or incurred by the Hunt Indemnified Parties as a result of the Managing Member and/or the Company’s prior dealings, negotiations, agreements, and/or commitments with Persons.
(rr) The Managing Member has prepared its own financial analysis of the Apartment Complex and is not relying on any financial analysis, projection or forecast prepared by the Investor Member or any Affiliate thereof of the construction costs associated with the Apartment Complex or the Apartment Complex’s operations. There are sufficient sources of funds to complete the Apartment Complex in accordance with the Development Budget.

(ss) The Apartment Complex has been and will be constructed and operated in conformance with the Application submitted to the Agency.

(tt) No restrictions on the sale or refinancing of the Apartment Complex exist, other than restrictions under Code Section 42, the documents evidencing and securing the HOME Loan and the Extended Use Agreement, and no other such restrictions shall be placed upon the sale or refinancing of the Apartment Complex at any time while the Investor Member is an Investor Member without the Consent of the Investor Member.

(uu) The Company has not made, and will not make, an election to be taxable as a corporation.

(vv) Other than as specifically provided in this Agreement, a creditor who makes a loan to the Company shall not have or acquire at any time as a result of making the loan, any interest in the profits, capital or property of the Company other than as a secured creditor.

(ww) The Managing Member has disclosed in writing to the Investor Member all material actions with respect to the Company taken by the Managing Member prior to the date hereof.

(xx) All material documents relating to the Company and the Apartment Complex have been made available to the Investor Member.

(yy) The Managing Member acknowledges that no Lender is or will be acting on behalf of or as agent for the Investor Member in connection with the Construction Mortgage or the Permanent Mortgage.

(zz) The Managing Member, on behalf of itself and the Company, shall not bring any claim against any Lender or the Investor Member relating to the Construction Mortgage or the Permanent Mortgage based in any way upon Lender’s status as an investor in the Investor Member.

(aaa) Neither the Managing Member nor the Company (a) is in violation of the USA Patriot Act; (b) is a Person or entity described by section 1 of Executive Order 13224 of September 24, 2001, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, 66 Fed. Reg. 49,079 (2001), or (c) to the best knowledge and belief of the Managing Member, neither the Managing Member or the Company engages in any dealings or transactions, or is otherwise associated, with any such Persons or entities.

(bbb) The Managing Member acknowledges that the fees to be paid by the Company and described in this Agreement and all exhibits thereto, including the Development
Agreement, the Management Agreement and the Project Documents, are reasonable compensation for the services for which they will be paid.

(ccc) The Apartment Complex does not contain any commercial spaces.

(ddd) The Managing Member has performed suitable and adequate due diligence as is customary in the industry and, in connection therewith, and the Managing Member has discovered no condition (other than those previously disclosed to the Investor Member in writing) adverse to the development and operation of the Project or any of the assumptions, projections or proformas delivered to the Investor Member.

(eee) The Managing Member shall Notify the Investor Member of any groundbreaking, grand opening, ribbon-cutting or other public relations ceremony relating to the Apartment Complex (collectively, “Groundbreaking Activities”). In addition, the Managing Member shall invite (in writing) a representative of the Investor Member to attend and actively participate in such Groundbreaking Activities, such written invitation shall be made no less than thirty (30) calendar days prior to the scheduled event. The Managing Member shall cause the Company to display a sign at the Apartment Complex during construction which clearly states the name of Hunt Capital Partners, LLC as the arranger of equity funds for the Project and at Hunt’s option, the name of the Investor Member or any member/partner of the Investor Member. The sign shall be erected, at the cost of the Company, in a prominent place on the site within fifteen (15) Business Days of receipt by the Managing Member of the Hunt Capital Partners, LLC image and directions. The Managing Member agrees to immediately remove such sign or reference to Hunt Capital Partners, LLC, its investors, and/or any member/partner of the Investor Member if requested by the Investor Member. The Managing Member hereby gives permission to the Investor Member, and any Affiliate thereof, to issue press releases and advertising relating to the equity commitment and the Investor Member’s participation in the transaction. Such media and marketing materials may include, among other things, photos, information about the location of the Apartment Complex, the number of units, the amenities associated with the Apartment Complex and the terms of the equity commitment. The Managing Member shall reference Hunt Capital Partners, LLC as the arranger of equity funds for the Project and at Hunt’s option, the name of the Investor Member or any member/partner of the Investor Member, in any press releases related to the Apartment Complex and shall provide the Investor Member with at least five (5) Business Days to review such items.

(fff) Reserved.

(ggg) to the Managing Member’s knowledge, it has complied in all material respects with, and has caused the Company to comply in all material respects with, all applicable local, state and federal laws, statutes, regulations, rules and ordinances (including, without limitation, (i) all applicable filing and disclosure requirements related thereto, (ii) the USA Patriot Act and (iii) the Currency and Foreign Transactions Reporting Act of 1970 and neither it nor the Company has entered into any transaction with any entity or country that, to its knowledge, is (A) sanctioned under Section 311 of the USA Patriot Act or (B) a Foreign Shell Bank; it has established anti-money laundering policies and procedures as may be required by the Bank Secrecy Act, as amended by USA Patriot Act, which policies and procedures shall also
apply, as applicable, to the Company, and is in full compliance with the Financial Crimes Enforcement Network of the U.S. Department of Treasury ("FinCen") regulations.

(hhh) At the written direction of the Investor Member, the Managing Members shall cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code. The Managing Member shall not otherwise make the foregoing election without the written direction of, or with the Consent of, the Investor Member. The Managing Member shall seek the direction and/or Consent of the Investor Member prior to filing of the Company’s 2018 tax returns or such earlier time as such election is to be made. Once made, the election will be irrevocable.

All of the representations, warranties and covenants contained herein shall survive the date of Permanent Loan Closing and the funding date of each Installment made by the Investor Member. The Managing Member shall indemnify and hold harmless the Hunt Indemnified Parties 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. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, or (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received Notice in writing as hereinabove required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment.
6.2 Environmental Representations, Warranties and Covenants. The Managing Member will establish operating and maintenance programs (an “O&M”) to instruct site staff and vendors on how to proceed when (i) maintaining the components of the electrical system that facilitate safe mixing of aluminum and copper components, and (ii) dealing with Hazardous Materials at the Apartment Complex, each as and if applicable. A copy of each such O&M report shall be furnished to the Investor Member and the Management Agent, and the Management Agreement shall obligate the Management Agent to act in accordance with the recommendations in any such O&M.

ARTICLE 7
EVENTS OF DEFAULT AND REMEDIES

7.1 Events of Default. Any one or more of the following events, whether described in Section 7.1(a) or Section 7.1(b) is an Event of Default under this Agreement, and the term “Event of Default,” wherever used herein, means any one of the following events, whatever the reason for such default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body. The Events of Default described in Section 7.1(a) may also give rise to the Investor Member’s repurchase right as described in Section 7.2(b)(iv), however, after the Company’s receipt of Forms 8609 and the funding of the Fifth Installment, the Investor Member’s repurchase right shall terminate.

(a) Events of Default That Are Repurchase Triggers.

(i) acts or omissions of the Managing Member that either (A) constitute fraud, bad faith, gross negligence, misconduct, or breach of fiduciary duty with respect to any material matter in the discharge of its duties as the Managing Member or (B) results in or is likely to result in a material detriment to or an impairment of the Apartment Complex, the Company, the Housing Tax Credits or any assets of the Company;

(ii) a Loan shall have been declared in default by Lender, which gives the Lender the right to foreclose on the Apartment Complex;

(iii) the Permanent Loan Commitment is terminated or substantially modified and is not replaced with a commitment of equivalent terms, or any interest rate lock-in has expired and is not replaced with a rate lock of equivalent terms, or the Apartment Complex only qualifies for a permanent loan that is insufficient to balance the sources and uses of funds;

(iv) the Construction Loan is not fully repaid and the Permanent Loan is not funded in accordance with Section 8.4;

(v) other than due to a Tax Law Change, the amount of Actual Housing Tax Credits for any year are, or are projected by the Accountants after the issuance of Forms 8609 to be less than eighty percent (80%) of Projected Housing Tax Credits;

(vi) For any reason whatsoever, the Apartment Complex does not generate any Actual Housing Tax Credits during 2020;
(vii) Placement in Service does not occur on or before the later to occur of (a) December 31, 2019, or (b) the date required by the Code and the Agency to preserve the Housing Tax Credits;

(viii) reserved;

(ix) reserved;

(x) IRS Forms 8609 are not issued for all buildings in the Apartment Complex on or before the date required under the Code or by the Agency to claim the Housing Tax Credits for the Apartment Complex in the year available (subject, in either case, to delays in issuance thereof solely due to inaction of the Agency);

(xi) reserved;

(xii) Rental Achievement does not occur on or before February 28, 2021;

(xiii) a casualty shall have occurred with respect to the Apartment Complex and insurance proceeds are insufficient to fully restore the Apartment Complex to its condition immediately prior to such casualty, or the Apartment Complex is not fully restored to its condition immediately prior to such casualty within twenty-four (24) months of such casualty or such earlier date as may be required by the Code or the Agency to preserve the Housing Tax Credits;

(xiv) reserved;

(xv) the Ten Percent Test is not met within earlier of the time specified by Section 42(h)(1)(E) of the Code or the date required by the Agency;

(xvi) reserved;

(xvii) the Managing Member and/or the Company fail to comply with any requirement of the Agency which may have a material adverse effect on the Carryover Allocation, including, without limitation, a reduction in the Projected Housing Tax Credits;

(xviii) at any time prior to Completion, an action is commenced to abandon or permanently enjoin the construction of the Apartment Complex;

(xix) non-achievement of the Minimum Set-Aside Test and/or the Rent Restriction Test by the end of the first year of the Credit Period;

(xx) the Company fails to execute and record an Extended Use Agreement by the close of the first year of the Credit Period;

(xxi) the Company fails to achieve Initial 100% Occupancy on or before December 31, 2020;
(xxii) at any time prior to Rental Achievement, the Managing Member and/or the Developer fail to provide or cause to be provided any funds required to be provided by the Managing Member hereunder or by the Developer under the Development Agreement;

(xxiii) reserved;

(xxiv) the occurrence of an Event of Bankruptcy prior to Rental Achievement, with respect to the Managing Member, the Company, the Guarantor or the Developer, or a Person with a Controlling Interest in any of them;

(xxv) the Managing Member shall have conducted its own affairs or the affairs of the Company in such a manner as would (1) cause the termination of the Company for federal income tax purposes or (2) cause the Company to be treated for federal income tax purposes as an association taxable as a corporation; (3) cause the Company to fail to qualify as a limited liability company under the Uniform Act; or (4) cause the Investor Member to be liable for Company obligations in excess of its Capital Contribution; or (5) otherwise substantially reduce tax benefits or substantially increase tax liabilities of the Investor Member for which the Investor Member is not compensated under this Agreement; or

(xxvi) any change of control of the Managing Member without the Consent of the Investor Member.

(b) Events of Default That are Not Repurchase Triggers.

   (i) the Company fails to pay on a timely basis any of its real estate or personal property tax obligations (including any payments-in-lieu-of-taxes) to any county, city, town or other local government;

   (ii) the occurrence of an Event of Bankruptcy after Rental Achievement with respect to the Managing Member, the Company, a Guarantor, the Developer, or a Person with a Controlling Interest in any of them;

   (iii) any commission of, indictment or conviction for, or pleading of, nolo contendere with respect to a felony by the Managing Member or a Controlling Person of the Managing Member, or an Affiliate of the Managing Member, or there be a complaint filed against the Managing Member or a Controlling Person of the Managing Member, or an Affiliate of the Managing Member, alleging violation of any anti-fraud, registration or reporting provision of state or federal securities law or a judgment rendered against the Managing Member, a Controlling Person of the Managing Member, or an Affiliate of the Managing Member as a defendant (or admit to liability) in any action based upon civil fraud or misrepresentation, or a debarment or otherwise declaration of ineligibility to participate in any federal program or the Managing Member, a Controlling Person of the Managing Member or an Affiliate of the Managing Member is indicted by a grand jury. In the event a Controlling Person of the Co-Managing Member or an Affiliate of the Co-Managing Member is under investigation by a grand jury, voting rights and control belonging to the Co-Managing Member’s Interest shall vest to the Administrative Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable. In the event a Controlling Person of the Administrative
Member or an Affiliate of the Administrative Member is under investigation by a grand jury, voting rights and control belonging to the Administrative Member’s Interest shall vest to the Co-Managing Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable. In the event a Controlling Person of both the Co-Managing Member and the Administrative Member or an Affiliate of the Co-Managing Member and an Affiliate of the Administrative Member is under investigation by a grand jury, voting rights and control belonging to the Interests of Co-Managing Member and the Administrative Member shall vest to the Special Investor Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable;

(iv) a default by a Guarantor under the Guaranty;

(v) any representation or warranty made by the Managing Member herein, or in any document or certificate furnished to the Investor Member in connection herewith or pursuant hereto shall prove at any time to be false, incorrect or misleading as of the date made and which has an adverse impact upon the Company or the Investor Member;

(vi) the failure of the Managing Member to make any Capital Contributions or payments to the Investor Member required pursuant to Section 4.2(d);

(vii) the Managing Member shall fail in any respect to observe and perform or shall breach in any respect any covenant, condition, duty, obligation or agreement set forth in Articles 5, 6 and 8, which are not otherwise set forth in this Section and which has an adverse impact upon the Company or the Investor Member;

(viii) any act by the Managing Member outside the scope of its duties or obligations under this Agreement that has a material adverse effect on the Company, the Apartment Complex or the Investor Member;

(ix) the material breach by the Managing Member of any provision of this Agreement or a breach or default by the Company of any Project Document;

(x) the Apartment Complex or the Company is substantially mismanaged in any material respect;

(xi) the Managing Member fails to fund any Operating Deficits (regardless of whether the Operating Deficit Guaranty Period has expired or whether the Operating Deficit Cap has been reached);

(xii) the Managing Member withdraws, attempts to withdraw, or for any reason is deemed to have withdrawn from the Company;

(xiii) the Managing Member fails to provide or maintain any insurance required by this Agreement;
(xiv) the Managing Member shall have conducted its own affairs or the affairs of the Company in such a manner as would qualify as an event of removal or withdrawal with respect to a Managing Member under the Uniform Act;

(xv) a Loan shall have been declared in default by Lender;

(xvi) the Guarantors do not have Liquid Assets of at least $500,000 from June 30, 2019 through the end of the Compliance Period; or

(xvii) Hunt or any Affiliate thereof pays in the aggregate more than $500,000 pursuant any of Hunt’s guaranty obligations under the Limited Guaranty Agreement and the Backstop Guaranty Agreement.

7.2 Notice and Remedies.

(a) Notice. Prior to or concurrently with the enforcement of any remedy in Section 7.2(b), the Investor Member shall give Notice of an Event of Default (“Notice of Default”) to the Managing Member and, with respect to certain Events of Default set forth in Section 7.2(c) only, the Managing Member shall have the right to cure such Event of Default.

(b) Remedies.

(i) Upon the occurrence of an Event of Default (and if the Event of Default is subject to cure under Section 7.2(c), upon a failure to cure such Event of Default by the expiration of the applicable cure period), the Investor Member may elect that, such Managing Member (a) shall immediately cease to be a Managing Member, (b) shall no longer have any Interest, (c) shall not be entitled to receive any fees, including but not limited to the MM Incentive Management Fees, which have not been fully paid prior to the date of the occurrence of the Event of Default or payment with respect to any Operating Deficit Loans or MM Loans (such removal of the Managing Member shall be an “Involuntary Withdrawal”). Notwithstanding the foregoing, upon the occurrence of the Event of Default described in Section 7.1(b)(ii) hereof, the Involuntary Withdrawal of the Managing Member shall occur immediately upon the occurrence of the Event of Default, without any election by the Investor Member.

(ii) Upon an Event of Default (and if the Event of Default is subject to cure under Section 7.2(c), upon a failure to cure such Event of Default by the expiration of the applicable cure period), the Investor Member’s designee, which may be a Hunt Entity or a qualified non-profit organization if required by the Application, shall be admitted as a replacement Managing Member (the “Replacement Managing Member”) on the terms set forth herein without any further action by any other Member. Upon any such admission of the Replacement Managing Member, the former Managing Member’s interest in all items of profits, losses, credits, distributions and Percentage Interest shall be transferred to the Replacement Managing Member and the Replacement Managing Member shall be paid all fees and loans, including but not limited to MM Incentive Management Fees, Operating Deficit Loans and MM Loans, which would have been payable to the removed Managing Member had an Event of Default not occurred. In addition, the obligation to pay any Development Fee, or portion thereof, that is not paid with the Managing Member’s Special Capital Contribution in accordance with Section 4.1(c), shall be automatically assigned to the Replacement Managing Member. The
Replacement Managing Member shall be automatically admitted and become the managing member of the Company without the need for any approval from any Member, Agency or any Lender, unless otherwise required by the Agency or by any Lender, and shall be irrevocably delegated all of the power and authority of the Managing Member pursuant to Section 5.1. Each Member hereby grants to the Investor Member a special power of attorney, irrevocable to the extent permitted by law and coupled with an interest, to amend the Certificate and this Agreement and to do anything else which, in the view of the Investor Member, may be necessary or appropriate to accomplish the purposes of this Section 7.2(b)(ii) or to enable the Replacement Managing Member admitted pursuant to this Section 7.2(b)(ii) to manage the business of the Company. The admission of the Replacement Managing Member shall not relieve the former Managing Member of any of its obligations hereunder incurred as a Managing Member, and the former Managing Member shall fully indemnify and hold harmless the Replacement Managing Member from and against any and all losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained in connection with its capacity as a Managing Member. For the avoidance of doubt, the Managing Member shall not be responsible for obligations incurred or arising from the actions or inactions of the Replacement Managing Member on or after the Replacement Managing Member is admitted to the Company or for claims arising after its removal and not attributable to the former Managing Member’s actions or inactions.

(iii) The Investor Member hereby is granted an irrevocable power of attorney, coupled with an interest, to execute any and all documents on behalf of the Members and the Company as shall be legally necessary and sufficient to effect all of the foregoing provisions of this Section 7.2, including, without limitation, any amendment to the Certificate and this Agreement.

(iv) Upon the occurrence of an Event of Default by the Managing Member described in Section 7.1(a), the Investor Member may, at its option, at any time, require the Managing Member to, and the Managing Member shall, purchase the Investor Member’s Interest in the Company for an amount equal to the Capital Contribution paid by the Investor Member (together with interest thereon at an annual interest rate of ten percent (10%) compounded annually from the date on which each installment of the Investor Member’s Capital Contribution was actually advanced to the Company) plus all expenses (including, without limitation, reasonable costs of in house and outside legal counsel and accountants) incurred by the Investor Member in connection with its participation in the Company and enforcing their rights hereunder, plus the repayment in full of all outstanding IM Loans plus any federal income tax liability incurred by the Investor Member as a result of the payment of any amounts pursuant to this Section 7.2(b)(iv) less Housing Tax Credits allocated to the Investor Member that have not been or will not be recaptured. Upon receipt of such amount, the Investor Member’s interest as an Investor Member in the Company shall terminate, the Investor Member shall transfer its interest in the Company to the Managing Member or its designees, and the Managing Member shall indemnify and hold harmless the Hunt Indemnified Parties from and against any losses, damages, liabilities, costs or expenses (including reasonable attorneys’ fees) to which the Hunt Indemnified Parties (as a result of its participation hereunder) may be subject. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified
(v) The Managing Member, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agrees that if the Managing Member becomes the subject of Bankruptcy proceedings pursuant to the United States Bankruptcy Code, as it may be amended (the “Bankruptcy Code”), then (i) any other Member shall thereupon be entitled to immediate relief from any automatic stay imposed by Section 362 of the Bankruptcy Code or otherwise, on or against the exercise of the rights and remedies available to such Member pursuant to this Agreement or otherwise, and (ii) any Member may apply or move the bankruptcy court in which the Bankruptcy proceedings are pending for a change of venue to the bankruptcy court where the Company has its principal place of business and the Managing Member agrees not to oppose or object to such application or motion in any way. The foregoing shall in no way preclude, restrict or prevent the Managing Member from filing for protection under the Bankruptcy Code.

(vi) This is an agreement under which applicable law excuses the Investor Member from accepting performance from any Managing Member which is a debtor in a case under the Bankruptcy Code, 11 U.S.C. § 101 et seq., from a trustee of any such debtor and from the assignee of any such debtor or trustee. The Managing Member acknowledges that the Investor Member has entered into this Agreement with the Managing Member in consideration of and in reliance upon its unique knowledge, experience and expertise, and that of its principals in the planning and implementation of the development of the Apartment Complex and in the area of affordable housing and development in general. The foregoing restriction on transfer is
based in part on the above factors. The Managing Member expressly agrees that the Investor Member shall not be required to accept performance under this Agreement from any person other than the Managing Member, including, without limitation, any trustee of the Managing Member appointed under the Bankruptcy Code, 11 U.S.C. § 101 et seq., and any assignee of any such trustee or any receiver or examiner appointed under federal or state law.

(vii) Upon the occurrence of an Event of Default, the Company shall withhold payment of any installment of fees payable pursuant to Section 5.9 and the Managing Member shall be liable for the Company’s payment of any and all installments of the Development Fee payable pursuant to the Development Agreement. All amounts so withheld by the Company under this Section 7.2(b)(vii) shall be promptly released to the payees thereof only after the Managing Member has cured the default justifying the withholding, as demonstrated by evidence acceptable to the Investor Member.

(viii) In addition to the foregoing remedies, the Investor Member can take suits, actions or proceedings in equity or at law, either for the specific performance of any covenant or contract contained herein or in aid or execution of any right herein granted, or for any legal or equitable remedy as the Investor Member shall deem most effectual to protect and enforce this Agreement, the Guaranty and the Project Documents.

(c) Cure. After Notice from the Investor Member pursuant to Section 7.2(a), the Managing Member shall have the following opportunity to cure only the following Events of Default:

(i) There shall be no cure period with respect to Events of Default described in Section 7.1(a). There shall be no cure period with respect to Events of Default described in any of Sections 7.1(b)(ii) and (iii) (the “No Cure Sections”).

(ii) The Managing Member shall have ten (10) Business Days from the date of the Notice of Default to cure a monetary Event of Default described in Sections 7.1(b)(i), (iv), (vi), (xi), (xvi) and (xvii) in a manner acceptable to the Investor Member in its sole discretion.

(iii) In the case of an Event of Default in Section 7.1(b) that is susceptible of cure, the Managing Member shall have thirty (30) days from the date of the Notice of Default to cure such Event of Default in a manner acceptable to the Investor Member in its sole discretion or, if the Managing Member commences such cure within thirty (30) days from the date of the Notice of Default and proceeds diligently and in good faith to cure such Event of Default, ninety (90) days from the date of the Notice of Default; but only if the failure to cure such Event of Default within such ninety (90) day period does not have, or in the sole judgment of the Investor Member, will not have, a material adverse effect on the Company, the Apartment Complex or the Investor Member.

(iv) With respect to any Event of Default attributable solely to the Co-Managing Member and for which such Event of Default has been cured by the Administrative Member, the Administrative Member shall have the right to replace the Co-Managing Member with another entity Consented to by the Investor Member. With respect to any Event of Default
attributable solely to the Administrative Member and for which such Event of Default has been
cured by the Co-Managing Member, the Co-Managing Member shall have the right to replace
the Administrative Member with another entity Consented to by the Investor Member.

(v) Any cure of an Event of Default by the Investor Member or an
Affiliate of the Investor Member shall not constitute a cure by the Managing Member.

7.3 Nonexclusive Remedies. No remedy herein conferred upon or reserved to the
Investor Member is intended to be exclusive of any other available remedy or remedies, but each
and every such remedy shall be cumulative and shall be in addition to every other remedy given
under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or
omission to exercise any right or power accruing upon any Event of Default shall impair any
such right or power or shall be construed to be a waiver thereof, but any such right and power
may be exercised from time to time and as often as may be deemed expedient. In order to entitle
the Investor Member to exercise any remedy reserved to it in this Article, it shall not be
necessary to give any Notice other than such Notice as may be herein expressly required or as
may be required by law.

7.4 Attorney’s Fees and Expenses. If an Event of Default shall exist under this
Agreement and the Investor Member employs attorneys or incurs other expenses for the
collection of any amounts due hereunder, or for the enforcement of performance of any
obligation or agreement on the part of the Managing Member, Developer or Guarantor, the
Managing Member shall upon demand pay to the Investor Member the reasonable fees of such
attorneys and such other expenses so incurred.

7.5 Effect of Waiver. In the event any Event of Default is waived by the Investor
Member, such waiver shall be limited to the particular Event of Default so waived and shall not
be deemed to waive any other Event of Default hereunder. Any such waiver shall only be
effective if signed in writing by the Investor Member.

ARTICLE 8
MANAGING MEMBER GUARANTEES

8.1 Construction Completion Guaranty.

(a) The Managing Member shall:

(i) Cause all of the dwelling units in the Apartment Complex to be
Placed in Service on or before the later of (a) December 31, 2019 or (b) March 31, 2020 if the
date required by the Code and the Agency to preserve the Housing Tax Credits is extended
beyond December 31, 2019;

(ii) Achieve Completion on or before the date that is ninety (90) days
following the date set forth in Section 8.1(a)(i);

(iii) Cause the full funding of the HOME Loan and FWHFC Loan by
Permanent Loan Closing; and
(iv) Fulfill all actions required of the Company to assure that the Apartment Complex satisfies the Minimum Set-Aside Test and the Rent Restriction Test on or before the end of the first year of the Credit Period.

(b) The Managing Member hereby is obligated to pay all Development Deficits when and as incurred. The Company shall have no obligation to pay any Development Deficits. Any amounts funded by the Managing Member pursuant to this clause (b) shall not be treated as a Capital Contribution or a Member Loan and shall not be repaid by the Company. Such Development Deficits may, at the Managing Member’s election together with the prior Consent of the Investor Member, be paid by the Managing Member, through the deferral of additional Development Fee as set forth in Section 3(b) of the Development Agreement, causing a portion of the unpaid Development Fee then due (not to exceed the lesser of the amount such Development Deficits or the unpaid cash portion of the Development Fee then due to the Developer) to be changed to a Deferred Development Fee in the manner provided in Section 3(b) of the Development Agreement (a “DDF Election”), provided, the Investor Member shall Consent to such deferral only if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after Rental Achievement, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to generate Projected Housing Tax Credits and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period.

(c) The Managing Member shall pay any Development Deficits pursuant to Section 8.1 by the earlier of (i) the date required to avoid a default or penalties under Company obligations, including, without limitation, the Loans, (ii) the date required to keep all sources of funding for the Apartment Complex “in balance,” (iii) the date required to keep all expenses without a specific maturity date paid on a sixty (60) day current basis or (iv) such earlier date as may be set forth in this Agreement.

(d) If, as the result of any failure by the Sub-Contractor to fulfill its obligations under that certain agreement between Sub-Contractor and General Contractor with respect to the Apartment Complex, a Development Deficit exists and the Guarantor makes a payment of such Development Deficit under the Guaranty, any liquidated damages payment received by the Partnership under the Construction Contract shall be paid to the Guarantor to the extent the Guarantor makes such a payment.

8.2 Operating Deficit Guaranty. Subject to the Managing Member’s right under Section 5.10(b) to use funds in the Operating Deficit Reserve to pay Operating Deficits, if at any time during the Operating Deficit Guaranty Period, an Operating Deficit shall exist, the Managing Member shall make an Operating Deficit Loan to the Company as shall be necessary to pay such Operating Deficits; provided, however, that the Managing Member shall not be obligated to make an Operating Deficit Loan if and to the extent such loan would cause the aggregate amount of all Operating Deficit Loans then outstanding to exceed $540,000 (the “Operating Deficit Loan Cap”). Any Operating Deficit Loan shall be on the following terms: (a) it shall be unsecured; (b) it shall not bear interest; (c) it shall be repayable solely from Cash
Flow and proceeds of a Capital Transaction at the time and in the amounts set forth in Sections 14.1(a), 14.1(b) and 17.2(b) of this Agreement; and (d) it shall be fully subordinated to payment of the Loans, IM Loans, MM Loans and indebtedness of the Company to all Persons other than Members. The Managing Member shall be required to fund Operating Deficits pursuant to this Section 8.2 by the earlier of (A) the date required to avoid a default or penalties under Company obligations, including, without limitation, the Loans, and (B) the date required to keep all expenses without a specific maturity date paid on a sixty (60) day current basis. Proceeds of an Operating Deficit Loan may not be used to pay fees to the Management Agent if it is an Affiliate of the Managing Member, the Developer, or the Guarantors.

8.3 Housing Tax Credit Compliance Guaranty.

(a) If, at any time after the earlier to occur of (i) the date that the Investor Member’s Capital Contribution obligation has been reduced to zero or (ii) the occurrence of an Event of Default, there is a Housing Tax Credit Shortfall other than as a result of a Housing Tax Credit Disallowance Event, the Managing Member shall promptly, but in any event within five (5) calendar days after demand, pay the Investor Member an amount equal to (1) the amount of the Housing Tax Credit Shortfall for the fiscal year immediately preceding the Payment Date, (2) all penalties and interest imposed by the Code and assessed against the Investor Member, by the Service with respect to any Housing Tax Credit Shortfall, and (3) an amount sufficient to pay any tax liability owed by the Investor Member resulting from the receipt from the Managing Member of the amounts specified in the foregoing clauses (1), (2) and this clause (3) (such calculation to be made assuming the Investor Member is subject to the highest federal and Texas state rate imposed on corporate taxpayers under the Code and applicable state law for the taxable year of the Investor Member in which such payment is taken into income by the Investor Member) together with interest on such amounts at the AFR accruing from such Payment Date if such payments in (i), (ii) and (iii) are not made on the Payment Date. There shall be no duplication between amounts paid under this Section 8.3(a) and amounts reflected as reductions in Capital Contributions (and/or payments by the Managing Member, if applicable) under Section 4.2(d).

(b) If at any time after the earlier to occur of (i) payment of the Investor Member’s Capital Contribution or (ii) the occurrence of an Event of Default, there is a Housing Tax Credit Disallowance Event, the Managing Member shall promptly, but in any event within five (5) days after demand, pay to the Investor Member the sum of the following amounts: (i) the amount of Housing Tax Credits previously allocated to the Investor Member, and subsequently disallowed because of such Housing Tax Credit Disallowance Event; (ii) the “credit recapture amount” (as defined in Code Section 42(j)(2)) allocated to the Investor Member because of such Housing Tax Credit Disallowance Event; (iii) all penalties and interest imposed by the Code and assessed against the Investor Member by the Service with respect to such Housing Tax Credit Disallowance Event; (iv) an amount sufficient to pay any tax liability owed by the Investor Member resulting from the receipt from the Managing Member of the amounts specified in the foregoing clauses (i), (ii), (iii), and this clause (iv) (such calculation to be made assuming the Investor Member is subject to the highest federal and Texas state rate imposed on corporate taxpayers under the Code and applicable state law for the taxable year of the Investor Member in which such payment is taken into income by the Investor Member) together with interest on such amounts at the AFR accruing from the date the Investor Member remits funds to
a taxing authority with respect to a Housing Tax Credit Disallowance Event; and (v) if the cause
of the Housing Tax Credit Disallowance Event will in the determination of the Investor Member
decrease the maximum amount of Housing Tax Credits that will be available to the Company
and allocated to the Investor Member during the remainder of the Credit Period assuming full
compliance with Code Section 42, then an amount equal to the total amount of such decrease.
There shall be no duplication between amounts paid under this Section 8.3(b) and amounts
reflected as reductions in Capital Contributions (and/or payments by the Managing Member, if
applicable) under Section 4.2(d).

(c) If the Investor Member receives a payment under the Housing Tax Credit
Compliance Guaranty and the Company has appealed the issue giving rise to such payment (but
has not caused a stay of enforcement with respect to such issue), and if the Company prevails on
such appeal based on a final ruling by a federal court of competent jurisdiction, then the Investor
Member shall refund the excess payment under the Housing Tax Credit Compliance Guaranty
which it had received.

(d) If there is a Tax Law Change, the Managing Member shall use its good
faith, reasonable efforts to comply with such Tax Law Change and to avoid a Housing Tax
Credit Shortfall or Housing Tax Credit Disallowance Event, based on such Tax Law Change. If
despite the Managing Member’s good faith, reasonable efforts to comply with the Tax Law
Change, such Tax Law Change results in a claim under Section 8.3 (a “Limited Recourse
Liability”), then the sole recourse of the Investor Member with respect to the Limited Recourse
Liability shall be to the Pledged Payments (excluding only payments of the Development Fee)
and the Managing Member shall have no personal liability for the payment of such Limited
Recourse Liability (unless and to the extent it wrongfully received Pledged Payments or
otherwise breached this Agreement) that should have been made to the Investor Member in
satisfaction of the Limited Recourse Liability.

8.4 Permanent Loan Funding Guaranty.

(a) The Managing Member irrevocably and unconditionally guarantees and
covenants that the Company shall achieve Permanent Loan Closing (including repayment in full
of the Construction Loan as and when due) and receive full funding of the Permanent Loan from
the Permanent Lender on the terms set forth in the Permanent Loan Commitment, which include
the following terms: (i) the principal amount of the Permanent Loan shall be $8,300,000 (as may
be increased by the Permanent Lender); provided that in no event shall the principal amount of
the Permanent Loan result in aggregate Debt Service Coverage Ratio being less than 1.15 to
1.00, as determined by the Investor Member in its good faith discretion); (ii) the interest rate
shall be a fixed market interest rate for comparable loans; (iii) the maturity date of the Permanent
Loan will be not less than fifteen (15) years from Permanent Loan Closing; (iv) the Permanent
Loan shall amortize over a term of thirty five (35) years; (v) for the first two years of the
Permanent Loan only interest payments shall be made; and (vi) the Permanent Loan shall be
nonrecourse, except for customary carve-outs.

(b) A “Permanent Loan Shortfall” shall be the amount by which $8,300,000
exceeds the principal amount of the Permanent Loan necessary to obtain a Debt Service
Coverage Ratio of 1.15 to 1.00. The Managing Member shall provide such funds to the
Company or, with the Consent of the Investor Member, defer the Managing Member’s portion of the Development Fee to be paid as a Deferred Development Fee, as may be necessary to pay for any Permanent Loan Shortfall before Permanent Loan Closing; provided, the Investor Member shall Consent to such deferral only if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after the Placed in Service Date, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to allocate Projected Housing Tax Credits to the Investor Member and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Any amounts funded by the Managing Member pursuant to this clause (b) shall not be treated as a Capital Contribution or a Member Loan and shall not be repaid by the Company. The Permanent Loan Shortfall shall be used by the Company to reduce the principal amount of the Permanent Loan to result in an aggregate Debt Service Coverage Ratio of not less than 1.15 to 1.00.

8.5 Security Documents. As security for the foregoing guarantees and the other obligations of the Managing Member under this Agreement and the Developer under the Development Agreement and concurrently with the execution of this Agreement, the Managing Member shall cause to be delivered to the Investor Member the following documents: (a) Managing Member Pledge; (b) Developer Pledge; and (c) Guaranty.

ARTICLE 9
WITHDRAWAL OF THE MANAGING MEMBER; ADMISSION OF NEW MANAGING MEMBER; REMOVAL OF A MANAGING MEMBER

9.1 Withdrawal.

(a) Except for an Involuntary Withdrawal, the Managing Member may not Withdraw from the Company or sell, transfer assign or encumber its Interest without the Consent of the Investor Member.

(b) In the case of a Managing Member who is an individual, upon the death or adjudication of incompetence of such Managing Member, such Managing Member shall cease to be a Managing Member and shall have no Interest in the Company.

9.2 Admission of Additional Managing Member(s) under Certain Circumstances.

(a) Except as otherwise provided in Article 7, a Person shall be admitted as a Managing Member (the “Additional Managing Member”) of the Company only if the following terms and conditions are satisfied, or waived by the Investor Member:

(i) except as otherwise provided in Article 7 or in the event of the Withdrawal of the Managing Member, the admission of such Person has been consented to by the Managing Member or its successor;

(ii) the admission of such Person has been Consented to by the Investor Member and, if required, by the Agency and the Lenders;
(iii) the successor or additional Person has accepted and agreed in writing to be bound by (i) all the terms and provisions of this Agreement, and (ii) all the terms and provisions of the documents executed in connection with each of the Loans and the Extended Use Agreement, by executing counterparts thereof, if required by the Lenders and/or the Agency, as applicable, and (iii) all the terms and provisions of such other documents or instruments as may be required or appropriate in order to admit such Person as a Managing Member, and (iv) if required under the Uniform Act as a condition precedent to the admission of a Managing Member, an amendment to the Certificate has been filed;

(iv) such Person has provided the Company with evidence satisfactory to Counsel for the Company of its authority to become a Managing Member, to do business in the State and to be bound by the terms and provisions of this Agreement; and

(v) Counsel for the Company has rendered an opinion that the admission of the successor or additional Person is in conformity with the Uniform Act and that none of the actions taken in connection with the admission of the successor Person will cause the termination or dissolution of the Company or will cause it to be classified other than as a limited liability company for federal income tax purposes.

9.3 Effect of Voluntary Withdrawal of Managing Member.

(a) In the event of the Voluntary Withdrawal of the Managing Member, the business of the Company shall be continued by the other Managing Member(s); provided, however, that if the withdrawn Managing Member is then the sole Managing Member, or if such Managing Member withdraws from the Company in contravention of the provisions of Section 9.1 of this Agreement, then the Company shall be terminated, unless within ninety (90) days after receiving Notice of such withdrawal, a majority-in-interest of the other Members elect to designate a successor Managing Member and continue the Company upon the admission of such successor Managing Member to the Company.

(b) If, at the time of the Voluntary Withdrawal of a Managing Member, the withdrawing Managing Member was not the sole Managing Member of the Company, the remaining Managing Member or Managing Members shall immediately (i) give Notice to the Investor Member of such Withdrawal, and (ii) make such amendments to this Agreement and execute and file such amendments or documents or other instruments as are necessary to reflect the disposition of the Interest of the withdrawing Managing Member pursuant to this Section 9.3. The remaining Managing Member or Managing Members are hereby granted an irrevocable power of attorney, coupled with an interest, to execute any or all documents on behalf of the Members and the Company and to file such documents as may be required to effectuate the provisions of this Section 9.3.

(c) Upon a Voluntary Withdrawal, (i) the Managing Member shall cease to have any Interest in the Company, (ii) the Managing Member shall not be entitled to any distributions or allocations from the Company, (iii) the Managing Member shall not be entitled to any repayment of Operating Deficit Loans and (iv) the Managing Member shall not be entitled to any payments of the MM Incentive Management Fee relating to the period of time after the date of its withdrawal. The Managing Member shall be entitled, however, to receive any fees
expressly provided for under this Agreement which have been fully earned and accrued prior to the date of Withdrawal, which fee shall be paid when and as specified in this Agreement and shall be entitled to the payment of any MM Loans in the time and manner specified in this Agreement.

(d) If the Managing Member Withdraws from the Company, including, without limitation, an Involuntary Withdrawal, then the Managing Member shall be and shall remain liable for all damages to the Investor Member resulting from the Withdrawal of the Managing Member in breach of this Agreement and for all its obligations and liabilities under this Agreement, including, without limitation, all its liabilities and obligations under Article 5 (including, without limitation, its obligation to make a Managing Member’s Special Capital Contribution in an amount sufficient to pay the Deferred Development Fee on or before the date of such Deferred Development Fee as required to be paid under this Agreement); provided, however, that the Managing Member shall have no liability with respect to any actions or failure to act on the part of any Replacement Managing Member or for claims arising after its removal and not attributable to the former Managing Member’s actions or inactions.

(e) Upon a Voluntary Withdrawal, the Investor Member, or its designee shall, at the sole option of the Investor Member, be admitted as a Replacement Managing Member on the terms set forth in Section 7.2(b)(ii).


ARTICLE 10
RIGHTS OF THE INVESTOR MEMBER

10.1 Management of the Company. No Investor Member shall have the right to take part in the management or control of the business of the Company or to transact any business in the name of the Company. No provision of this Agreement which makes the Consent of any Investor Member a condition for the effectiveness of an action taken by the Managing Member is intended and no such provision shall be construed to give any Investor Member any participation in the control of the Company business.

10.2 Limitation on Liability of the Investor Member. The liability of each Investor Member shall be limited to its Capital Contribution as and when payable under the provisions of this Agreement, and as provided under the Uniform Act. No Investor Member shall have any other liability to contribute money to, or in respect of the liabilities or obligations of, the Company, nor shall any Investor Member be personally liable for any obligations of the Company, except as and to the extent provided in the Uniform Act. No Investor Member shall be obligated to make loans to the Company.

10.3 Other Activities. Any Investor Member may engage in or possess interests in other business ventures of every kind and description for its own account, including, without limitation, serving as managing or investor member of other companies which own, either directly or through interests in other partnerships, government-assisted housing projects similar to the Apartment Complex. Neither the Company nor any of the Members shall have any right
by virtue of this Agreement in or to such other business ventures to the income or profits derived therefrom.

10.4 Full Disclosure of and Right to Revise Information. The Investor Member shall have the right to review information pertaining to the Company which is possessed by the Managing Member, and the right to receive on a regular basis timely and accurate reports, schedules and accountings to the Company’s financial performance, in each case as may be required pursuant to this Agreement or as requested by the Investor Member.

10.5 Fees to Hunt and its Affiliates. Commencing on the date first Unit in the Apartment Complex is Placed in Service, Hunt, its successor or an Affiliate thereof, shall earn an annual fee (pro rata for first year) for its services in connection with the Company’s accounting matters relating to the Investor Member, and assisting with the preparation of tax returns and the reports required by Section 18.7 in the original amount of $7,500 and then adjusted annually to reflect a 3% annual increase (the “Asset Management Fee”). The Asset Management Fee shall be payable from Cash Flow and proceeds of a Capital Transaction, in the manner and priority set forth in Article 14 on April 1 of each year. If, however, Cash Flow in any fiscal year is insufficient to pay the full amount of Asset Management Fee, the Asset Management Fee shall accrue without interest and be payable to Hunt until such time there is sufficient Cash Flow in the manner and priority set forth in Article 14. Any Asset Management Fee earned prior to Rental Achievement shall accrue without interest until Rental Achievement at which time time interest shall start to accrue on any unpaid portion.

10.6 Control Over Investor Member Decisions. Unless otherwise expressly provided, any decision required to be made by the Investor Member under this Agreement shall be made by the Investor Members. Any decision required to be made by the majority in interest of the Investor Members shall be made by the Investor Members of any class whose Percentage Interest in the Company exceeds fifty percent (50%) of the Percentage Interests of all Investor Members. The decision of the majority in interest of the Investor Members shall be effective after five (5) days’ Notice has been given to each Investor Member and the occurrence of any of the following: (i) a written document signed by the Investor Members; or (ii) a written document signed by the Investor Members who own more than fifty percent (50%) of the Percentage Interests of the Investor Members.

ARTICLE 11
TRANSFERABILITY OF INVESTOR MEMBER INTERESTS

11.1 Assignment or Pledge of Investor Member Interests.

(a) Each of the Investor Member or the Special Investor Member shall have the right at any time to make an Assignment of its Interests as follows:

(i) Prior to payment of all of its Capital Contributions:

(A) to any Person without the Consent or approval of the Managing Member or any other Member, provided that an Affiliate of the Investor Member will serve as the manager or general partner of such Person; and
(B) to a non-Affiliate with the approval of the Managing Member which approval shall not be unreasonably withheld or delayed.

(ii) After payment of its Capital Contributions:

(A) to any Person without any restriction.

In connection with the Investor Member’s admission into the Company and acquisition of their respective Interests, the Managing Member acknowledges that the Investor Member intends to assign its Interest subsequent to the Closing Date and may pledge its Interests to the Equity Lender. The Investor Member shall Notify the Managing Member as to any Assignment.

(b) The Investor Member or the Special Investor Member whose interest is being transferred shall pay such reasonable expenses as may be incurred by the Company in connection with such transfer.

(c) The Managing Member shall cooperate with the Investor Member and/or the Special Investor Member in facilitating such Assignment by promptly furnishing complete and accurate financial and other relevant data regarding the Company, the Apartment Complex, the Managing Member and Affiliates of the Managing Member and any other matters reasonably necessary in the judgment of the Investor Member or the Special Investor Member to facilitate such Assignment, including any amendments to this Agreement or the Project Documents so long as such amendments do not materially adversely affect the Managing Member.

(d) Within five (5) days of receipt of notification, the Managing Member shall execute the form of Assignment and shall cause Counsel for the Company, at the Managing Member’s expense, to deliver to the Investor Member an opinion as to the enforceability of such Assignment, if not already provided (the form of such Assignment is attached hereto as Exhibit M).

11.2 Admission of Substitute Investor Member.

(a) Subject to the other provisions of this Article 11, an assignee of the Interest of an Investor Member or the Special Investor Member (which shall be understood to include any purchaser, transferee, donee, or other recipient of any disposition of such Interest) shall be deemed admitted as a Substitute Investor Member of the Company only upon the satisfactory completion of the following:

(i) Consent of the Managing Member (which may not be unreasonably withheld), and the consent of the Permanent Lender, if required, has been given; such Consent of the Managing Member may be evidenced by the execution by the Managing Member of an amended Agreement and/or Certificate evidencing the admission of such Person as an Investor Member pursuant to the requirements of the Uniform Act; provided, however, the Investor Member may transfer its Interest to an Affiliate and to any tax credit syndication fund of which the Investor Member or an Affiliate thereof is the general partner or managing member, pursuant to the Assignment, in the form attached hereto as Exhibit M, without obtaining the consent of Managing Member or any Lender;
(ii) the assignee has accepted and agreed to be bound by the terms and provisions of this Agreement by executing a counterpart thereof or an appropriate amendment hereto, and such other documents or instruments as the Managing Member may reasonably require in order to effect the admission of such Person as an Investor Member or the Special Investor Member; and

(iii) if required by the Act, an amended Agreement and/or Certificate evidencing the admission of such Person as an Investor Member or the Special Investor Member shall be filed.

(b) For the purpose of allocation of profits, losses and credits, and for the purpose of distributing cash of the Company, a Substitute Investor Member shall be treated as having become, and as appearing in, the records of the Company as a Member upon its signing of an amendment to this Agreement agreeing to be bound hereby.

(c) The Managing Member shall cooperate with the Person seeking to become a Substitute Investor Member by preparing the documentation required by this Section and making all official filings and publications. The Company shall take all such action, including the filing, if required, of any amended Agreement and/or Certificate, if obtainable, evidencing the admission of any Person as an Investor Member, bringing forward the effective date of the Title Policy and issuing any new or modified endorsements to the Title Policy that the Substitute Investor Member may require, and the making of any other official filings and publications, as promptly as practicable after the satisfaction by the assignee of the Interest of an Investor Member of the conditions contained in this Article 11 to the admission of such Person as an Investor Member of the Company. Any cost or expense incurred in connection with such admission (including any transfer taxes) shall be borne by the Substitute Investor Member.

11.3 Rights of Assignee of Limited Liability Company Interest.

(a) Except as provided in this Article 11 and as required by operation of law, the Company shall not be obligated for any purpose whatsoever to recognize the assignment by any Investor Member of its Interest until the Company has received actual Notice thereof.

(b) Any Person who is the assignee of all or any portion of an Investor Member’s Interest, but does not become a Substitute Investor Member, and who desires to make a further assignment of such Interest, shall be subject to all the provisions of this Article 11 to the same extent and in the same manner as any Investor Member desiring to make an assignment of its Interest.

11.4 Equity Lender. The Members acknowledge that the Equity Lender may advance funds to the Investor Member and Special Investor Member prior to the admission of investors into the funds sponsored by the Investor Member and, to the extent that the Investor Member and Special Investor Member have loans outstanding from the Equity Lender in order to finance their Capital Contributions, all Members hereby Consent to the admission of the Equity Lender as a Substitute Investor Member if the Equity Lender finds itself in the position of enforcing certain remedies in connection with its loan to the Investor Member and Special Investor Member. Each Member hereby agrees to cooperate with the Equity Lender, as the Investor Member and Special
Investor Member may from time to time reasonably request, by delivering to the Equity Lender information concerning the Company and documents executed by such Member.

11.5 **Funds Sponsored by Investor Member(s).** All Members hereby agree to cooperate with the Investor Member, as may be reasonably requested by the Investor Member, in connection with the admission of investors into the funds sponsored by the Investor Member. In addition to such Opinion of Counsel (which Opinion of Counsel shall be at the expense of the Company), if the Investor Member request then the Managing Member shall cause, from time to time, one or more updates to the Opinion of Counsel to be delivered to the Investor Member, which updates shall be at the expense of the Company.

**ARTICLE 12**
**BORROWINGS**

12.1 **Borrowings.** The Company is authorized to receive Operating Deficit Loans, IM Loans and MM Loans on the terms set forth in this Agreement. In addition, if (a) additional funds are required by the Company for any purpose relating to the business of the Company or for any of its obligations, expenses, costs or expenditures, and (b) the Company has not received an Operating Deficit Loan, IM Loan or MM Loan to pay such amounts, then the Company may borrow such funds as are needed from a Person or organization other than a Member in accordance with the terms of this Section 12.1, for such period of time and on such terms as the Managing Member and the Investor Members may agree; provided, however, that no such additional loans shall be secured by any mortgage or other encumbrance on the property of the Company without the prior approval of the Investor Member and, to the extent required, the Consent of the Agency and/or the Lenders. Nothing in this Section 12.1 shall modify or affect the obligation of the Managing Member to make Operating Deficit Loans and to perform its obligations when and as required by this Agreement.

**ARTICLE 13**
**ALLOCATIONS**

13.1 **Allocation of Profits, Losses and Housing Tax Credits from Operations.** After giving effect to the special allocations set forth in Section 13.4, all profits, losses and Housing Tax Credits incurred or accrued by the Company, other than those arising from a Capital Transaction, shall be allocated to the Members in accordance with the Members’ Percentage Interests.

13.2 **Allocation of Profits and Losses From Capital Transactions.** After giving effect to the special allocations set forth in Section 13.4, all profits and losses recognized by the Company from a Capital Transaction in any fiscal year shall be allocated in the following manner:

(a) **Profits.** (i) First, profits shall be allocated to the Members with negative Adjusted Capital Account balances, that portion of profits (including any treated as ordinary income for federal income tax purposes) which is equal in amount to, and in proportion to, such Members’ respective negative Adjusted Capital Accounts in the Company; provided that no profit shall be allocated under this Section 13.2(a) to a Member once such Member’s Adjusted
Capital Account balance is brought to zero and (ii) second, profits in excess of the amount allocated under (i) shall be allocated to the Members in the amounts and to the extent necessary to increase the Members’ respective positive Capital Accounts so that the proceeds distributed in accordance with the Members’ respective positive Capital Account balances under Section 17.2(b)(iv) below will equal the amounts that would have been received if the proceeds were instead distributed under Section 14.1(b)(viii) below.

(b) **Losses.** (i) First, losses shall be allocated to the Members in the amount and to the extent necessary so that the proceeds distributed in accordance with the Members’ respective positive Capital Account balances under Section 17.2(b)(iv) below will equal the amounts that would have been received if the proceeds were instead distributed under Section 14.1(b)(viii) below, and (ii) second, any remaining losses shall be allocated to the Members in accordance with the manner in which they bear the economic risk of loss associated with such losses or, if none, to the Members in accordance with their Percentage Interests.

13.3 **Determination of Profits and Losses.** The terms “profits” and “losses” used in this Agreement shall mean income and losses, and each item of income, gain, loss, deduction or credit entering in to the computation thereof determined in accordance with the method of accounting followed by the Company and computed in accordance with Code Sections 703(a) and 704(b), and Regulation Section 1.704-1(b)(2)(iv). Every item of income, gain, loss, deduction, credit or tax preference entering into the computation of such profits or losses, or applicable to the period during which such profits and losses are allocated to such partner, shall be considered allocated to each Member in the same proportion as profits and losses are allocated to such Member.

13.4 **Special Allocations.** Notwithstanding the foregoing provisions of this Article 13:

(a) **Recourse Obligations.**

(i) If the Company incurs losses from extraordinary events that are not recovered from insurance or otherwise, including casualty losses, losses resulting from liability to third parties for tortious injury, losses resulting from a breach of legal duty by the Company or by the Managing Member, and losses resulting from other liabilities which are not incurred in the ordinary course of business (“Recourse Obligations”), such losses shall be allocated to the Managing Member. Nothing in this Section 13.4(a)(i) shall prevent the Company from recovering an extraordinary loss from a Managing Member who is liable therefor by law or under this Agreement.

(ii) If the Company incurs Recourse Obligations secured by Company property with respect to which the Managing Member or a related person of the Managing Member bears the risk of loss, then except to the extent otherwise required by the Regulations, deductions attributable to the Recourse Obligations shall be allocated to the Members in accordance with their Percentage Interests provided, however, that any such deductions which, if allocated to the Investor Members, would cause or increase a negative balance in their Capital Accounts shall be allocated to the Managing Member. Upon the disposition of such property, any income or gain shall be allocated first to the Managing Member to the extent of any
deductions specially allocated to the Managing Member under this Section 13.4(a)(ii) and then to the Members in accordance with their Percentage Interests.

(b) Recapture Allocation. If any profit arises from the sale or other disposition of any Company asset which shall be treated as ordinary income under the depreciation recapture provisions of the Code including, but not limited to, Sections 1245 and 1250, then the full amount of such ordinary income shall be allocated among the Members in the proportions that the Company deductions from the depreciation giving rise to such recapture were actually allocated. If subsequently-enacted provisions of the Code result in other recapture income, no allocation of such recapture income shall be made to any Member who has not received the benefit of those items giving rise to such other recapture income.

(c) Tax Allocations, Section 704(c). Income, gain, loss and deduction with respect to any asset which has a variation between its basis computed in accordance with Regulation Section 1.704-1(b) and its basis computed for federal income tax purposes shall be shared among the Members so as to take account of such variation in a manner consistent with the principles of Section 704(c) of the Code and Regulation Section 1.704-1(b)(2)(iv)(g).

(d) Minimum Gain Chargeback. If there is a net decrease in Company Minimum Gain during a Company taxable year, each Member will be allocated (without duplication of items allocated in 13.4(a) and 13.4(b)) items of income and gain for such year (and, if necessary, subsequent years) in proportion to, and to the extent of, an amount equal to such Member’s share of the net decrease in Company Minimum Gain during the year, before any other allocation of Company items for such taxable year. A Member shall not be subject to this mandatory allocation of income or gain to the extent that any of the exceptions provided in Regulation Section 1.704-2(f)(2)-(5) apply. All allocations pursuant to this Section 13.4(d) shall be in accordance with Regulation Section 1.704-2(f). This provision is a “minimum gain chargeback” within the meaning of Regulation 1.704-2(f) and shall be construed as such.

(e) Member Nonrecourse Debt Minimum Gain. If the Company incurs Member Nonrecourse Liability in which a Member or a related person to the Member bears the risk of loss, then partner nonrecourse deductions (within the meaning of Regulations Section 1.704-2(i)(2)) shall be allocated to such Member. If there is a net decrease in Member Nonrecourse Debt Minimum Gain during a Company taxable year, then each Member with a share of the minimum gain attributable to such debt at the beginning of such year will be allocated items of income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member’s share of the net decrease in Member Nonrecourse Debt Minimum Gain during the year. A Member is not subject to this Member Nonrecourse Debt Minimum Gain chargeback to the extent that any of the exceptions provided in Regulation Section 1.704-2(i)(4) applied consistently with Regulation Section 1.704-2(f)(2)-(5) apply. Such allocations shall be made in a manner consistent with the requirements of Regulation Section 1.704-2(i)(4) under Section 704 of the Code.

(f) Qualified Income Offset. If an Investor Member unexpectedly receives (i) an allocation of loss or deduction or expenditures described in Section 705(a)(2)(B) of the Code made (A) pursuant to Section 704(e)(2) of the Code to a donee of an Interest, (B) pursuant to Section 706(d) of the Code as the result of a change in any Member’s Interest or (C) pursuant to
Regulation Section 1.751-1(b)(2)(ii) as a result of a distribution by the Company of unrealized receivables or inventory items or (ii) a distribution, and such allocation and/or distribution would cause the negative balance in such Member’s Capital Account to exceed (1) such Member’s share of Company Minimum Gain plus (2) the amount of such Member’s obligation (actual or deemed) to restore a negative balance in such Member’s Capital Account plus (3) such Member’s share of Member Nonrecourse Debt Minimum Gain, then such Member shall be allocated items of income and gain in an amount and manner sufficient to eliminate such negative balance as quickly as possible. For purposes of Section 13.6, a Member’s Capital Account shall be treated as reduced by Qualified Income Offset Items. This provision is a “qualified income offset” under the meaning of Regulation Section 1.704-1(b)(2)(ii)(d)(3) and shall be interpreted and applied in a manner consistent with such Regulation.

(g) Nondeductible Items. If any fee payable to any Managing Member or any Affiliate thereof shall instead be determined to be a nondeductible, noncapitalizable distribution from the Company to a Member for federal income tax purposes, then there shall be allocated to such Managing Member in the year(s) of payment an amount of gross income equal to the amount of such distribution in such year(s).

(h) Member Loans. If a Member makes any Member Loans pursuant to Article 4, any deductions or losses of the Company attributable to the use of those funds shall be specially allocated to such Member and if there is a repayment of all or part of such funds in any year, such Member shall be allocated in such year an amount of gross income equal to the amount of such repayment.

(i) Operating Deficit Loans. Subject to Section 13.4(a), if the Managing Member funds any Operating Deficit Loans pursuant to Section 8.2, any deductions or losses of the Company attributable to the use of those funds shall be specially allocated to the Managing Member, and if there is a repayment of all or part of such funds in any year, the Managing Member shall be allocated in such year an amount of gross income equal to the amount of such repayment.

(j) Gross Income Allocation for Unanticipated Gross Income. Notwithstanding any other provision of this Agreement, before any other allocation of gross income and gain is made under this Agreement, in the event that any unanticipated gross income arises from a subsequent recharacterization of a tax reporting position of the Company, it is the intent of the Members that all such gross income shall be allocated to the Managing Member.

(k) Gross Income Allocation for Unanticipated Fee Recharacterization. If any fee payable by the Company to any Member or any Affiliate thereof shall instead be determined to be a nondeductible, noncapitalizable distribution from the Company to a Member for federal income tax purposes, then there shall be allocated to such Member in the year of payment an amount of gross income equal to the amount of distribution in such year(s).

(l) Construction Period Income. One hundred percent (100%) of the Company’s net taxable income incurred during the Construction Period shall be specially allocated to the Managing Member.
(m) Nonrecourse Deductions. “Nonrecourse deductions” (within the meaning of Regulation Section 1.704-2(b)(1)) shall be allocated to the Members in accordance with their Percentage Interests. “Member nonrecourse deductions” (within the meaning of Regulation section 1.704-2(c)) shall be allocated to the Member who bears the economic risk of loss associated with such deductions, in accordance with Regulation Section 1.704-2(i).

13.5 Authority of the Managing Member to Vary Allocations to Preserve and Protect the Members’ Intent.

(a) It is the intent of the Members that each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and items thereof) shall be determined and allocated in accordance with this Agreement to the fullest extent permitted by Section 704(b) of the Code. In order to preserve and protect the determinations and allocations provided for in this Agreement, subject to the prior written Consent of the Investor Member, the Managing Member is hereby authorized and directed to allocate profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and items thereof) arising in any year differently than otherwise provided for in this Agreement to the extent that allocating profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures or credits (or any item thereof) in the manner provided for herein would cause the determinations and allocations of each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures or credits (or any item thereof) not to be permitted by Section 704(b) of the Code. Any allocation made pursuant to this Section 13.5 shall be deemed to be a complete substitute for any allocation otherwise provided for in this Agreement, and no amendment of this Agreement or approval of any Member shall be required.

(b) In making any allocation under Section 13.5(a) (a “New Allocation”), the Managing Member is authorized to act only after having been advised in writing by the Accountants or the Investor Member that, under Section 704(b) of the Code, (i) the New Allocation is necessary, and (ii) the New Allocation is the minimum modification of the allocations otherwise provided for in this Agreement necessary in order to assure that, either in the then-current year or in any preceding year, each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (or any item thereof) is determined and allocated in accordance with this Agreement to the fullest extent permitted by Section 704(b) of the Code.

(c) If the Managing Member is required by Section 13.5(a) to make any New Allocation in a manner less favorable to the Investor Member than is otherwise provided for herein, then the Managing Member is authorized and directed, only after having been advised in writing by the Accountants or the Investor Member that such an allocation is permitted by Section 704(b) of the Code, to allocate profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and any item thereof) arising in later years in such manner so as to bring the allocations of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and each item thereof) to the Members as nearly as possible to the allocations thereof otherwise contemplated by this Agreement.
(d) New Allocations made by the Managing Member under Section 13.5(a) and Section 13.5(c) in reliance upon the advice of the Accountants shall be deemed to be made pursuant to the fiduciary obligation of the Managing Member to the Company and the Members, and no such allocation shall give rise to any claim or cause of action by any Member.

13.6 Capital Account.

(a) An individual Capital Account shall be established and maintained on behalf of each Member, including any additional or Substitute Investor Member who shall hereafter receive an interest in the Company. In accordance with Regulation Section 1.704-1(b), the Capital Account of each Member shall consist of (i) the amount of cash such Member has contributed to the Company plus (ii) the fair market value of any property such Member has contributed to the Company net of any liabilities assumed by the Company or to which such property is subject plus (iii) the amount of profits or income (including tax-exempt income) allocated to such Member less (iv) the amount of losses and deductions allocated to such Member less (v) the amount of all cash distributed to such Member less (vi) the fair market value of any property distributed to such Member net of any liabilities assumed by such Member or to which such property is subject less (vii) such Member’s share of any other expenditures which are not deductible by the Company for federal income tax purposes or which are not allowable as additions to the basis of Company property and shall be (viii) subject to such other adjustments as may be required under the Code. Each Member’s Capital Account shall be maintained and adjusted in accordance with the Code and the Regulations. It is the intention of the partners that the Capital Accounts maintained under this Agreement be determined and maintained throughout the full term of this Agreement in accordance with the accounting rules of Regulation Section 1.704-1(b)(2)(iv), and the foregoing provisions shall be interpreted and applied in a manner consistent with such Regulation.

(b) If the Company is liquidated within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g) and if the Managing Member’s Capital Account has a deficit balance (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), the Managing Member shall make Capital Contributions in the amount of such deficit in compliance with Regulation Section 1.704-1(b)(2)(ii)(b)(3). Notwithstanding the foregoing, if the Company is liquidated within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g) but no event has occurred under Section 17.1 to dissolve the Company, the Company assets shall not be liquidated, the Company’s liabilities shall not be paid or discharged, and the Company’s affairs shall not be wound up.

(c) The original Capital Account established for any Substitute Investor Member shall be in the same amount as, and shall replace, the Capital Account of the Member which such Substitute Investor Member succeeds, and, for the purposes of this Agreement, such Substitute Investor Member shall be deemed to have made the Capital Contribution, to the extent actually paid in, of the Member which such Substitute Investor Member succeeds. To the extent a Substitute Investor Member receives less than one hundred percent (100%) of the Interest of a Member it succeeds, the original Capital Account of such transferee Substitute Investor Member and his Capital Contribution shall be in proportion to the portion of the transferor Member’s Interest prior to the transfer which the transferee receives, and the Capital Account of the transferor Member who retains a portion of its former Interest and its Capital Contribution shall
continue, and not be replaced, in proportion to the portion of the transferor Member’s Interest prior to the transfer which the transferor Member retains. Nothing in this Section 13.6 shall affect the limitations on transferability of Interests set forth in Article 11.

13.7 Excess Nonrecourse Liabilities. The Members agree that, except as otherwise determined by the Investor Member pursuant to this Section, the Members’ interests in the Company profits for such purposes of determining such Members’ interests in Company profits for purposes of such Members’ share of the excess nonrecourse liabilities of the Company under Treasury Regulation Section 1.752-3(a)(3) shall be determined by the Members’ allocable share of profits from Section 13.2(a); provided, however, that the Members agree that, upon giving written notice to the Managing Member, the Investor Member shall have the right at any time to cause the Company to use the alternative method under Treasury Regulation Section 1.752-3(a)(3) if the Investor Member reasonably determines that such alternative method would (or could reasonably be expected to) avoid or mitigate any tax or economic detriment to the Investor Member or its Affiliates (as a result of an actual or pending change in law, change in circumstance or otherwise). Without limiting the foregoing, the Managing Member shall provide written notice to the Investor Member no later than 45 days following the close of any taxable year of the Company in which the Investor Member’s adjusted basis in the Company interest is or is reasonably likely to be zero.

ARTICLE 14
DISTRIBUTIONS AND PAYMENTS

14.1 Distributions and Payments of Cash Flow (Other than Cash From a Capital Transaction and Other Than in Connection with a Liquidation).

(a) Cash Flow. Subject to Agency and Lender approval (if required) and after Rental Achievement, Cash Flow of the Company for each fiscal year or portion thereof shall be applied and distributed on the following Payment Date in the following priority:

(i) to the Housing Tax Credit Shortfall Payment, if required under Section 4.2(d)(iii);

(ii) to the Investor Member or other Hunt Indemnified Parties to the extent of any amounts owing to it by reason of any indemnification or guaranty obligations of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty;

(iii) (A) to the payment of the Excess IM Loan Amount, (B) then to the payment of the Excess MM Loan Amount, and (C) then to the payment of IM Loans and MM Loans, pro rata based on their respective outstanding balances;

(iv) to the repayment of the FWHFC Loan in an amount equal to the lesser of (i) the amount of the scheduled debt service payment then due on the FWHFC Loan or (ii) seventy-five percent (75%) of the remaining Cash Flow;

(v) to the payment of the Asset Management Fee for such year, and any accrued and unpaid Asset Management Fee;
(vi) one hundred percent (100%) of the remaining Cash Flow to the payment of any Deferred Development Fee as described in the Development Agreement;

(vii) to the repayment of the HOME Loan in an amount equal to the lesser of (i) the amount of the scheduled debt service payment then due on the HOME Loan or (ii) seventy-five percent (75%) of the remaining Cash Flow;

(viii) to replenish any draws from the Operating Reserve;

(ix) to the repayment of any Operating Deficit Loans;

(x) to the payment of any unpaid and accrued Management Agent fees under Section 16.2;

(xi) then:

(A) if the Managing Member’s Capital Account is less than or equal to zero, then until the Managing Member has received payments of the MM Incentive Management Fee under this clause 14.1(a)(xi)(A) equal to the maximum amount for the preceding fiscal year, Cash Flow under this clause 14.1(a)(xi)(A) shall be paid and distributed seventy percent (70%) to the Managing Member as payment of the MM Incentive Management Fee (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member) up to a maximum of $120,000 per annum, and twenty percent (20%) to the Special Investor Member and ten percent (10%) to the Investor Member as a distribution;

(B) if the Managing Member’s Capital Account is greater than zero, then until the Managing Member’s Capital Account equals zero, Cash Flow under this clause 14.1(a)(xi)(B) shall be distributed seventy percent (70%) to the Managing Member as a distribution (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member), and twenty percent (20%) to the Special Investor Member and ten percent (10%) to the Investor Member as a distribution; and

(xii) the balance thereof, if any, shall be paid and distributed seventy percent (70%) to the Managing Member (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member), twenty percent (20%) to the Special Investor Member and ten percent (10%) to the Investor Member as a distribution.

Additionally, notwithstanding the foregoing, during such time as Agency and Lender regulations are applicable to the Apartment Complex, the total amount of Cash Flow which may be so distributed to the Members in respect to any fiscal year shall not exceed such amounts as Agency and Lender regulations permit to be distributed.

(b) Distributions of Cash From Capital Transaction (Other Than in Connection with a Liquidation). Within thirty (30) days of a Capital Transaction, Cash From Capital Transaction (other than a sale or other disposition of the property of the Company in connection with a liquidation and dissolution of the Company which is governed by Article 17 below) or cash proceeds from a refinancing of the Permanent Loan, shall be applied or distributed in the following order of priority:
(i) to the Housing Tax Credit Shortfall Payment if required under Section 4.2(d)(iii);

(ii) to the payment of any amounts owing to the Investor Member or other Hunt Indemnified Parties by reason of any unpaid indemnification or guaranty obligation of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty;

(iii) (A) to the payment of the Excess IM Loan Amount, (B) then to the payment of the Excess MM Loan Amount and (C) then to the payment of IM Loans and MM Loans, pro rata based on their respective outstanding balances;

(iv) to the payment of the Asset Management Fee for such year, and any accrued and unpaid Asset Management Fee;

(v) to the payment of any outstanding Deferred Development Fee as described in the Development Agreement until paid;

(vi) to the repayment of any Operating Deficit Loans;

(vii) to the repayment of the FWHFC Loan and the HOME Loan, pro rata based on their respective outstanding balances; and

(viii) any balance 10% to the Investor Member, 20% the Special Investor Member and 70% to the Managing Member (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member).

14.2 Distribution of Cost Savings. If Cost Savings exist, on the date no earlier than funding of the Fifth Installment, the Company shall use and distribute such savings as follows: (i) first, until the Deferred Development Fee has been paid in full, one hundred percent (100%) to the payment of the Deferred Development Fee; and (ii) then, one hundred percent (100%) as determined by the Investor Member in its sole discretion, either (A) to the repay the Permanent Loan and/or (B) to fund a supplemental operating reserve. The Investor Member shall determine the amount of Cost Savings on or before the date of funding of the Fourth Installment.

ARTICLE 15
PARTNERSHIP AUDIT PROCEDURES

15.1 Defined Terms. For purposes of this Article 15, the following terms shall have the meanings set forth below: Administrative Adjustment Request means an administrative adjustment request under Code Section 6227.

Affected Member means at any point in time, with respect to any Administrative Adjustment Request or proposed Partnership Adjustment, any person who is a then current Member or a Former Member.
Former Member means any Person who was a Reviewed Year Member but is not a Member in the year of an Administrative Adjustment Request or proposed Partnership Adjustment.

Imputed Underpayment has the meaning set forth in Section 6225 of the Code.

Partnership Adjustment means any adjustment to any item of income, gain, loss, deduction, or credit of the Company, or any Member’s distributive share thereof, in either case as described in any applicable Regulations or other guidance prescribed by the Service.

Reviewed Year means the Company taxable year to which a Partnership Adjustment relates.

Reviewed Year Member means any Person who held an interest in the Company at any time during the Reviewed Year.

Revised Partnership Audit Rules means 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 Treasury Regulations promulgated thereunder, as amended from time to time.

Taxes means any tax, penalties, additions to tax, additional amounts, and interest as described in Section 6226 of the Code.

15.2 Partnership Representative

(a) Appointment and Designation. The Members hereby authorize the Company to appoint the Co-Managing Member as the initial partnership representative of the Company pursuant to Section 6223(a) of the Code (the “Partnership Representative”). The Partnership Representative shall timely designate, with the Consent of the Investor Member, an individual to serve as the sole individual through whom the Partnership Representative will act for purposes of the Revised Partnership Audit Rules (the “Designated Individual”). The Designated Individual must agree in writing to be bound by the same obligations and restrictions imposed on the Partnership Representative under this Article 15 prior to and as condition of such designation.

(b) Resignation; Revocation. The Company shall revoke the designation of the Co-Managing Member as the Partnership Representative for all taxable years during which such designation was in effect by written notice to the Partnership Representative and the Service: (i) upon withdrawal or removal of the Co-Managing Member for any reason, (ii) upon request of the Investor Member at a time when there exists any Event of Default and any notice of Partnership Adjustment has been issued by the Service, or (iii) upon request of the Investor Member in the event of a default by the Partnership Representative or Designated Individual of its/his/her duties and obligations under this Article 15. The designation of the Designated Individual as the Designated Individual shall automatically terminate on the effective date of the resignation or revocation of the applicable entity as Partnership Representative. If a Designated Individual becomes unable to perform the tasks required of a Designated Individual, no longer has the “capacity to act” within the meaning of the Revised Partnership Audit Rules, or the
Partnership Representative otherwise determines that such individual should be removed as the Designated Individual, the Partnership Representative shall promptly notify the Investor Member of such determination and take all necessary actions to effectuate the resignation of such individual as Designated Individual for all applicable taxable years. Notice of any revocation of a Partnership Representative or Designated Individual shall be given to the Service in the time and manner prescribed by the Service and shall include the designation of another Person selected by the Investor Member as the successor Partnership Representative and/or the designation of another Person selected by the Partnership Representative (with the Consent of the Investor Member) as the successor Designated Individual. The resigning or removed Partnership Representative and/or Designated Individual shall remain obligated hereunder in such capacity until the replacement is acknowledged by the Service. The Co-Managing Member hereby constitutes and appoints the Investor Member, with full power of substitution, its true and lawful attorney-in-fact in its name, place and stead to carry out fully the provisions of this Section 15.2(b) and take any action which the Investor Member may deem necessary or appropriate in connection herewith. The power of attorney hereby granted shall be deemed to be coupled with an interest, shall be irrevocable and shall survive and shall not be affected by the subsequent incapacity, dissolution, resignation, revocation or other termination of the Co-Managing Member as the Partnership Representative.

(c) Successor Partnership Representative. Any successor Partnership Representative and/or Designated Individual must satisfy all statutory and regulatory requirements imposed by the Revised Partnership Audit Rules and must agree in writing to be bound by the terms of this Article 15.

(d) Notice of Communications; Cooperation. The Partnership Representative shall: (i) give all Affected Members prompt notice of any inquiry, notice, or other communication received from the Service or other applicable tax authority regarding the tax treatment of the Company or the Members, (ii) consult with the Affected Members in good faith on the strategy and substance of any tax audit or contest, and (iii) shall, to the extent possible, give the Affected Members prior notice of and a reasonable opportunity to review and comment upon any written communication the Partnership Representative intends to make to any such taxing authority in connection with any examination, audit or other inquiry involving the Company and the nature and content of all actions to be taken and defenses to be raised by the Company in response to any tax audit or contest (including without limitation the decision to institute proceedings, whether administrative or judicial, and whether in response to a previous Service proceeding against the Company or otherwise. Without limiting the generality of the foregoing, the Company immediately shall send to all Affected Members copies of any notice of a proposed or final Partnership Adjustment received by the Company and/or the Partnership Representative from the Service. To the extent requested by the Affected Member and permitted under Treasury Regulations or by the Service or other taxing authority in a particular tax audit or contest, the Partnership Representative shall cooperate in allowing the Affected Member or its representative to participate, at its own expense, in such tax audit or contest.

(e) Duties and Limitations on Authority. The Partnership Representative and any Designated Individual shall have all power and authority of a partnership representative and designated individual, respectively, as set forth in Section 6223 of the Code, and shall represent the Company and its Members in all dealings with the Service and state and local taxing

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authorities. If the Company receives notice of a final Partnership Adjustment from the Service, the Partnership Representative shall so notify the Affected Members, and if requested to do so by the Investor Member, (i) the Partnership Representative shall file a petition for readjustment within the time frame required by Treasury Regulations or Service guidance, and/or (ii) the Partnership Representative shall cause the Company to seek any and all available judicial review of such final Partnership Adjustment as is available under applicable law. Notwithstanding the foregoing, except as specifically provided in Section 15.3 below, the Partnership Representative shall not, without the Consent of the Investor Member (and, in the case of (C), (D) and (F), the Investor Member for the Reviewed Year), have any power or authority to do any or all of the following:

(A) make an election to opt out of the application of the Revised Partnership Audit Rules to the Company;

(B) make a Push-Out Election, or request a modification to an Imputed Underpayment;

(C) file an Administrative Adjustment Request;

(D) select any judicial forum for the litigation of any Company tax dispute;

(E) extend the statute of limitations for the Company; or,

(F) take any other action (or fail to take any action) that would have the effect of finally determining any tax audit or contest.

(f) Fiduciary Relationship. The relationship of the Partnership Representative to the Investor Member shall be that of a fiduciary, and the Partnership Representative shall have a fiduciary obligation to perform its duties in such manner as will serve the best interests of the Investor Member.

(g) Indemnification. To the extent of available funds, the Company shall indemnify the Partnership Representative against judgments, fines, amounts paid in settlement and expenses (including attorneys’ fees) reasonably incurred by the Partnership Representative in its capacity as the Partnership Representative, and not its capacity as a Member or a Former Member, in connection with any audit or administrative or judicial proceeding in which the Partnership Representative is involved solely by reason of being the Partnership Representative of the Company, provided that the same were not the result of negligence, misconduct, fraud, breach of fiduciary duty or breach of this Agreement on the part of the Partnership Representative and were the result of a course of conduct which the Partnership Representative, in good faith, reasonably believed to be in the best interests of the Investor Member and within the scope of its authority under this Article 15.

15.3 Modifications and Company Elections

(a) Modifications to Imputed Underpayment. If requested to do so by the Investor Member, the Managing Member shall request modification of an Imputed
Underpayment in accordance with any applicable Treasury Regulations, forms, instructions, and other guidance prescribed by the Service. With any such request, the Investor Member shall describe the modifications or adjustment factors that the Investor Member believes affect the calculation of the Imputed Underpayment in sufficient detail to substantiate the request for modification and timely provide all required supporting documents or information.

(b) Amended Returns. If requested to do by the Investor Member, the Partnership Representative shall request a modification of an Imputed Underpayment based on an amended return (or, to the extent permitted by law, any similar statement) filed by a Member (or its owners) that takes account of all of the Partnership Adjustments properly allocable to such Member (or its owners). Any such request shall be accompanied by an affidavit from the requesting Member that each required amended return (or similar statement) has been filed and all Taxes due as a result of taking into account the adjustments in the first affected year and all modification years have been paid, as required by any applicable Regulations, forms, instructions, and other guidance prescribed by the Service.

(c) Push-Out Election. If requested to do so by the Investor Member, the Partnership Representative shall timely make and implement an election (a “Push-Out Election”) under Section 6226 of the Code with respect to an Imputed Underpayment. Except as hereinafter provided, if a Push-Out Election is made, each Reviewed Year Member shall take into account its allocable share of the Partnership Adjustments that relate to the specified Imputed Underpayment (as determined with the Consent of the Investor Member for such Reviewed Year) and shall be liable for any Taxes as described in Section 6226 of the Code and any applicable Treasury Regulations or other guidance prescribed by the Service.

(d) Reimbursement of Allocable Share of Imputed Underpayment. If the Company becomes obligated to make an Imputed Underpayment under Code Section 6225, each of the Members (including any Former Member) to whom such liability relates (as determined with the Consent of the Investor Member) shall be obligated, within thirty (30) days after written notice from the Managing Member, to pay an amount that, on an After-Tax Basis if such payment is treated as a taxable payment to the Company, is equal to its allocable share of such amount to the Company; provided, however, that if and to the extent that the Company’s liability results from a loss, disallowance or recapture of Housing Tax Credits for which a Housing Tax Credit Shortfall Payment is due to such Person and has not been paid, the amount otherwise payable by such Person to the Company under this Section 15.3(d) shall be reduced by the amount of any unpaid Housing Tax Credit Shortfall Payment payable to such Person so that the Company will bear the portion of the Imputed Underpayment equal to such reduction, and such Housing Tax Credit Shortfall Payment shall be paid to the Company and applied to the Imputed Underpayment. Any amount not paid by a Member (or Former Member) within such 30-day period shall accrue interest at Prime Rate plus 2% until paid. Any such payment made by any Member shall be treated as a Capital Contribution and, if and to the extent permitted by the Code and Regulations, any Capital Account reduction attributable to the Imputed Underpayment shall be allocated to the Members in proportion to such Capital Contributions.

(e) Withholding. Notwithstanding anything to the contrary contained herein, the Managing Member shall cause the Company to withhold from any distribution or payment due to any Member (or Former Member) under this Agreement any amount due to the Company
from such Member (or Former Member) under clause (d) above. Any amount(s) so withheld shall be applied by the Company to discharge the obligation in respect of which such amount was withheld. All amounts withheld pursuant to the provisions of this Section 15.3(e) with respect to a Member (or Former Member) shall be treated as if such amounts were distributed or paid, as applicable, to such Member (or Former Member).

(f) **Indemnity.** To the extent that a portion of the Taxes imposed under Code Section 6225 relates to a Former Member, the Managing Member shall require such Former Member to indemnify the Company for its allocable portion of such tax (including any penalties, additions to tax, additional amounts, and interest) to the extent such amounts have not been withheld pursuant to the provisions of Section 15.3(e). Each Member acknowledges that, notwithstanding the transfer or liquidation of all or any portion of its Interest in the Company, it shall remain liable for Taxes with respect to its allocable share of income and gain of the Company for the Company’s taxable years (or portions thereof) prior to such transfer or liquidation and entitled to the Consent rights provided to it in this Article 15 with respect to such taxable years unless otherwise agreed to in writing by the Members during the taxable year(s) (or portion thereof) to which the Taxes relate and all Former Members during the Company’s taxable year(s) (or portion(s) thereof) to which the Taxes relate.

(g) **Continuing Obligations.** Whether the liability is assessed to the Company or the Members (or Former Members), the parties hereto acknowledge and agree that nothing in this Article 15 is intended, nor shall it be construed, to modify or waive any obligations of the Managing Member under this Agreement including, without limitation, the obligation to make a payment pursuant to the provisions of Section 4.2(d).

### 15.4 Related Tax Items

(a) **Tax Counsel or Accountants.** The Partnership Representative, with the reasonable Consent of the Investor Member, shall employ experienced tax counsel and/or accountants to represent the Company in connection with any audit or investigation of the Company by the Service or any other taxing authority and in connection with all subsequent administrative and judicial proceedings arising out of such audit. Such counsel and/or accountants shall be responsible for representing the Company; it shall be the responsibility of the Members, at their expense, to employ tax counsel or accountants to represent their respective separate interests.

(b) **Survival.** The rights and obligations of each Member or Former Member under this Section shall survive the transfer, redemption or liquidation by such Member of its Company Interest and the termination of this Agreement or the dissolution of the Company.

(c) **Amendments.** Upon the promulgation of revised Treasury Regulations implementing the Revised Partnership Audit Rules or upon further amendment of the Revised Partnership Audit Rules, the Members will evaluate and consider options available with respect to preserving the allocation of responsibility and authority described in this Article 15, while conforming with the applicable provisions of the Revised Partnership Audit Rules. The Members agree to work together in good faith to make elections and amend this Agreement (if
any party determines that an amendment is required) to maintain the intent of the parties with respect to the obligations and limitations of the Partnership Representative.

(d) State and Local Income Tax Matters. The provisions of this Article 15 shall also apply to state and local income tax matters affecting the Company to the extent the terms and conditions hereof have any application to audit procedures at the state and local level.

ARTICLE 16
MANAGEMENT AGENT

16.1 Appointment of Management Agent. The Managing Member shall cause the Company at all times during which the Company owns the Apartment Complex to engage a Management Agent subject to the approval of the Investor Member in its sole discretion (which may be a Managing Member or an Affiliate thereof if approved by the Investor Member in its sole discretion, and if approved by the Lenders and by the Agency, to the extent such approval by a Lender and/or the Agency is required) to provide management services for the Company with respect to the Apartment Complex pursuant to a Management Agreement meeting the requirements of this Agreement. Accolade Property Management, Inc. is approved as the initial Management Agent. Such engagement shall occur no later than the date on which the first certificate of occupancy for any unit in the Apartment Complex is issued and shall continue thereafter for so long as the Company owns the Apartment Complex. Concurrently with execution of the Management Agreement, the Management Agent shall execute and deliver to the Company and the Investor Member consent in the form attached hereto after the signature pages of the Members.

16.2 Management Agreement. The Management Agreement shall be subject to the Consent of the Investor Member in its sole discretion and, unless the Investor Member otherwise Consents, must satisfy the following terms and conditions: (a) the Company shall pay the Management Agent a monthly Management Fee not to exceed the greater of (a) five percent (5%) of the Gross Operating Revenues (as defined in the Management Agreement) of the Apartment Complex for the month preceding payment and (b) $2,000 per month; and (b) the Management Agreement must have a term which does not exceed one (1) year and provide that it is terminable by the Company on thirty (30) days’ Notice by the Company without cause. Notwithstanding the foregoing, if at any time the Management Agent is an Affiliate of any Managing Member, Guarantor or Developer, payment of the Management Fee shall be subordinated to payment of Operating Expenses, Debt Service Expenses and funding of any reserve required under this Agreement, and any portion of the Management Fee which is not paid shall accrue without interest and be paid from available Cash Flow in accordance with Section 14.1(a) hereof. If the Management Agent is an Affiliate of the Managing Member, the Developer or the Guarantors, then the Management Fee shall not be paid from either the Operating Reserve or an Operating Deficit Loan.

16.3 Removal of Management Agent. If (a) the Apartment Complex shall be subject to a building code violation the Investor Member shall deem material and which shall not have been timely cured after notice from the applicable agency or department; (b) an Event of Bankruptcy shall occur with respect to the Management Agent; (c) the Management Agent shall commit misconduct or negligence in the performance of its duties and obligations under the
Management Agreement, or fails to promptly and competently perform (after any applicable notice and cure period) all duties of the Management Agent under the Management Agreement or materially mismanage the Apartment Complex; (d) the Managing Member Withdraws; (e) there is change in ownership of the Managing Member without the Consent of the Investor Member; (f) the Management Agent is cited by any Agency for a violation or alleged violation of any applicable rules, regulations or requirements, including noncompliance with the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test or any other Lender or Set-Aside Test, the Rent Restriction Test or any other Housing Tax Credit-related provision; (g) from or after Rental Achievement, the Company experiences Operating Deficits (prior to the effect of subordinating payment of the Management Fee, if applicable) for six (6) consecutive months; (h) the Company’s actual Housing Tax Credits are less than 95% of the Projected Housing Tax Credits or the Revised Projected Housing Tax Credits, as applicable, (i) the Management Agent fails to comply with any applicable compliance rule, recordkeeping and/or reporting requirement under Section 42 of the Code and the Regulations, rulings and policies related thereto (which is not timely cured); or (j) the Investor Member funds Default IM Loans or Excess IM Loans, then, upon Notice from the Investor Member and subject to any Lender or Agency approval, if required, the Managing Member must cause the Company to promptly terminate the Management Agreement with the Management Agent.

16.4 Replacement of Management Agent. Upon termination of the Management Agreement with the Management Agent, the Managing Member shall appoint a new Management Agent which is not an Affiliate of the Managing Member, Developer or Guarantor, subject to the Consent of the Investor Member, to the extent required, the Lenders, and on the terms set forth in Section 16.2.

ARTICLE 17
SALE, DISSOLUTION AND LIQUIDATION

17.1 Dissolution of the Company. The Company shall be dissolved upon the earlier of the expiration of the term of the Company, or upon:

(a) the Withdrawal of the Managing Member who is at that time the sole Managing Member, subject to the provisions of Section 7.2(b)(ii), unless a majority in Interest of the other Members, within ninety (90) days after receiving Notice of such withdrawal, Bankruptcy, death, dissolution or adjudication of incompetence, elects to designate a successor Managing Member(s) and continue the Company upon the admission of such successor Managing Member(s) to the Company;

(b) the sale or other disposition of all or substantially all of the assets of the Company or liquidation as defined in Treasury Regulation Section 1.704-1(b)(2)(ii)(g);

(c) the election by the Managing Member, with the Consent of a majority in interest of the other Members; or

(d) any other event causing the dissolution of the Company under the laws of the State.

17.2 Winding Up and Liquidation.
(a) Upon the dissolution of the Company pursuant to Section 17.1, (i) a Certificate of Cancellation shall be filed in such offices within the State as may be required or appropriate, and (ii) the Company business shall be wound up and its assets liquidated as provided in this Section 17.2.

(b) The net proceeds resulting from the dissolution and liquidation of the Company shall be distributed and applied in the following order of priority:

(i) to the payment of all debts and liabilities of the Company (including amounts due pursuant to all Loans and all expenses of the Company incident to any such dissolution and liquidation), other than its Members and Affiliates;

(ii) to the payment of debts and liabilities (including unpaid fees) owed to the Members or their Affiliates by the Company for Company obligations (limited to those debts that have been Consented to by the Investor Member as provided in this Agreement); provided, however, that the foregoing debts and liabilities owed to the Members and their Affiliates shall be paid or repaid, as applicable, in the following order of priority, if and to the extent applicable: (A) to the payment of any amounts owing to the Investor Member or other Hunt Indemnified Parties by reason of any unpaid indemnification or guaranty obligation of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty; (B) to the payment of any outstanding Excess IM Loan Amount until paid in full, then to the payment of the Excess MM Loan Amount and then to the payment of any remaining IM Loans and MM Loans pro rata based on their respective outstanding balances until paid in full; (C) to the payment of any accrued and unpaid Asset Management Fee; (D) to the payment of amounts due under the Development Agreement (including any Deferred Development Fee); (E) to the payment of amounts due with respect to Operating Deficit Loans; and (F) to the payment of any other such debts and liabilities;

(iii) to the setting up of any reserves which the Liquidator deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Company; and

(iv) thereafter, to the Members in accordance with the Members’ respective positive Capital Account balances as determined by taking into account all Capital Account adjustments required by Section 13.2 and otherwise required by this Agreement.

17.3 Rights and Obligations of Investor Member upon Dissolution. Except as otherwise expressly provided in this Agreement, the Investor Member and the Special Investor Member shall look solely to the assets of the Company for the return of its Capital Account balance. Notwithstanding the provisions of Section 17.2 or any other provision of this Agreement, except as otherwise elected by the Investor Member or the Special Investor Member pursuant to Section 4.2(c)(ii) or this Section 17.3, neither the Investor Member nor the Special Investor Member shall have any obligation to restore any deficit in its Capital Account upon the liquidation of the Company. Notwithstanding the foregoing, or anything to the contrary contained in this Agreement, the Investor Member and the Special Investor Member 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 Investor Member’s or the Special Investor
Member’s delivery of a Notice of election to the Managing Member no later than April 15 following 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 Investor Member or the Special Investor Member agrees to restore. Such election shall be irrevocable and shall be binding on subsequent transferees of the Investor Member’s Company Interest or the Special Investor Member’s Company Interest.

17.4 Filing of Certificate of Dissolution. The Liquidator shall file all certificates and notices of the dissolution of the Company required by law. The Liquidator shall proceed without any unnecessary delay to sell and otherwise liquidate the Company’s property and assets; provided, however, that if the Liquidator shall determine that an immediate sale of part or all of the Company property would cause undue loss to the Members, then in order to avoid such loss, the Liquidator may, except to the extent provided by the Uniform Act, defer the liquidation as may be necessary to satisfy the debts and liabilities of the Company to Persons other than the Members. Upon the complete liquidation and distribution of the Company assets, the Members shall cease to be Members of the Company, and the Liquidator shall execute, acknowledge and cause to be filed all certificates and notices required by the law to terminate the Company. Upon the dissolution of the Company pursuant to Section 17.1, the Accountants shall promptly prepare, and the Liquidator shall furnish to each Member, a statement setting forth the assets and liabilities of the Company upon its dissolution. Promptly following the complete liquidation and distribution of the Company property and assets, the Accountants shall prepare, and the Liquidator shall furnish to each Member, a statement showing the manner in which the Company assets were liquidated and distributed.

ARTICLE 18
BOOKS AND RECORDS, ACCOUNTING, TAX ELECTIONS, ETC.

18.1 Books and Records. Every Member, or its duly authorized representatives, shall at all times have access to the records of the Company at the principal office of the Company at any and all reasonable times, and may inspect and copy any of such records. A list of the names and addresses of all of the Members shall be maintained as part of the books and records of the Company and shall be mailed to any Member upon request. The Company may charge reasonable costs for duplication and mailing.

18.2 Bank Accounts. Except as provided in Section 5.10 with respect to the Operating Reserve, the bank accounts of the Company shall be maintained in the Company’s name with one commercial bank as the Managing Member shall determine with the reasonable Consent of the Investor Member; provided, however, that no such account may be held in a bank which is an Affiliate of the Managing Member unless the Consent of the Investor Member shall have been received with respect thereto. Withdrawals shall be made only in the regular course of Company business on such signature or signatures as the Managing Member may determine. All deposits (including security deposits and other funds required to be escrowed by any Lender or Agency) and other funds not needed in the operation of the business shall be deposited, in the following: (a) cash deposits (including certificates of deposits) at commercial banks; (b) obligations of the United States or any State or Municipality, thereof, that have an initial or remaining term of 60 days or greater; or (c) money market mutual funds that are registered investment companies under the Investment Company Act of 1940. To the extent the Managing Member seeks to
invest in either (b) or (c), it agrees that it will hold such instrument for at least 60 days following such purchase prior to sale. The Managing Member agrees that it will monitor any investments to ensure that they comply with the aforesaid requirements and will promptly notify the Investor Member in the case of any instances of non-compliance have been detected. The Managing Member shall not be obligated to maximize the interest rates received on Company funds. Tenant security deposits shall be maintained in a bank account separate from any other bank accounts. The tenant security deposit account shall be maintained with a balance equal to the corresponding liability, and shall in all other respects comply with applicable laws.

18.3 Accountants.

(a) The Accountants shall prepare, for execution by the Managing Member, all tax returns of the Company. Prior to the filing of the Company tax returns, and in no event later than February 28 of each year, the Accountants shall deliver draft financial statements for the Company and the tax returns for such year to the Investor Member for its review and comment. If a dispute arises between the Accountants and the Investor Member over the proper preparation of the financial statements and the tax returns and such dispute cannot be resolved by the Accountants and the Investor Member by March 1 of such year, then the Investor Member shall make the final decision on whether any changes are necessary and must have a rationale for such decision. The Company shall reimburse the Investor Member or its Affiliates for all costs and expenses related to the aforementioned review.

(b) The Accountants shall audit and certify all annual financial reports to the Members in accordance with generally accepted auditing standards, and shall deliver a draft of such financial reports not later than February 28 of each year and a final version of such financial reports not later than March 31.

(c) If the Company fails to fulfill any of its obligations under Sections 18.3(a), 18.3(b) or 18.7 (a) within the time periods set forth therein, at any time thereafter upon Notice from the Investor Member that a change in the identity of the Accountants is desired and the foregoing failure is due to the Accountants second or more violation which caused such failure, the Managing Member, on behalf of the Company, shall promptly terminate the Company’s engagement of the Accountants, and the Consent of the Investor Member must be received to the appointment of replacement Accountants. If the Managing Member has not designated replacement Accountants within ten (10) days of the Notice from the Investor Member to replace the Accountants, then the Investor Member shall appoint replacement Accountants of its own choosing, the cost of which shall be borne by the Company as a Company expense. All Members hereby grant to the Investor Member a special power of attorney, irrevocable to the extent permitted by law, coupled with an interest, to so appoint replacement Accountants and to do anything else which in the view of the Investor Member may be necessary or appropriate to accomplish the purpose of this Section 18.3(c).

18.4 Cost Recovery and Elections.

(a) Except as otherwise required in Section 5.2(oo), the Managing Member shall also cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code and will cause the Company to use the
Alternative Depreciation System (ADS) to the extent required by such election. The Managing Member shall also cause the Company to use “bonus” depreciation to the extent not inconsistent with the foregoing.

(b) Subject to the provisions of Section 18.5, all other elections required or permitted to be made by the Company under the Code shall be made by the Managing Member with the Consent of the Investor Member.

18.5 Special Basis Adjustments. In the event of a transfer of all or any part of the Interest of the Investor Member or a transfer of all or any part of an interest of a partner of the Investor Member, the Company shall elect, upon the request of the Investor Member, pursuant to Section 754 of the Code, to adjust the basis of the Company property. Any adjustments made pursuant to said Section 754 shall affect only the successor in interest to the transferring Member or partner thereof. Each Member will furnish the Company all information necessary to give effect to such election.

18.6 Fiscal Year. The fiscal and tax year of the Company shall be the calendar year. The books of the Company shall be kept on an accrual basis.

18.7 Information Reporting to Members.

(a) The Managing Member shall cause to be prepared and distributed to all Persons who were Members at any time during a fiscal year of the Company:

(i) During the construction of the Apartment Complex, within fifteen (15) days after the end of each month, copies of draw requests which may be submitted simultaneously with the draw request provided to the Construction Lender.

(ii) During the initial lease-up period, and ending on the date on which Initial 100% Occupancy occurs:

(A) a leasing report provided weekly in the form approved by Investor Member;

(B) a vacancy report and rent roll provided monthly in the form approved by the Investor Member;

(C) a low income housing credit monitoring form, an occupancy/rental report in the form approved by the Investor Member, provided monthly in arrears, within seven (7) days of the end of the month being reported;

(D) on the last day of each calendar quarter until Initial 100% Occupancy has been achieved, copies of the complete tenant files for each tenant (including both returning and new tenants) initially occupying a unit during such quarter;

(iii) Within forty-five (45) days after the Occupancy Commencement Date, the Managing Member shall:
(A) cause the Accountants to prepare, and deliver to each Investor Member a Housing Tax Credit eligible basis worksheet for each building in the Apartment Complex, all in a form approved by the Investor Member;

(B) or cause the Management Agent to provide a draft of the Annual Budget.

(iv) The Company shall send to the Investor Member, on or before the tenth (10th) day of each month beginning with initial lease up of the Apartment Complex:

(A) copies of all applicable periodic reports covering the status of project operations from the previous period, as may be required by the Agency; and

(B) copies of all initial tenant leases and associated application information, including third party verification information and copy of the audit, for leases entered into or renewed during the preceding month, and as requested copies of all leases other than initial leases and any related back-up documentation.

(v) Within twenty (20) days after the end of each month, beginning with the month in which the Occupancy Commencement Date occurs, a report, which may be unaudited, that is reasonably satisfactory to the Investor Member, and at minimum contains each of the following:

(A) a consolidated balance sheet of the Company for the month then ended;

(B) a statement of income and expenses for the month then ended;

(C) a statement of cash flows for the month then ended;

(D) a year-to-date trial balance of all Company accounts, prepared using Microsoft Excel and showing a beginning balance, gross debits, gross credits, and an ending balance for each account;

(E) after Initial 100% Occupancy, rent rolls and occupancy/rental report for each month;

(F) a certification of the Managing Member that the Apartment Complex and its tenants are in compliance with all applicable federal, state and local requirements and regulations; and

(G) at the request of the Investor Member, such other information which would be pertinent to a reasonable investor regarding the Company and its activities during the month covered by the report.

(vi) No later than February 28 of each year, drafts of (A) a balance sheet as of the end of such fiscal year, a statement of income, a statement of partners’ equity, and
a statement of cash flows, each for the year then ended, all of which, except the statement of cash flows, shall be prepared in accordance with generally accepted accounting principles and accompanied by a report of the Accountant containing an opinion of the Accountant, and (B) a report of the activities of the Company during the period covered by the report. The report called for shall separately identify distributions from (1) Cash Flow from operations during the period, (2) Cash Flow from operations during a prior period which had been held as reserves, (3) proceeds from disposition of property and investments, (4) lease payments on net leases with builders and sellers, (5) reserves from the gross proceeds of the Capital Contribution of the Investor Member, (6) borrowed monies, and (7) transactions outside of the ordinary course of business with a description thereof.

(A) No later than March 31, but not prior to approval of the Investor Member, a final version of the aforementioned reports will be provided.

(B) No later than February 28, drafts of the Form K-1 and all other information which is necessary, in view of the Accountant, for the preparation of the Investor Member’s federal income tax returns.

(C) The final Form K-1 will be delivered to the Investor Member no later than March 31, but not prior to approval of the Investor Member, for the preceding fiscal year.

(vii) Within the latest of (a) forty-five (45) days after the end of each fiscal year of the Company or (b) two (2) weeks of receipt by the Company from the Agency, a copy of the annual report on Form(s) 8609A to be filed with the United States Treasury concerning the status of the Apartment Complex as low-income housing and, if required, a certificate to the appropriate state agency concerning the same and any reports filed in connection with the compliance monitoring conducted by the Agency on behalf of the State.

(viii) By November 1 of each year, a draft of the Annual Budget for the Company for the next year, which budget shall have been prepared by the Managing Member or the Management Agent and shall be subject to the approval of the Investor Member, with such approval not to be unreasonably withheld.

(b) Upon the written request of the Investor Member for further information with respect to any matter covered in item (a) above, the Managing Member shall furnish such information within thirty (30) days of receipt of such request.

(c) Prior to October 15 of each year, the Company shall send to the Investor Member an estimate of each Investor Member’s share of the Housing Tax Credits, profits and losses of the Company for federal income tax purposes for the current fiscal year. Such estimate shall be prepared by the Managing Member and the Accountants.

(d) Within ninety (90) days after the end of each fiscal year of the Company, the Managing Member shall provide to the Investor Member:

(i) a certification from the Managing Member that (A) all payments payable with respect to all Loans and all taxes and insurance with respect to the Apartment
Complex are current as of the date of the year-end report, (B) there is no default under the Project Documents or this Agreement, or if there is any such default, a detailed description thereof, and (C) there is no building, health or fire code violation or similar violation of a governmental law, ordinance or regulation against the Apartment Complex or, if there is any such violation, a detailed description thereof; and

(ii) a descriptive statement of all transactions during the fiscal year between the Company and any Managing Member or any Affiliate thereof, including the nature of the transaction and the payments involved.

(e) The Managing Member shall send the Investor Member a detailed report within five (5) Business Days after the occurrence of any of the following events:

(i) there is a default by the Company under any Project Document or in the payment of any mortgage, taxes, interest or other obligation on secured or unsecured debt;

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

(iii) the Managing Member has received any notice of a fact which may materially affect further distributions or Housing Tax Credit allocations to any Investor Member; or

(iv) any Member has pledged or collateralized its Interest in the Company.

(f) On or before ninety (90) days after the expiration of each fiscal year of the Managing Member or its members, such Managing Member or its members shall send to the Investor Member copies of the balance sheet and income statement of such Managing Member or its members for such fiscal year, which financial statements shall be audited by an independent certified public accountant in the case of a Managing Member or its members which is an Entity.

(g) The Managing Member shall promptly send to the Investor Member a copy of each draw requisition with respect to the Loans and any notification or correspondence from any Lender indicating that any such draw will not be paid as requisitioned.

(h) Promptly upon receipt, the Managing Member shall send to the Investor Member copies of all documents evidencing any Carryover Allocation pursuant to Section Code 42(h) and the Form(s) 8609 evidencing the Housing Tax Credit allocation.

(i) Promptly after Permanent Loan Closing, the Managing Member shall send to the Investor Member closing binders containing photocopies of the fully-executed versions of all documents signed in connection with the Permanent Mortgage.

(j) The Managing Member hereby Consents to any Agency providing the Investor Member with copies of all material communications between any such office and the Managing Member and/or the Company, including any notices of default.
(k) The Managing Member shall promptly Notify the Investor Member if it becomes aware of any violation of Anti-Corruption Laws, or circumstances likely to give rise to such a violation by the Company, the Developer, the Managing Member, the Guarantors or any Affiliate of the Managing Member, the Developer or the Guarantors. Upon request by the Investor Member, the Managing Member will provide information verifying compliance with Anti-Corruption Laws by the Company, the Developer, the Managing Member, the Guarantors or any Affiliate of the Managing Member, the Developer or the Guarantors.

(l) If the Managing Member does not cause the Company to fulfill its obligations under this Section 18.7, the Managing Member shall pay as damages the sum of $100.00 per day to the Investor Member until such obligations shall have been fulfilled. Such damages shall be immediately paid by the Managing Member, and failure to so pay shall constitute a material default of the Managing Member hereunder. In addition, if the Managing Member shall so fail to pay, the Managing Member shall cease to be entitled to the MM Incentive Management Fee and to the payment of any Cash Flow or Capital Transaction proceeds to which it may otherwise be entitled hereunder. Such payments of the MM Incentive Management Fee, Cash Flow and Capital Transaction proceeds shall be restored only upon the payment of such damages in full, and any amount of such damages not so paid shall be deducted against payments of the MM Incentive Management Fee, Cash Flow and Capital Transaction proceeds due to the Managing Member. The imposition of this fee does not affect the other rights and remedies the Investor Member has under this Agreement and all such rights and remedies are expressly reserved.

18.8 Expenses of the Company. All expenses of the Company shall be billed directly to and paid by the Company.

18.9 Housing Tax Credit Compliance Records. Except to the extent that another record storage method shall have been Consented to by the Investor Member, the Managing Member shall cause all tenant leases, income certifications and other records required by the Code and the Agency to evidence that all tenants occupying Housing Tax Credit Units are Qualified Tenants to be stored in fireproof file cabinets in a secure location. Without limiting the foregoing, all such records relating to initial occupancy of each Low-Income Apartment Unit by Qualified Tenants and evidencing timely satisfaction of the Minimum Set-Aside Test and the HOME Minimum Set-Aside Test shall be stored for a period of not less than 21 years.

18.10 Compliance Audit. The Investor Member may, at its own expense, conduct or cause to be conducted an audit or review of the Company’s compliance with all regulations and procedures relating to the operation of the Apartment Complex as a qualified Tax Credit project within the meaning of Section 42(h) of the Code. Such audit or review shall be conducted upon not less than thirty (30) or more than ninety (90) days prior Notice. The Managing Member shall cooperate with any such audit by making appropriate personnel of the Managing Member and the Management Agent and all books and records of the Apartment Complex and Company available to the Investor Member or its representatives at the offices of the Company during regular business hours.

18.11 Inspections. The Investor Member, at its sole cost and expense, shall have the right to conduct physical inspections of the Apartment Complex on an annual basis (or more
frequently if the Investor Member in its sole discretion determines it necessary or advisable) and the Managing Member shall take all reasonable steps necessary to cooperate therewith.

18.12 Guarantors’ Financial Statements. The Managing Member shall cause to be delivered to the Investor Member financial statements of each of the Guarantors to include a schedule of contingent liabilities, together with bank statements for each Guarantor who is an individual, within ninety (90) days of the end of each fiscal year of such Guarantor, unless waived by the Investor Member in writing.

ARTICLE 19
GENERAL PROVISIONS

19.1 Notices. Any Notice or Notification called for under this Agreement shall be in writing and shall be deemed adequately given if actually delivered or if sent by registered or certified mail, postage prepaid, sent by express courier or electronic mail, to such Member at such Member’s address as specified below on the date of receipt thereof (or the next business day if the date of receipt is not a business day) (or in the case of registered or certified mail the date of registry thereof or the date of the certification receipt, as applicable) being deemed the date of such notice (“Notice”, “Notification” or “Notify”); provided, however that any written communication containing such information sent to such Member actually received by such Member shall constitute Notice for all purposes of this Agreement.

To the Investor Member or Special Investor Member: HCP-ILP, LLC
15910 Ventura Boulevard, Suite 1100
Encino, California 91436
Attention: Jeffrey N. Weiss
Email: jeff.weiss@huntcompanies.com

With a copy to: Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, Pennsylvania 19103
Attention: Jere G. Thompson
Email: thompsonj@ballardspahr.com

To the Co-Managing Member: Saigebrook Mistletoe, LLC
220 Adams Drive Ste. 280 #138
Weatherford, Texas 76086
Attention: Lisa Stephens
Email: lisa@saigebrook.com

To the Administrative Member: O-SDA Mistletoe, LLC
5714 Sam Houston Circle
Austin, Texas 78731
Attention: Megan D. Lasch
Email: megan@o-sda.com
19.2 **Word Meanings.** The words such as “herein,” “hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. The words “includes,” “including” and the like shall in each case mean “including without limitation.” References to “Sections” and “Articles” refer to Sections and Articles of this Agreement, unless otherwise specified. References to any Regulations (permanent or temporary) or Revenue Procedures shall include any successor provisions.

19.3 **Binding Effect.** The covenants and agreements contained herein shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

19.4 **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State.

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

19.6 **Entire Agreement.** This Agreement sets forth all (and is intended by all parties to be an integration of all) of the representations, promises, agreements and understandings among the parties hereto with respect to the Company, the Company’s business and the property of the Company, and there are no representations, promises, agreements or understandings, oral or written, express or implied, among them other than as set forth or incorporated herein.

19.7 **Reserved.**

19.8 **Separability of Provisions.** Each provision of this Agreement shall be considered separable and (a) if for any reason any provision is determined to be invalid, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid, or (b) if for any reason any provision would cause any Investor Member to be bound by the obligations of the Company (other than the rules and regulations of any Agency and the requirements of any Lender), such provision or provisions shall be deemed void and of no effect.
19.9 Paragraph Titles. All article and section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any article or section.

19.10 Project Lender Provisions. Notwithstanding anything to the contrary, all required Lender consents must be obtained for the following actions: (a) permitting the withdrawal of a Managing Member from the Company; (b) admitting a new Managing Member to the Company; (c) substituting a Managing Member; (d) amending this Agreement or the Company’s Certificate of Formation; (e) selling all or substantially all of the Company’s assets; (f) dissolving, liquidating or terminating the Company; or (g) borrowing funds from a Managing Member or any third party.

19.11 No Continuing Waiver. The waiver by any party of any breach of this Agreement or any full or partial condition for performance hereunder shall not operate as or be construed to be a waiver of any subsequent breach or condition.

19.12 Amendment Procedure. This Agreement may be amended by the Managing Member only with the Consent of the Investor Member. To the extent that the Investor Member(s) has or have loans outstanding from the Equity Lender in order to finance their Capital Contribution(s), no amendment may be made to Article 14 without the Consent of the Equity Lender. The Managing Member agrees to execute amendments proposed by the Investor Member which do not affect the obligations of the Managing Member under this Agreement and (a) increase or impose upon the Investor Member or Special Investor Member the obligation to restore a deficit balance in its Capital Account, or (b) prospectively decrease the obligation of the Investor Member or Special Investor Member to restore a deficit balance in its Capital Account in a subsequent fiscal year of the Company. The Managing Member agrees to cooperate and to act promptly with respect to amendments proposed by the Investor Member.

19.13 Waiver of Jury Trial. (A) EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AFTER OPPORTUNITY FOR CONSULTATION WITH INDEPENDENT COUNSEL, WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS OR OBLIGATIONS (I) UNDER THIS AGREEMENT, (II) ARISING FROM THE FINANCIAL RELATIONSHIP BETWEEN THE PARTIES IN CONNECTION WITH THIS AGREEMENT OR (III) ARISING FROM ANY COURSE OF DEALING, COURSE OF CONDUCT, STATEMENT (VERBAL OR WRITTEN) OR ACTION OF THE PARTIES IN CONNECTION WITH SUCH FINANCIAL RELATIONSHIP; (B) NO PARTY HERETO WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED; (C) THE PROVISIONS OF THIS SECTION HAVE BEEN FULLY NEGOTIATED BY THE PARTIES HERETO, AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS; (D) NO PARTY HERETO HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL Instances; AND (E) THIS SECTION IS A MATERIAL INDUCEMENT FOR THE INVESTOR MEMBER TO ENTER INTO THIS AGREEMENT.
19.14 **No Third-Party Rights.** No creditor or other third party having dealings with the Company shall have the right to enforce the right or obligation of any Member 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 Members herein set forth to make Capital Contributions or loans to the Company shall be deemed an asset of the Company 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 Company or pledged or encumbered by the Company to secure any debt or other obligation of the Company or of any of the Members. Without limiting the generality of the foregoing, a deficit Capital Account of a Member shall not be deemed to be a liability of such Member nor an asset or property of the Company.

19.15 **Forbearance.** Any forbearance by the Investor Member in exercising any right or remedy under this 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 Investor Member of any right herein shall not constitute an election by the Investor Member of remedies so as to preclude the exercise of any other right available to the Investor Member.

19.16 **Review with Counsel.** THE MEMBERS ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT AND HAVE BEEN ADVISED BY COUNSEL AS NECESSARY OR APPROPRIATE.

**ARTICLE 20**

**SPE PROVISIONS**

20.1 **Single Purpose Entity Requirements.** All capitalized terms in this Article 20 shall have the meaning set forth in the Permanent Loan Agreement. Until the Indebtedness is paid in full, each Borrower and any SPE Equity Owner will remain a “Single Purpose Entity,” which means at all times since its formation and thereafter will satisfy each of the following conditions:

(a) It will not engage in any business or activity, other than the ownership, operation and maintenance of the Mortgaged Property and activities incidental thereto.

(b) 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.

(c) 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.

(d) It will not merge or consolidate with any other Person.
(e) 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 Permanent Loan Agreement; issue additional partnership, membership or other equity interests, as applicable, or seek to accomplish any of the foregoing.

(f) 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 take any of the following actions:

(i) File any insolvency, or reorganization case or proceeding, to institute proceedings to have Borrower be adjudicated bankrupt or insolvent.

(ii) Institute proceedings under any applicable insolvency law.

(iii) Seek any relief under any law relating to relief from debts or the protection of debtors.

(iv) Consent to the filing or institution of bankruptcy or insolvency proceedings against Borrower.

(v) File a petition seeking, or consent to, reorganization or relief with respect to Borrower under any applicable federal or state law relating to bankruptcy or insolvency.

(vi) 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.

(vii) Make any assignment for the benefit of creditors of Borrower.

(viii) Admit in writing Borrower’s inability to pay its debts generally as they become due.

(ix) Take action in furtherance of any of the foregoing.

(x) It will not amend or restate its organizational documents if such change would cause the provisions set forth in those organizational documents not to comply with the requirements set forth in this Section.

(g) It will not own any subsidiary or make any investment in, any other Person.

(h) It will not commingle its assets with the assets of any other Person and will hold all of its assets in its own name.
(i) 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 further indebtedness as described in the Permanent Loan Agreement with regard to Supplemental Instruments). (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.

(j) 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.

(k) 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.

(l) 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.

(m) It will not assume or guaranty (excluding any guaranty that has been executed and delivered in connection with the 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.

(n) It will not make or permit to remain outstanding any loans or advances to any other Person except for those investments permitted under the Loan Documents and will not buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities).

(o) It will file its own tax returns separate from those of any other Person, except if Borrower (A) is treated as a “disregarded entity” for tax purposes and is not required to file tax returns under applicable law or (B) is required by applicable law to file consolidated tax returns, and will pay any taxes required to be paid under applicable law.

(p) 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.

(q) 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; provided, however, nothing in this Section will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

(r) 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.

(s) 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; provided, however, nothing in this Section will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

(t) It will not acquire obligations or securities of its partners, members, shareholders, or Affiliates, as applicable.

(u) 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.

(v) 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; provided, however, nothing in this Section will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

(w) Reserved.

(x) Reserved.

(y) If an SPE Equity Owner is required pursuant to the Permanent Loan Agreement, if it is (A) a limited liability company with more than one member, then it has and will have at least one member that has satisfied and will satisfy the requirements of this Section 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 this Section.

(z) For the avoidance of doubt, none of the provisions in this Article 20 shall apply to the Investor Member or the Special Investor Member.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

CO-MANAGING MEMBER:

SAIGEBROOK MISTLETOE, LLC, a Texas limited liability company

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: _____________________________
Name: Lisa M. Stephens
Its: Manager

ADMINISTRATIVE MEMBER:

O-SDA MISTLETOE, LLC, a Texas limited liability company

By: O-SDA Industries, LLC, a Texas limited liability company, its sole member

By: _____________________________
Name: Megan D. Lasch
Its: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

CO-MANAGING MEMBER:

SAIGEBROOK MISTLETOE, LLC, a Texas limited liability company

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: __________________________
Name: Lisa M. Stephens
Its: Manager

ADMINISTRATIVE MEMBER:

O-SDA MISTLETOE, LLC, a Texas limited liability company

By: O-SDA Industries, LLC, a Texas limited liability company, its sole member

By: __________________________
Name: Megan D. Lasch
Its: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
INVESTOR MEMBER:

HCP-ILP, LLC, a Nevada limited liability company

By: Hunt Capital Partners, LLC, a Delaware limited liability company, Its Manager

By: Jeffrey N. Weiss, President

SPECIAL INVESTOR MEMBER:

HCP-SLP, LLC, a Nevada limited liability company

By: Hunt Capital Partners, LLC, a Delaware limited liability company, its sole member

By: Jeffrey N. Weiss, President

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
WITHDRAWING INVESTOR MEMBER:

[Signature]

Lisa M. Stephens, an individual
MANAGEMENT AGENT CONSENT AND AGREEMENT

The undersigned, being the Management Agent for Mistletoe Station, LLC (the "Company"), hereby consents to the provisions in Article 16 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Management Agreement to the contrary.

MANAGEMENT AGENT:

ACCOLADE PROPERTY
MANAGEMENT, INC., a Texas corporation

By: [Signature]

Stephanie Baker, President
DEVELOPER CONSENT AND AGREEMENT

The undersigned, being the Developer for Mistletoe Station, LLC (the "Company"), hereby consents to the provisions in Sections 4.1(c), 5.9(a), 5.11, 7.2(b)(ii) and 8.5 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Development Agreement to the contrary.

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: __________________________
Name: Lisa M. Stephens
Its: Manager

O-SDA INDUSTRIES, LLC, a Texas limited liability company

By: __________________________
Name: Megan D. Lasch
Its: Managing Member

DMEAST #34514769
DEVELOPER CONSENT AND AGREEMENT

The undersigned, being the Developer for Mistletoe Station, LLC (the “Company”), hereby consents to the provisions in Sections 4.1(c), 5.9(a), 5.11, 7.2(b)(ii) and 8.5 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Development Agreement to the contrary.

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: __________________________
Name: Lisa M. Stephens
Its: Manager

O-SDA INDUSTRIES, LLC, a Texas limited liability company

By: __________________________
Name: Megan D. Lasch
Its: Managing Member
HUNT CONSENT AND AGREEMENT

The undersigned hereby executes this Agreement for the sole purpose of agreeing to the provisions of Section 6.1(fff) of the foregoing First Amended and Restated Operating Agreement of the Company, and agrees that provision may be enforced against the undersigned by the Company (or its assigns with respect thereto).

HUNT:

HUNT CAPITAL PARTNERS, LLC

By: [Signature]

Name: Jeffrey N. Weiss
Title: President
MEMBER INFORMATION SCHEDULE
TO THE
FIRST AMENDED AND RESTATED OPERATING AGREEMENT
MISTLETOE STATION, LLC

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<td>Weatherford, Texas 76086</td>
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<td>Austin, Texas 78731</td>
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<td>15910 Ventura Boulevard, Suite 1100</td>
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<td>Encino, California 91436</td>
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<td>Encino, California 91436</td>
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EXHIBIT A

LEGAL DESCRIPTION OF LAND

TRACT I:

LOT 1-R1, BLOCK 3R, OF FRISCO ADDITION, TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER COUNTY CLERK’S FILE NO. D212125731, REAL PROPERTY RECORDS, TARRANT COUNTY, TEXAS.

ALSO KNOWN AS

TRACT I:

BEING a tract of land in the E.S. Harris Survey, Abstract No. 688 in the City of Fort Worth, Tarrant County, Texas, being a part of that tract of land described as Tract 1 in Special Warranty Deed to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk’s Document No. D207136848 in the Official Records of Tarrant County, Texas (O.R.T.C.T.), being all of Lot 1-R1 of Lots 1-R1 and 1-R2, Block 3R, Frisco Addition, an addition to the City of Fort Worth, Tarrant County, Texas, as recorded in County Clerk’s Document No. D212125731 O.R.T.C.T., being a part of Beckham Place (variable width right-of-way) and being more particularly described as follows:

BEGINNING at the northeast corner of said Lot 1-R1, from which a 1/2-inch found iron rod with plastic cap stamped "AREA SURVEYING" bears North 48 degrees 50 minutes 32 seconds East, a distance of 0.25 feet, and being on the south right-of-way line of Beckham Place (a variable width right-of-way);

THENCE South 00 degrees 42 minutes 24 seconds East, a distance of 203.93 feet to a 5/8-inch found iron rod for the southeast corner of said Lot 1-R1, being on the north right-of-way line of Mistletoe Boulevard (a variable width right-of-way);

THENCE North 89 degrees 22 minutes 55 seconds West, passing a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for the south end of a corner clip of said Lot 1-R-1 at a distance of 212.37 feet, and continuing for a total a distance of 222.37 feet to a 3/4-inch found iron rod for corner at the intersection of the projected said north right-of-way line and the projected east right-of-way line of said Beckham Place;

THENCE North 06 degrees 51 minutes 00 seconds West, passing a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for the north end of a corner clip of said Lot 1-
R-1 at a distance of 10.00 feet, passing a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for the south end of a corner clip of said Lot 1-R-1 at a distance of 48.06 feet, and continuing for a total distance of 58.06 feet to a point for corner;

THENCE North 57 degrees 36 minutes 24 seconds East, passing a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for the north end of a corner clip of said Lot 1-R-1 at a distance of 10.00 feet, and continuing for a total distance of 268.55 feet to the POINT OF BEGINNING AND CONTAINING 29,702 square feet or 0.6819 acres of land, more or less.

**TRACT II:**

DESCRIPTION FOR A PART OF BLOCK B OF MISTLETOE HEIGHTS, AN ADDITION IN THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, AS SAID BLOCK APPEARS UPON THE MAP RECORDED IN VOLUME 388, PAGE 5 OF THE TARRANT COUNTY DEED RECORDS AND EMBRACING A PORTION OF THE TRACT DESCRIBED IN THE DEED TO L. E. TREZEVANT RECORDED IN VOLUME 1929, PAGE 240 OF SAID DEED RECORDS, AND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT AN AXLE FOUND FOR THE SOUTHEAST CORNER OF SAID BLOCK B IN THE NORTH LINE OF BECKHAM PLACE AND BEING THE SOUTHWEST CORNER OF LOT 6 OF TREZEVANT SUBDIVISION, SAID AXLE BEING THE SOUTHEAST CORNER OF SAID TREZEVANT TRACT;

THENCE SOUTH 59 DEGREES 33 MINUTES 00 SECONDS WEST, ALONG THE SOUTH LINE OF SAID TREZEVANT TRACT AND THE SAID NORTH LINE OF BECKHAM PLACE, 129.99 FEET TO A ¾" IRON PIN FOUND FOR THE SOUTHERLY SOUTHEAST CORNER OF THE TRACT DESCRIBED IN THE DEED TO HELEN J. WILLIAMS, RECORDED IN VOLUME 5619, PAGE 93 OF THE SAID DEED RECORDS;

THENCE NORTH 11 DEGREES 22 MINUTES 00 SECONDS WEST, ALONG THE SOUTHERLY EAST LINE OF SAID WILLIAMS TRACT 164.10 FEET TO A ½" IRON PIN SET WITH CAP MARKED, "AREA SURVEYING" FOR CORNER;

THENCE NORTH 83 DEGREES 52 MINUTES 00 SECONDS EAST, ALONG A NORTHERLY SOUTH LINE OF SAID WILLIAMS TRACT, 82.64 FEET TO A ½" IRON PIN SET WITH CAP MARKED, "AREA SURVEYING" FOR THE NORTHERLY SOUTHEAST CORNER OF SAID WILLIAMS TRACT;

THENCE NORTH 03 DEGREES 57 MINUTES 00 SECONDS WEST, ALONG AN EAST LINE OF SAID WILLIAMS TRACT, 16.77 FEET TO A ½" IRON PIN SET WITH CAP
MARKED, "AREA SURVEYING" FOR THE MOST SOUTHERLY SOUTHWEST CORNER OF LOT 1, BLOCK B-R, MISTLETOE HEIGHTS, ACCORDING TO PLAT RECORDED IN VOLUME 388-160, PAGE 1, PLAT RECORDS, TARRANT COUNTY, TEXAS;

THENCE NORTH 86 DEGREES 05 MINUTES 23 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 1, 54.56 FEET TO A ¾ INCH IRON PIN FOUND FOR THE NORTHWEST CORNER OF LOT 7 OF TREZEVANT SUBDIVISION;

THENCE SOUTH 04 DEGREES 07 MINUTES 19 SECONDS EAST, ALONG THE EAST LINE SAID TREZEVANT TRACT AND THE WEST LINE OF TREZEVANT SUBDIVISION, 124.61 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.424 OF AN ACRE OF LAND.

ALSO KNOWN AS:

TRACT II:

BEING a tract of land in the E.S. Harris Survey, Abstract No. 688 in the City of Fort Worth, Tarrant County, Texas, being all of that called 0.424 acre tract of land described in General Warranty Deed With Mineral Reservations to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk’s Document No. D207307960 in the Official Records of Tarrant County, Texas (O.R.T.C.T.), and being more particularly described as follows:

BEGINNING at a found axle for the southeast corner of said 0.424 acre tract, being on the north right-of-way line of Beckham Place (a variable width right-of-way);

THENCE South 59 degrees 40 minutes 50 seconds West, along said north right-of-way line, a distance of 129.99 feet to a 3/4-inch found iron rod for the common southeast corner of that tract of land described in Warranty Deed to All Saints Episcopal Hospital of Fort Worth, Inc., as recorded in Volume 10876, Page 1719 O.R.T.C.T. and the southwest corner of said 0.424 acre tract of land;

THENCE North 11 degrees 14 minutes 10 seconds West, departing said north right-of-way line, a distance of 164.21 feet to the common northwest corner of said 0.424 acre tract of land and an ell corner of said All Saints tract;

THENCE North 83 degrees 59 minutes 50 seconds East, a distance of 82.91 feet to a common ell corner of said All Saints tract and said called 0.424 acre tract of land;
THENCE North 03 degrees 50 minutes 10 seconds West, a distance of 16.58 feet to a 5/8-inch found iron rod for an ell corner of said 0.424 acre tract of land, the most southerly southwest corner of Lot 1 in Block B-R of Mistletoe Heights as recorded in Volume 388-160, Page 1 in the Plat Records of Tarrant County, Texas, and being on the east line of said All Saints tract;

THENCE North 86 degrees 13 minutes 12 seconds East, a distance of 54.54 feet to a 5/8-inch found iron rod for the northeast corner of said called 0.424 acre tract of land, and being on the south line of said Lot 1;

THENCE South 03 degrees 53 minutes 11 seconds East, a distance of 124.54 feet to the POINT OF BEGINNING AND CONTAINING 18,495 square feet or 0.4246 acres of land, more or less.

TRACT III:

BEING A PART OF BLOCK "B" OF MISTLETOE HEIGHTS ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOLUME 388, PAGE 5, DEED RECORDS OF TARRANT COUNTY, TEXAS, SAID PART OF BLOCK "B" BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:


THENCE NORTH 6 DEGREES 08 MINUTES WEST, ALONG SAID BLOCK LINE AND RIGHT-OF-WAY LINE, 402.2 FEET TO AN IRON;

THENCE NORTH 83 DEGREES 52 MINUTES EAST 98 FEET TO AN IRON;

THENCE SOUTH 6 DEGREES 08 MINUTES EAST 45 FEET TO AN IRON;

THENCE NORTH 83 DEGREES 52 MINUTES EAST 110-7/10 FEET TO AN IRON;

THENCE SOUTH 3 DEGREES 57 MINUTES EAST 132-1/10 FEET TO AN IRON;

THENCE SOUTH 83 DEGREES 52 MINUTES WEST 82-6/10 FEET TO AN IRON;
THENCE SOUTH 11 DEGREES 22 MINUTES EAST 164-4/10 FEET TO AN IRON IN THE SOUTH LINE OF SAID BLOCK B;

THENCE SOUTH 59 DEGREES 33 MINUTES WEST, ALONG SAID SOUTH LINE OF BLOCK B, 149-3/10 FEET TO THE PLACE OF BEGINNING.

ALSO KNOWN AS:
TRACT III:

BEING a tract of land in the E.S. Harris Survey, Abstract No. 688 in the City of Fort Worth, Tarrant County, Texas, being all of that tract of land described in Warranty Deed to All Saints Episcopal Hospital of Fort Worth, Inc., as recorded in Volume 10876, Page 1719 in the Official Records of Tarrant County, Texas (O.R.T.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch found iron rod with plastic cap stamped "FULTON SURVEYING" for the common northwest corner of said All Saints tract, the most westerly southwest corner of Lot 1 in Block B-R of Mistletoe Heights as recorded in Volume 388-160, Page 1 in the Plat Records of Tarrant County, Texas, and being on the east line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way);

THENCE North 84 degrees 06 minutes 47 seconds East, along the common line between said All Saints tract and said Lot 1, a distance of 98.08 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for a common ell corner of said All Saints tract and said Lot 1;

THENCE South 06 degrees 21 minutes 44 seconds East, continuing along said common line, a distance of 44.82 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for a common ell corner of said All Saints tract and said Lot 1;

THENCE North 84 degrees 04 minutes 15 seconds East, continuing along said common line, a distance of 110.60 feet to a 5/8-inch found iron rod for the northeast corner of said All Saints tract and an ell corner of said Lot 1;

THENCE South 03 degrees 50 minutes 10 seconds East, along the east line of said All Saints tract, passing a 5/8-inch found iron rod for the most southerly southwest corner of said Lot 1, and an ell corner of that called 0.424 acre tract of land described in General Warranty Deed With Mineral Reservations to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk’s Document
No. D207307960 O.R.T.C.T. at a distance of 115.35 feet and continuing for a total distance of 131.94 feet to a point for a common ell corner of said All Saints tract and said called 0.424 acre tract of land;

THENCE South 83 degrees 59 minutes 50 seconds West, departing said east line, a distance of 82.91 feet to the common northwest corner of said 0.424 acre tract of land and an ell corner of said All Saints tract;

THENCE South 11 degrees 14 minutes 10 seconds East, a distance of 164.21 feet to a 3/4-inch found iron rod for the common southeast corner of said All Saints tract, the southwest corner of said 0.424 acre tract, and being on the north right-of-way line of Beckham Place (a variable width right-of-way);

THENCE South 59 degrees 40 minutes 50 seconds West, departing said east line and along said north right-of-way line, a distance of 149.29 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for corner on said east right-of-way line;

THENCE North 06 degrees 00 minutes 10 seconds West, departing said north right-of-way line and along said east right-of-way line, a distance of 402.00 feet to the POINT OF BEGINNING AND CONTAINING 56,858 square feet or 1.3053 acres of land, more or less.

TRACT IV:

Being a tract or parcel of land situated in the E.S. Harris Survey Abstract No. 688, City of Fort Worth, Tarrant County, Texas and being a portion of Beckham Place (a 60 foot right of way) as recorded in the Fort Worth Original Town, an addition to the City of Fort Worth (no recording information found) also shown on plat of Lots 1&2, Block 3-A Frisco Addition, as recorded in 388-173, Page 11 Plat Records Tarrant County Texas and being all of that tract of land described in deed to the City of Fort Worth as recorded in Volume 3418, Page 632 D.R.T.C.T. and the south right of way line being described in Residue of Beckham Place vacated by Ordinance No. 9104, being all of that called 0.4304 acre tract of land described in City of Fort Worth Ordinance No. 23278-06-2018 Vacating and Extinguishing a portion of Beckham Place, and being more particularly described below:

BEGINNING at a 1/2-inch found iron with cap stamped GRANT ENG RPLS 4151 being at the intersection of the north right of way line of Beckham Place (variable width right-of-way) and the east right of way line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way), and being the southwest corner of that tract of land described in Warranty Deed to All Saints Episcopal Hospital of Fort Worth Inc., recorded in Volume 10876, Page 1719 Official Records Tarrant County Texas (O.R.T.C.T.);
THENCE North 59 degrees 40 minutes 50 seconds East, along the north right of way line of said Beckham Place, passing at a distance of 149.29 feet, a 3/4-inch iron rod for the southeast corner of said All Saints tract and being the southwest corner of 1700 Mistletoe Partners, Ltd., recorded in Document No. D207307960 O.R.T.C.T., and continuing for a total distance of 255.74 feet to a point for corner;

THENCE South 00 degrees 42 minutes 24 seconds East, over and across said Beckham Place, a distance of 70.58 feet to a point for corner being on the south right of way line of said Beckham Place;

THENCE South 57 degrees 36 minutes 24 seconds West, along said south right of way line, a distance of 198.04 feet to a point for corner at the point of intersection of said south right of way line and the east right of way line of said Beckham Place same being the east line of said City of Fort Worth tract;

THENCE South 06 degrees 51 minutes 00 seconds East, along said east right of way line, a distance of 58.06 feet to a point for corner being at the intersection of said east right of way line and the north right of way line of Mistletoe Boulevard (a variable width right of way);

THENCE North 89 degrees 22 minutes 55 seconds West, over and across said Beckham Place, a distance of 50.32 feet to a point for corner being on the east right of way line of said Burlington Northern Santa Fe Railroad;

THENCE North 06 degrees 00 minutes 10 seconds West, along said east right of way line, passing at a distance of 27.87 feet, the northwest corner of said City of Fort Worth tract, and continuing for a total distance of 105.25 feet to the POINT OF BEGINNING AND CONTAINING 18,744 square feet or 0.4303 acres of land, more or less.

LESS AND EXCEPT:

Being a tract or parcel of land situated in the E.S. Harris Survey Abstract No. 688, City of Fort Worth, Tarrant County, Texas and being all of that tract of land described in deed to the City of Fort Worth as recorded in Volume 3418, Page 632 D.R.T.C.T. and being more particularly described below:

BEGINNING at a 3/4-inch found iron rod for the southeast corner of said City of Fort Worth tract, being on the north right of way line of Mistletoe Boulevard (a variable width right of way);
THENCE North 89 degrees 22 minutes 55 seconds West, along said north right of way line, a
distance of 50.32 feet to a point for corner at the intersection of said north right of way line with
the east right of way line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way);
THENCE North 06 degrees 00 minutes 10 seconds West, departing said north right of way line
and along said east right of way line, a distance of 27.87 feet to a point for corner;

THENCE North 57 degrees 36 minutes 24 seconds East, departing said east right of way line, a
distance of 54.84 feet to a point for corner; THENCE South 06 degrees 51 minutes 00 seconds
East, a distance of 58.06 feet to the POINT OF BEGINNING AND CONTAINING 2,133 square
feet or 0.0490 acres of land, more or less.

TRACT V:

Being a tract or parcel of land situated in the E.S. Harris Survey Abstract No. 688, City of Fort
Worth, Tarrant County, Texas and being all of that tract of land described in deed to the City of
Fort Worth as recorded in Volume 3418, Page 632 D.R.T.C.T. and being part of that called
0.4304 acre tract of land described in City of Fort Worth Ordinance No. 23278-06-2018
Vacating and Extinguishing a portion of Beckham Place and being more particularly described
below:

BEGINNING at a 3/4-inch found iron rod for the southeast corner of said City of Fort Worth
tract, being on the north right of way line of Mistletoe Boulevard (a variable width right of way);

THENCE North 89 degrees 22 minutes 55 seconds West, along said north right of way line, a
distance of 50.32 feet to a point for corner at the intersection of said north right of way line with
the east right of way line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way);
THENCE North 06 degrees 00 minutes 10 seconds West, departing said north right of way line
and along said east right of way line, a distance of 27.87 feet to a point for corner;

THENCE North 57 degrees 36 minutes 24 seconds East, departing said east right of way line, a
distance of 54.84 feet to a point for corner; THENCE South 06 degrees 51 minutes 00 seconds
East, a distance of 58.06 feet to the POINT OF BEGINNING AND CONTAINING 2,133 square
feet or 0.0490 acres of land, more or less.

TRACTS I, II, III, IV AND V ALSO KNOWN AS:

PLAT DESCRIPTION:
BEING a tract of land in the E.S. Harris Survey, Abstract No. 688 in the City of Fort Worth, Tarrant County, Texas, being all of that tract of land described as Tract 1 in Special Warranty Deed to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk’s Document No. D207136848 in the Official Records of Tarrant County, Texas (O.R.T.C.T.), and being all of Lot 1-R1 of Lots 1-R1 and 1-R2, Block 3R, Frisco Addition, an addition to the City of Fort Worth, Tarrant County, Texas, as recorded in County Clerk’s Document No. D212125731 O.R.T.C.T., and being all of that tract of land described in Warranty Deed to All Saints Episcopal Hospital of Fort Worth, Inc., as recorded in Volume 10876, Page 1719 O.R.T.C.T., and being all of that called 0.424 acre tract of land described in General Warranty Deed With Mineral Reservations to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk’s Document No. D207307960 O.R.T.C.T., and being more particularly described as follows:

BEGINNING at a 5/8-inch found iron rod for the southeast corner of said Lot 1-R1, being on the north right-of-way line of Mistletoe Boulevard (a variable width right-of-way);

THENCE North 89 degrees 22 minutes 55 seconds West, along said north line, a distance of 272.69 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner on the east line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way);

THENCE North 06 degrees 00 minutes 10 seconds West, departing said north line and along said east line, a distance of 507.25 feet to a 1/2-inch found iron rod with plastic cap stamped "FULTON SURVEYING" for the northwest corner of said All Saints tract;

THENCE North 84 degrees 06 minutes 47 seconds East, departing said east line and along the north line of said All Saints tract, a distance of 98.08 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for corner;

THENCE South 06 degrees 21 minutes 44 seconds East, continuing along said north line, a distance of 44.82 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for corner;

THENCE North 84 degrees 04 minutes 15 seconds East, continuing along said north line, a distance of 110.60 feet to a 5/8-inch found iron rod for the northeast corner of said All Saints tract;

THENCE South 03 degrees 50 minutes 10 seconds East, departing said north line and along the east line of said All Saints tract, a distance of 115.35 feet to a 5/8-inch found iron rod for ell corner on the north line of said 0.424 acre tract;
THENCE North 86 degrees 13 minutes 12 seconds East, departing said east line and along said north line, a distance of 54.54 feet to a 5/8-inch found iron rod for the northeast corner of said 0.424 acre tract;

THENCE South 03 degrees 53 minutes 11 seconds East, departing said north line and along the east line of said 0.424 acre tract, a distance of 124.54 feet to a found axle for the southeast corner of said 0.424 acre tract, being on the north right-of-way line of Beckham Place (a variable width right-of-way);

THENCE South 59 degrees 40 minutes 50 seconds West, departing said east line and along said north line, a distance of 23.54 feet to a 1/2-inch set iron rod with cap for corner;

THENCE South 00 degrees 42 minutes 24 seconds East, departing said north line, a distance of 70.58 feet to a 1/2-inch set iron rod with cap for corner on the south right-of-way line of said Beckham Place;

THENCE North 57 degrees 36 minutes 24 seconds East, along said south line, a distance of 70.51 feet to a point for the northeast corner of said Lot 1-R1, from which a 1/2-inch found iron rod with plastic cap stamped "AREA SURVEYING" bears North 48 degrees 50 minutes 32 seconds East, a distance of 0.25 feet;

THENCE South 00 degrees 42 minutes 24 seconds East, departing said south line and along the east line of said Lot 1-R1, a distance of 203.93 feet to the POINT OF BEGINNING AND CONTAINING 123,799 square feet or 2.842 acres of land, more or less.
# EXHIBIT B

## DEVELOPMENT BUDGET, SOURCES AND USES

and

## SUMMARY OF LOANS

### MISTLETOE STATION

#### ASSUMPTIONS AND INPUTS - DEVELOPMENT BUDGET

<table>
<thead>
<tr>
<th>Description</th>
<th>Budget</th>
<th>Assumptions</th>
<th>Notes</th>
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<tbody>
<tr>
<td>Development Budget</td>
<td>$1,200,000</td>
<td>$1,200,000</td>
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</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Assumptions</th>
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<tr>
<td>Acquisition</td>
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<tr>
<td>Site Work</td>
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<td>Engineering &amp; Survey Costs</td>
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<td>Appraisal &amp; Broker Study</td>
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<td>Design &amp; Sched Report</td>
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<td>Accounting</td>
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<td>Permit &amp; Impact Fees &amp; Utility Capt.</td>
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<td>Marketing Costs</td>
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<td>Financings</td>
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<td>Lender's Fees</td>
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<td>Soft Costs Contingency (6.6%)</td>
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<td>Title &amp; Insurance and Defeasance Portion</td>
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<td>HUD Title I Costs</td>
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<td>Foundations</td>
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<td>Construction Insurance/Builders Risk Policy</td>
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<td>Ins &amp; Mortgage, MUI Bond</td>
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<td>Total Soft Costs</td>
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<th>Description</th>
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### TOTAL TRADE-OFFS

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### TOTAL CAPITAL EXPENDITURES

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### TOTAL DEVELOPMENT COSTS

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### SUMMARY OF LOANS

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<tr>
<th>Lender</th>
<th>Related Party (Yes or No)</th>
<th>Principal Amount</th>
<th>Interest Rate</th>
<th>Hard Debt Payment Terms</th>
<th>Soft Debt Payment Terms</th>
<th>Construction or Permanent or Both</th>
<th>Maturity Date</th>
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<tr>
<td>JPMorgan Chase Bank, N.A.</td>
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<td>$22,282,000</td>
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<td>Hunt Mortgage Partners, LLC</td>
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<td>FWHFC</td>
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<td>$750,000</td>
<td>Same as Construction Loan during Construction and 2% after Conversion</td>
<td>Payable from Cash Flow – 35 year amortization</td>
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<td>15.5 years from Conversion</td>
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<td>Agency (HOME Loan)</td>
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<td>$1,056,000</td>
<td>0% during construction and 1% after conversion</td>
<td>Payable from Cash Flow - 35 year amortization</td>
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EXHIBIT C

FUNDING CONDITIONS

Payment Certificate. The obligation of the Investor Member to pay each Installment (or disbursement of each Installment) is conditioned upon delivery by the Managing Member to the Investor Member of a written certificate (the “Payment Certificate”) in the form attached hereto as Exhibit R. The Payment Certificate for each Installment subsequent to the First Installment shall be dated and delivered not less than fifteen (15) nor more than thirty (30) days prior to the due date for such Installment.

First Installment Funding Conditions ($1,289,871)

1. Admission of the Investor Member to the Company.

2. Proof of property and liability insurance in accordance with Exhibit D to the Agreement.

3. No Event of Default of the Managing Member has occurred.

4. Receipt by the Investor Member of an LIHTC Certificate in the form attached hereto as Exhibit S.

5. Receipt by the Company of the Carryover Allocation and satisfaction by the Company of all conditions to the effectiveness of the Carryover Allocation which are to be satisfied prior to Closing imposed by the Code, the Agency or otherwise.

6. Receipt of the Permanent Loan commitment in a form acceptable to the Investor Member.

7. Closing and funding of the Construction Loan on terms approved by the Investor Member, with such funds to be used solely for site acquisition, development and construction costs, including an expense reimbursement of $65,000 to an Affiliate of the Investor Member for its review and approval costs in connection with the Closing.

8. Closing and initial funding of the FWHFC Loan on terms approved by the Investor Member, with such funds to be used solely for purposes set forth in the FWHFC Loan documents.

9. The Title Policy meeting the requirements set forth in Exhibit Q.

10. The Predevelopment Loan shall have been paid in full or will be paid in full concurrently with the funding of the First Installment.

11. An Opinion of Counsel of the Managing Member confirming such tax, corporate and partnership matters, and in such form, as the Investor Member or its counsel may reasonably request. Such opinion shall expressly permit reliance thereon by the Investor Member and counsel engaged by the Investor Member in connection with the admission of the
Investor Member to the Company and confirm that, upon an Assignment of the Investor Member’s Interest in the Company pursuant to an Assignment executed substantially in the form attached to the Agreement as Exhibit M, (1) the Assignee of the Investor Member’s Interest will, except for the payment of its Capital Contribution, have no liability with respect to obligations of the Company except as provided under the provisions of the Uniform Act, and (2) the Assignment will not affect the validity of the Guaranty Agreement, the benefits of which will run to the Assignee of the Investor Member’s Interest.

12. The Development Agreement between the Company and the Developer, in the form attached to the Agreement as Exhibit E, pursuant to which the Developer will be paid a Development Fee as described therein.

13. The Guaranty Agreement in the form attached to the Agreement as Exhibit F.

14. The ALTA Survey certified to the Company and the Investor Member and meeting the requirements set forth in Exhibit Q.

15. A construction contract and payment and performance bond in a form approved by the Investor Member.

16. The Management Agreement between the Company and the Management Agent, in the form attached to the Agreement as Exhibit I.

17. Building permits for the Apartment Complex or will issue letter.

18. The Due Diligence Documents and any other documents as the Investor Member may require in its sole and absolute discretion.

**Second Installment Funding Conditions ($644,936)**

1. No Event of Default of the Managing Member has occurred.

2. The Due Diligence Documents and any other documents as the Investor Member may require in its sole and absolute discretion.

3. Satisfaction of all conditions for the payment of the First Installment.


**Third Installment Funding Conditions ($8,309,161)**

1. Satisfaction of all conditions for the payment of the Second Installment.

2. Substantial Completion has occurred.

3. Receipt of Draws and related Draw Documents for Capital Contributions to pay costs of constructing the Apartment Complex, which are approved by the Investor Member pursuant to Section 4.4 of the Agreement.
4. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

5. Carryover Certification with paid invoices to confirm satisfaction of the Ten Percent Test.

6. If available, a date down endorsement to the Title Policy dated within thirty (30) days of funding the Third Installment, in form and substance reasonably acceptable to the Investor Member.

7. Unconditional lien waivers for previous Draws and Conditional lien waivers for current Draw.

8. A certification of the Managing Member, in form and substance acceptable to the Investor Member, confirming that any asserted violations of building codes or Environmental Laws that were to be corrected or remediated during Construction of the Apartment Complex have been timely and fully corrected or remediated in strict compliance with applicable law.

9. A report from the Investor Member’s construction consultant that Substantial Completion has been achieved, that completed construction work is good quality and generally in accordance with the Plans and Specifications and the Apartment Complex is completely operable and inhabitable. The Investor Member shall cause its consultant to deliver a copy of its report (or the pertinent portions thereof) promptly to the Managing Member if there are any construction or other development items which the Investor Member claims are unsatisfactory based upon the findings in the report.


11. Receipt of Draws and related Draw Documents for Capital Contributions to pay costs of constructing the Apartment Complex, which are approved by the Investor Member pursuant to Section 4.4 of the Agreement.

12. Updated Sources and Uses of Development Budget.

13. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

14. Receipt of all other reports required to be submitted to date according to Article 18, including but not limited to budgets, tax returns, audits and compliance documentation.

15. Such additional documentation as the Investor Member may reasonably require.

Fourth Installment Funding Conditions ($2,579,742)

1. Executed Permanent Loan documents (which may be delivered within five (5) business days after the Fourth Installment Funding if the Fourth Installment Funding is to happen concurrently with Permanent Loan Closing).

2. Completion has occurred, and all Completion Documentation has been received and approved by the Investor Member.

3. The ALTA As-Built Survey.

4. A final report from the Investor Member’s construction consultant that all design, site, construction and finishing work necessary for the completion of the Apartment Complex and any necessary utilities have been finished in a good and workmanlike manner, free from defects in design and construction and substantially in accordance with the Plans and Specifications, which shall additionally include evidence of the delivery and installation of all necessary and appropriate fixtures, equipment and personal property. The Investor Member shall cause its consultant to deliver a copy of its report (or the pertinent portions thereof) promptly to the Managing Member if there are any construction or other development items which the Investor Member claims are unsatisfactory based upon the findings in the report.

5. Rental Achievement.

6. Receipt by the Company of the TIF Reimbursement and the Additional TIF Reimbursement.

7. Receipt by the Company of the HAP.

8. If applicable, receipt of the executed Section 811 Subsidy Contract in a form acceptable to the Investor Member.

9. Satisfaction of all conditions for the payment of the Third Installment.

10. A “comfort letter” from the Managing Member’s counsel, stating that nothing has come to its attention which affects adversely the matters addressed in its opinions delivered at the First Installment.

11. An unaudited balance sheet of the Company, dated no earlier than thirty (30) days prior to such Installment, certified by the Managing Member as true, complete and correct.

12. An estimate of the likely adjustment to Capital Contributions, if any, that may be due under Section 4.2(d)(ii).

13. Evidence that all warranties relating to the Construction have been issued to the Company, including the commencement and termination date and product information.

14. Copies of all maintenance and operating agreements for the Apartment Complex.
15. Executed and recorded Extended Use Agreement; provided however, if a recorded copy is not yet available, evidence of submission of the executed Extended Use Agreement for recording.

16. Evidence that the Operating Reserve and Replacement Reserve have been funded in accordance with the terms of the Agreement.

17. Receipt by the Company of the Cost Certification and such documentation as may be reasonably required by the Investor Member to support the Cost Certification, together with an estimate of the likely adjustment to Capital Contributions, if any, that may be due under Section 4.2(d)(i).

18. Copies of all initial tenant files.

19. Update of each Guarantor’s financial statements to include a schedule of contingent liabilities, together with bank statements for each Guarantor who is an individual, dated no later than ninety (90) days prior to the Fourth Installment Funding.

20. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

21. Date down endorsement, if available, to the Title Policy dated on at the time of the Permanent Loan Closing Date, in form and substance reasonably acceptable to the Investor Member, and issuance of an ALTA zoning 3.1 endorsement, a comprehensive endorsement for improved land, a revised survey endorsement reflecting and referring to the ALTA As-Built Survey, and any other endorsements requested by the Investor Member, all in form reasonably satisfactory to the Investor Member.

22. Such additional documentation as the Investor Member may reasonably require.


**Fifth Installment Funding Conditions ($75,000)**

1. Receipt of Internal Revenue Service Forms 8609 for each building in the Apartment Complex.

2. Receipt of all other reports required to be submitted to date according to Article 18, including but not limited to budgets, tax returns, audits and compliance documentation.

3. The completion of Investor Member’s first year Tenant File Audit.

4. Certified Rent Roll(s).

5. Final calculation of the adjustments to Capital Contributions, if any, that may be due under Section 4.2(d)(i) and 4.2(d)(ii).
6. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

7. Satisfaction of all conditions for the payment of the Fourth Installment.

8. Such additional documentation as the Investor Member may reasonably require.

EXHIBIT D

INSURANCE REQUIREMENTS

I. Immediately upon purchase of the land and building(s) upon which new construction will take place and/or building(s) will be rehabilitated, and throughout the term of this Agreement, The Managing Member shall obtain, and maintain in full force and effect, the following policies of insurance for the Company:

A. Commercial General Liability Insurance:
   1. $1,000,000 per occurrence;
   2. $2,000,000 general aggregate;
   3. $2,000,000 product liability/completed operations aggregate;
   4. Personal and Advertising injury: $1,000,000;
   5. The Investor Member and any other party as designated by the Investor Member shall be included as an additional insured using form CG2026 Designated Person or Organization or form CG2027 Co-Owner of Insured Premise or its equivalent. If these or equivalent endorsements are not available it must specifically state on the certificate “Who is an insured includes all members & partners per policy form {state policy form number} attached”. The additional insured form/endorsement or policy form must be attached to the certificate of Insurance.
   6. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.
   7. Deductible/SIR not greater than $10,000; and
   8. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided.

B. Automobile Insurance, only required if the Apartment Complex has employees or owns or uses any autos (must provide written statement stating the Apartment Complex has no employees, owns or uses any autos if proof of coverage is not provided):
   1. Liability with $1,000,000 combined single limit for personal injury and property damage (including all hired and non-owned vehicles).
   2. Physical Damage, including comprehensive and collision, for any owned autos

C. Worker’s Compensation Insurance, only required if the Company has employees (must provide written statement that the Company has no employees if proof of coverage is not provided):
1. State Benefits and Employer’s liability: $1,000,000.

D. Umbrella/Excess Liability Insurance:

1. $5,000,000 per occurrence and aggregate (primary and umbrella/excess liability can be combined to achieve minimum limit of $6,000,000 per occurrence and $7,000,000 Aggregate); Higher limits may be required depending project characteristics, location and size.

2. The Commercial General Liability, Automobile Liability and Employers Liability policies should be scheduled as underlying policies; and

E. All coverages to be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Investor Member and any other party as designated by the Investor Member as Certificate Holder. A separate certificate shall be issued for each requested Certificate Holder.

F. All coverage shall be primary and any insurance carried by the Investor Member or any other partners shall be excess and non-contributory. All insurance companies shall agree to waive their right of subrogation against the Investor Member or any other partners or party as designated by the Investor Member.

G. Other forms or types of insurance which the Investor Member may now or hereafter reasonably require.

II. Prior to the commencement of any construction or rehabilitation of the Apartment Complex, The Managing Member shall obtain (or cause to be obtained by the Contractor/Architect) and keep in force until construction is completed, accepted and initial occupancy of any portion of the Apartment Complex:

A. Builder’s Risk Insurance:

1. “Special Form” Builder’s Risk policy;

2. Replacement Cost;

3. New construction – limit of insurance must be equal to the full value of the completed project;

4. Rehabilitation/Reconstruction limit of insurance must be equal to the value of the building after demolition is completed, plus the full construction/rehab value, including labor;

5. Deductible not greater than $10,000;

6. Completed Value Form; Reporting form policies of any kind will not be acceptable.
7. Earthquake/DIC coverage for all properties located in UBC Seismic Zones 3 & 4; For projects with an approved seismic study indicating a loss prediction of less than 20%, earthquake insurance may be waived; with limits and deductibles that are acceptable to the Investor Member.

8. Flood coverage (for all properties located in FEMA Flood Zones A, V, and D); with limits equal to 50% of the replacement cost of the completed project.

9. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.

10. To be shown on an ACORD 27/28 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Investor Member or any other party as designated by the Limited Liability Company as Certificate Holder and Loss Payee using form CP1218 or its equivalent with a waiver of subrogation; The loss payee form/endorsement must be attached to the certificate. A separate certificate shall be issued for each Certificate Holder.

11. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided.

12. Soft Cost Endorsement, including increased engineering/architectural fees, interest expense, insurance, real estate taxes, and other miscellaneous expenses associated with project completion delays resulting from a loss.

13. Hail, Named Storms, Windstorm Coverage with deductibles that are acceptable to the Investor Member.

14. Waiver of Coinsurance or Agreed Amount Endorsement.

15. Policy shall contain a Permission to Occupy provision

16. Coverage shall include costs for Debris Removal

B. Evidence of insurance from the Contractor:

1. Worker’s Compensation insurance including state benefits and employers liability of not less than $1,000,000; with a waiver of subrogation in favor of the Company, the Investor Member and any other party as designated by the Investor Member.

2. Commercial Liability insurance coverage of $6,000,000 per occurrence and $7,000,000 aggregate naming the Company, the Investor Member and any other party as designated by the Investor Member as an Additional Insured including Products and Completed Operations for the appropriate statute of limitations.

3. Auto Liability insurance with limits not less than $1,000,000 combined single limit covering all owned, hired & non-owned autos.
4. Contractors Pollution Liability with limits not less than $1,000,000 per occurrence and aggregate if work involves any environmental remediation such as asbestos, lead or other pollutants on structures or the site.

5. All coverage shall be primary and any insurance carried by the Company, Investor Member or Members shall be excess and non-contributory. All insurance companies shall agree to waive their right of subrogation against the Company, the Investor Member or any other party as designated by the Investor Member.

6. To be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Company, the Investor Member and any other party designated by the Investor Member as Certificate Holder. A separate certificate shall be issued for each Certificate Holder.

7. The Managing Member shall make sure the Investor Member and any other party designated by the Investor Member are included in any construction contracts so as to trigger the benefit of any blanket additional insured, primary wording or waiver of subrogation insurance endorsements where written contract is required so that the above requirements are met.

C. Evidence of insurance from the Architect and Engineer:

1. Errors & Omissions insurance coverage of $1,000,000 per occurrence and in the aggregate; and

2. To be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Investor Member and any other party designated by the Investor Member as Certificate Holder.

III. Prior to the Occupancy Commencement Date, the Managing Member shall obtain, and shall maintain in full force and effect throughout the term of this Agreement, the following policies of insurance:

A. Property Insurance:

1. "Special Form” policy at replacement cost excluding land;

2. Loss of Rents: greater than or equal to 12 months’ rental income, maximum deductible 72 hours

3. Building Contents: full replacement cost on “Special Form” basis;

4. Waiver of Co-insurance or agreed amount endorsement;

5. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.
6. Earthquake/DIC coverage (for all properties located in UBC Seismic Zones 3 & 4; Projects with an approved seismic study indicating a loss prediction of less than 20%, earthquake insurance may be waived); with limits and deductibles that are acceptable to the Investor Member.

7. Deductibles not greater than $10,000;

8. Flood coverage (for all properties located in FEMA Flood Zones A, V, and D) with limits not less than 50% of the replacement value of the completed project.

9. Hail, Named Storms, Windstorm Coverage with deductibles that are acceptable to the Investor Member.

10. Building Ordinance or Law A, B & C $500,000 for properties that contain any type of non-conformance under current building, zoning, or land use laws or ordinances.

11. Boiler & Machinery/Equipment Breakdown insurance at 100% replacement cost of building(s) that houses equipment with deductibles same as property insurance for all properties with any centralized HVAC, boiler, water heater or other type of pressure-fired vessel.

12. To be shown on an ACORD Form 27/28 with 30 days’ Notice of Cancellation listing the Investor Member and any other party designated by the Investor Member as Certificate Holder and adding as Loss Payees per form CP 1218 (form/endorsement must be attached to the certificate) with a waiver of subrogation, with the words “endeavor to” and “but failure to” struck from the notice;

13. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided.

B. Management Agent Insurance:

1. Worker’s Compensation insurance including state benefits and employers liability of not less than $1,000,000; with a waiver of subrogation in favor of the Company, the Investor Member and any other party as designated by the Investor Member.

2. General Liability insurance coverage of $6,000,000 per occurrence and $7,000,000 aggregate; and

3. Professional Liability Insurance with limits of $1,000,000 per occurrence and aggregate with deductible/SIR not greater than $10,000

4. Auto Liability insurance with limits not less than $1,000,000 combined single limit covering all owned, hired & non-owned autos.

5. Employee Dishonesty Crime Coverage or similar Fidelity Bond coverage in an amount not less than the equivalent of 2 months gross income of the project.
6. To be shown on an ACORD Form 25 with 30 days’ Notice of Cancellation listing the Company, the Investor Member and any other party designated by the Investor Member as certificate holder with the words “endeavor to” and “but failure to” struck from the notice. A separate certificate shall be issued for each Certificate Holder.

IV. All policies of insurance described on this Exhibit D shall be underwritten by companies licensed to write such insurance in the state where the Apartment Complex is located and shall be rated in the A.M. Best’s Insurance Rating Guide with a rating of at least A VII. Notice of any replacement of any policy shall be made at least 10 days prior to such replacement, and shall be in the form of a copy of the replacement policy, or by certificate, as noted above. If any Acord Forms or other evidences of insurance do not contain a notice provision for the benefit of the Certificate Holder it shall be the obligation of the Managing Member to Notify all Certificate Holders of any cancellation, non-renewal or material reduction in coverage of all required insurance.

V. All liability insurance maintained by the Company and General Contractor shall include a provision that is primary and any such insurance maintained by the Investor Member or other party designated by the Investor Member is excess and non-contributory.

VI. All parties and their respective insurers are required and must agree to waive their rights of subrogation against the Investor Member or any other party designated by the Investor Member.

VII. The Managing Member is advised to obtain whatever additional insurance is deemed prudent to adequately protect the Company. These insurance requirements are considered minimum standards.
DEVELOPMENT AGREEMENT

THIS AGREEMENT (this “Agreement”) is made and entered into as of August 30, 2018, between Mistletoe Station, LLC, a Texas limited liability company (the “Company”), SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook”) and O-SDA INDUSTRIES, LLC, a Texas limited liability company (“O-SDA” and together with Saigebrook, the “Developer”).

A. The Company is governed by its First Amended and Restated Operating Agreement dated as of August 30, 2018 (the “Operating Agreement”) (capitalized terms used herein without definition shall have the definitions given them in the Operating Agreement).

B. The Company has been formed to develop, construct, own, maintain and operate a 110-unit multifamily apartment complex intended for rental to families of low and moderate income and for rental to families at market rates, to be known as Mistletoe Station, and to be located at 1916 Mistletoe Blvd., Fort Worth, Tarrant County, Texas (the “Apartment Complex”).

C. Saigebrook Mistletoe, LLC, a Texas limited liability company, O-SDA Mistletoe, LLC, a Texas limited liability company, HCP-SLP, LLC, a Nevada limited liability company and HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”) are the sole Members in the Company.

D. The Company desires to appoint the Developer to provide certain services for the Company with respect to overseeing the development of the Apartment Complex until all development work is completed.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Appointment. The Company hereby appoints the Developer to render services for the Company, and confirms and ratifies the appointment of the Developer with respect to services rendered for the Company to date, in supervising and overseeing the development of the Apartment Complex as herein contemplated.

2. Authority. In conformity with the provisions of the Operating Agreement, the Developer shall have, and has had, the authority and the obligation to:

   (a) select the architect (“Architect”), coordinate the preparation of the plans and specifications (the “Plans and Specifications”) and recommend alternative solutions whenever design details affect construction feasibility or schedules;

   (b) insure that the Plans and Specifications are in compliance with all applicable codes, laws, ordinances, rules and regulations;

   (c) cause the General Contractor to negotiate all necessary contracts and subcontracts (other than the Construction Contract) for the construction of the Apartment Complex;
(d) verify the utilization of the products and materials necessary to equip the Apartment Complex in a manner which satisfies all requirements of the Construction Loan and the Plans and Specifications;

(e) monitor disbursement and payment of amounts owed Architects and the subcontractors;

(f) insure that the Apartment Complex is constructed free and clear of all mechanics’ and materialmen’s liens;

(g) obtain an Architect’s certificate that the work on the Apartment Complex is substantially complete and inspect the Architect’s work;

(h) secure all building code approvals and obtain certificates of occupancy for all of the residential units of the Apartment Complex;

(i) cause the Apartment Complex to be completed in a prompt and expeditious manner, consistent with good workmanship, and in compliance with the following:

   (i) the Plans and Specifications as they may be amended by the agreement of the parties hereto and with the consent of the mortgagee under the Construction Loan; and

   (ii) any and all zoning regulations, county ordinances, including health, fire and safety regulations, and any other requirements of federal, state and local laws, rules, regulations and ordinances applicable to construction of the Apartment Complex;

(j) cause to be performed in a diligent and efficient manner the following:

   (i) construction of the Apartment Complex pursuant to the Plans and Specifications, including any required off-site work; and

   (ii) general administration and supervision of construction of the Apartment Complex;

(k) cause the General Contractor to administer and supervise activities of subcontractors and their employees and agents, and others employed as to the Apartment Complex in a manner which complies in all respects with the Construction Loan and the Plans and Specifications;

(l) keep, or cause to be kept, accounts and cost records as to the construction of the Apartment Complex;

(m) maintain, or cause to be maintained, at its expense, all office and accounting facilities and equipment necessary to adequately perform the foregoing functions;

(n) make available to the Company, during normal business hours and upon the Company’s written request, copies of all material contracts and subcontracts;
(o) deliver to the Company the ALTA As-Built Survey and “as-built” drawings of the Apartment Complex construction;

(p) cause the General Contractor to provide and periodically update an Apartment Complex construction time schedule which coordinates and integrates Architect’s services with construction schedules;

(q) cause the General Contractor to investigate and recommend a schedule for purchase by the Company of all materials and equipment requiring long lead time procurement, coordinate the schedule with Architect and expedite and coordinate delivery of such purchases;

(r) cause the General Contractor to prepare pre-qualification criteria for bidders interested in participating in the construction of the Apartment Complex, establish bidding schedules and conduct pre-bid conferences to familiarize bidders with the bidding documents and management techniques with any special systems, materials or methods;

(s) cause the General Contractor to receive bids, prepare bid analyses and make recommendations to the Company for award of contracts or rejection of bids;

(t) coordinate the work of Architect to complete the Apartment Complex in accordance with the objectives as to cost, time and quality, and provide sufficient personnel at the Apartment Complex with authority to achieve such objectives;

(u) cause the General Contractor to provide a detailed schedule of realistic activity sequences and durations, allocation of labor and materials and processing of shop drawings and samples;

(v) provide regular monitoring of the schedule as construction progresses, identify potential variances between scheduled and the probable Substantial Completion Date, review the schedule for work not started or incomplete, recommend to the Partnership Adjustments in the schedule to meet the probable Substantial Completion Date, provide summary reports of such monitoring, and document all changes in the schedule;

(w) recommend courses of action to the Company when requirements of subcontracts are not being fulfilled;

(x) revise and refine the approved estimate of construction cost, incorporate changes as they occur, and develop cash flow reports and forecasts as needed;

(y) provide regular monitoring of the approved estimate of construction cost, show actual costs for activities in process and estimates for uncompleted tasks, identify variances between actual and budgeted or estimated costs and advise the Company whenever projected Costs exceed budgets or estimates;

(z) cause the General Contractor to develop and implement a system for review and processing of change orders as to construction of the Apartment Complex;
(aa) develop and implement a procedure for the review and processing of applications by subcontractors for progress and final payments;

(bb) in collaboration with Architect, establish and implement procedures for expediting the processing and approval of shop drawings and samples; and

(cc) record the progress of the Apartment Complex and submit written progress reports to the Company and Architect, including the percentage of completion and the number and amounts of change orders.

Notwithstanding the foregoing, the Developer shall not provide any services which are the sole responsibility of the Managing Member, including, without limitation, the following: (i) organization of the Company and negotiation of any sale of a Company Interest; (ii) obtaining permanent financing for the Apartment Complex; and (iii) the acquisition and preparation of the Land prior to commencing construction of the Apartment Complex.

3. Development Fee.

(a) For services performed and to be performed under Sections 1 and 2 of this Agreement, the Company shall pay the Developer a Development Fee in the aggregate amount of Two Million Five Hundred Twenty Seven Thousand Five Hundred Eighty-Five Dollars ($2,527,585) as its sole compensation for the performance of its services under and in connection with this Agreement. Payment of the Development Fee shall be subject to the terms and conditions of the Operating Agreement. Subject to the terms of the Operating Agreement, the Company shall pay the Development Fee as follows: (i) $2,221,407 (of which $1,199,560 shall be paid to Saigebrook, $577,566 shall be paid to O-SDA and $444,281 shall be paid to the Special Investor Member) of the Development Fee shall be paid solely from the Cash Flow of the Company available pursuant to Section 14.1(a)(vi) of the Operating Agreement, from Cost Savings pursuant to Section 14.2, and from proceeds of the dissolution and liquidation of the Company pursuant to Section 17.2(b)(ii)(D) of the Operating Agreement (the “Deferred Development Fee”); (ii) $231,718 (of which $125,128 shall be paid to Saigebrook, $60,247 shall be paid to O-SDA and $46,343 shall be paid to the Special Investor Member) of the Development Fee shall be paid at the time the Investor Member makes the Fourth Installment, (iii) $75,000 (of which $40,500 shall be paid to Saigebrook, $19,500 shall be paid to O-SDA and $15,000 shall be paid to the Special Investor Member) of the Development Fee shall be paid at the time the Investor Member makes the Fifth Installment. The Development Fee, including but not limited to any Deferred Development Fee, shall be paid fifty-four percent (54%) to Saigebrook, twenty-six percent (26%) to O-SDA and twenty percent (20%) to the Special Investor Member, on a pro rata basis.

(b) Notwithstanding the foregoing, if, at any time prior to the payment of the Development Fee in full, including the Deferred Development Fee, there are Development Deficits required to be paid to Saigebrook and O-SDA by the Managing Member pursuant to Section 8.1(b) of the Operating Agreement, the Developer and the Company agree that the Managing Member shall have the right, with the Consent of the Investor Member, to elect to fund such Development Deficits by causing the Company and the Developer to change some or all of the cash portion of the Development Fee that would otherwise be paid to Saigebrook and
O-SDA in accordance with Sections 3(a)(ii) through (v) above (but in no event to exceed the lesser of $244,942 or the unpaid cash portion of 80% of the Development Fee payable to Saigebrook and O-SDA) into Deferred Development Fee (a “DDF Election”); provided, the Investor Member shall Consent to such deferral if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after the Placed in Service Date, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to generate the Projected Housing Tax Credits and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Any Deferred Development Fee resulting from a DDF Election shall be paid in accordance with Section 3(a)(i) hereof and the payments to Saigebrook, O-SDA and the Special Investor Member shall be adjusted pro rata. In no event shall the total amount of the Development Fee be increased as a result of such DDF Election.

(c) No interest shall accrue on the outstanding Deferred Development Fee (including, without limitation, any Deferred Development Fee resulting from a DDF Election). All payments made to the Deferred Development Fee shall be applied to the outstanding balance of the Deferred Development Fee until the Deferred Development Fee is paid in full. Any outstanding balance shall be payable by the earlier of thirteen (13) years following the Placed in Service Date, December 31, 2032 or the date of liquidation of the Company.

(d) Notwithstanding the timing of the payment of the Capital Contributions of the Investor Member, in any event the Company shall pay the entire earned and accrued amount of the Development Fee (other than the Deferred Development Fee including, without limitation, any Deferred Development Fee resulting from a DDF Election) within three (3) years from the date of this Agreement.

(e) For those services performed on or before the Closing Date, as set forth in Section 2 hereof, twenty percent (20%) of the Development Fee shall be deemed earned as of such date. The balance of the Development Fee shall be earned during construction proportionate to the percentage of completion of construction, with the entire Development Fee earned upon issuance of certificates of occupancy for all buildings in the Apartment Complex.

4. Developer Guaranty of Costs of Construction. The Developer warrants that the aggregate costs to the Company for the items includable in Development as identified on the Development Budget shall not exceed the aggregate amounts for such items reflected on the Development Budget (the “Developer Cost Guaranty”). If the aggregate costs to the Company for the items includable in Development Costs exceed the aggregate amount for such items reflected in the Development Budget and such excess costs cannot be funded by Permitted Sources, including DDF Election, the Developer shall pay such excess when and as incurred. Any amounts paid by the Developer pursuant to this Section 4 shall not be repaid by the Company, shall not be credited to the Capital Amount of any Member, or otherwise change the interest of any Person in the Company, but shall be bound by the Developer under the terms of this Agreement.
5. **Withholding of Fee Payments.** If (a) the Developer or the Managing Member, or any successor Managing Member, shall not have substantially complied with any material provisions under this Agreement and the Operating Agreement, (b) an Event of Default has occurred under the Operating Agreement, (c) any financing commitment of any Lender or any agreement entered into by the Company for financing related to the Apartment Complex shall have terminated prior to its respective termination date(s), or (d) foreclosure proceedings have been commenced against the Apartment Complex, or against any apartment complex owned by an Affiliated Entity, then the Developer shall be in default of this Agreement, and the Company shall withhold payment of any installment of the fee payable to the Developer pursuant to Section 3 of this Agreement. All amounts so withheld by the Company under this Section 5 shall be promptly released to the Developer only after the Developer has cured the default justifying the withholding, as demonstrated by evidence reasonably acceptable to the Investor Member. Either Saigebrook or O-SDA shall be entitled to effect such cure on behalf of the Developer.

6. **Assignment of Fees.** The Developer shall not assign, pledge or otherwise encumber, for security or otherwise, the Development Fee set forth above to be made by the Company, or any portion(s) thereof or any right(s) of the Developer thereto, without the Consent of the Investor Member.

7. **Reserved.**

8. **Successors and Assigns.** This Agreement shall be binding on the parties hereto, their heirs, successors and assigns. However, this Agreement may not be assigned by any party hereto without the Consent of the Investor Member, nor may it be terminated without the Consent of the Investor Member.

9. **Termination.** If the Managing Member withdraws from the Company for any reason whatsoever, including the removal of the Managing Member pursuant to Section 7.2 of the Operating Agreement, this Agreement shall terminate effective on the date of such withdrawal (an “Early Termination”) unless the Company and the Investor Member otherwise elect in writing. If an Early Termination occurs, then Developer shall not be entitled to any payments of the Development Fee and the Developer shall forfeit as additional damages any Development Fee which has not been paid as of the date of such Early Termination. If an Early Termination occurs, the Developer shall remain liable for all damages, liabilities and claims (“Claims”) arising under or in connection with this Agreement which are based on acts or omissions prior to the date of such termination, including Claims which do not become manifest until after the date of such termination. The Developer shall have no right to terminate this Agreement without the Consent of the Company and the Investor Member, which Consent may be withheld in the sole discretion of any party. The Developer shall have no right to terminate this Agreement without the Consent of the Company and the Investor Member and both Saigebrook and O-SDA, which Consent may be withheld in the sole discretion of any party.

10. **No Lien Filings.** The Developer hereby represents, warrants and covenants that neither it nor its Affiliates shall file a mechanic’s lien, materialmen’s lien or other lien against the Apartment Complex or any other assets of the Company, and hereby waives and releases any right it may have or may hereafter acquire to file such a lien against the Apartment Complex or any other assets of the Company. The Developer shall indemnify and hold harmless the
11. **Separability of Provisions.** Each provision of this Agreement shall be considered separable and if for any reason any provision which is not essential to the effectuation of the basic purposes of this Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement which are valid.

12. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

13. **Waiver of Jury Trial.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS DEVELOPMENT AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERE TO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

14. **No Continuing Waiver.** The waiver by any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

15. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of Texas.

16. **Third Party Beneficiary.** The Investor Member is a third party beneficiary of this Agreement, and the Company and the Developer hereby expressly agree that any amendment to this Agreement shall not be effective unless and until same is Consented to by the Investor Member.

*(SIGNATURES APPEAR ON THE FOLLOWING PAGE)*
IN WITNESS WHEREOF, the parties have caused this Development Agreement to be duly executed as of the date first written above.

COMPANY:

MISTLETOE STATION, LLC, a Texas limited liability company

By: Saigebrook Mistletoe, LLC, a Texas limited liability company, its managing member

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: [Signature]
Name: Lisa M. Stephens
Its: Manager

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: [Signature]
Name: Lisa M. Stephens
Its: Manager

O-SDA INDUSTRIES, LLC, a Texas limited liability company

By: [Signature]
Name: Megan D. Lasch
Its: Managing Member
IN WITNESS WHEREOF, the parties have caused this Development Agreement to be duly executed as of the date first written above.

COMPANY:

MISTLETOE STATION, LLC, a Texas limited liability company

By: Saigebrook Mistletoe, LLC, a Texas limited liability company, its managing member

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: __________________________
Name: Lisa M. Stephens
Its: Manager

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: __________________________
Name: Lisa M. Stephens
Its: Manager

O-SDA INDUSTRIES, LLC, a Texas limited liability company

By: __________________________
Name: Megan D. Lasch
Its: Managing Member
EXHIBIT F

GUARANTY AGREEMENT
GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (this “Guaranty”), made as of August 30, 2018, is by SAIGEBROOK MISTLETOE, LLC, a Texas limited liability company (“Co-Managing Member”), O-SDA MISTLETOE, LLC, a Texas limited liability company (“Administrative Member”), SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook Development”), O-SDA INDUSTRIES, LLC, a Texas limited liability company (“O-SDA Developer”), Lisa M. Stephens, individually and Megan D. Lasch, individually, (jointly and severally Co-Managing Member, Administrative Member, Saigebrook Development, O-SDA Developer, Lisa M. Stephens and Megan D. Lasch are individually and collectively referred to herein as the “Guarantors”), each of whose address is set forth below, for the benefit of HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436.

A. Co-Managing Member and Administrative Member are the managing members of Mistletoe Station, LLC, a Texas limited liability company (the “Company”).

B. The Company is governed by its First Amended and Restated Operating Agreement dated as of August 30, 2018 (the “Operating Agreement”). Capitalized terms used herein and not defined shall have the meanings given them in the Operating Agreement.

C. The Developer and the Company have entered into that certain Development Agreement dated as of the date hereof (the “Development Agreement”).

D. The Investor Member has been requested to enter into the Operating Agreement and the Company with the Managing Member.

E. Each Guarantor is, or is an Affiliate of, the Managing Member and/or the Developer, and believes it shall substantially benefit, directly or indirectly, from the Investor Member entering into the Operating Agreement and the Company with the Managing Member.

F. As a condition to entering into the Operating Agreement and the Company, the Investor Member has required the Guarantors to jointly and severally guarantee to the Investor Member certain of the obligations of the Managing Member under the Operating Agreement, of the Developer under the Development Agreement and certain other items as herein set forth.

NOW, THEREFORE, in order to induce the Investor Member to enter into the Operating Agreement and the Company in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Guarantor, in his, her or its respective individual and/or fiduciary capacity, hereby jointly and severally covenants and agrees as follows:

1. Each Guarantor irrevocably and unconditionally fully guarantees the due, prompt and complete performance of each and every one of the following obligations: (a) the payment and performance by the Managing Member of each and every obligation of the Managing Member due under Sections 4.2(d), 5.2(i), 5.2(j), 5.2(cc), 5.8(a), 5.8(c), 5.10(b), 7.2(b)(iv), 8.1, 8.2, 8.3 and 8.4 of the Operating Agreement; (b) the payment and performance by the Managing Member of each and every obligation of the Managing Member under the Managing Member
Pledge; and (c) the due, prompt and complete payment of all costs and expenses (including, without limitation, reasonable attorneys’ fees) incurred by the Investor Member in collection of the enforcement of this Guaranty against the Guarantors (the obligations described in this Paragraph 1 are hereinafter collectively referred to as the “Indebtedness”).

2. Each Guarantor hereby grants to the Investor Member, in the sole discretion of the Investor Member, and without notice to any Guarantor, the power and authority to deal in any lawful manner with the Indebtedness and the other obligations guaranteed hereby, and without limiting the generality of the foregoing, further power and authority, from time to time:

(a) to renew, compromise, extend, accelerate or otherwise change the time or place of payment of or to otherwise change the terms of the Indebtedness;

(b) to modify or to waive any of the terms of the Operating Agreement, the Development Agreement and/or any other obligations guaranteed hereby;

(c) to take and hold security for the payment of the Indebtedness and/or performance of the other obligations guaranteed hereby and to impair, exhaust, exchange, enforce, waive or release any such security;

(d) to direct the order or manner of sale of any such security as the Investor Member, in its sole discretion, may determine;

(e) to grant any indulgence, forbearance or waiver with respect to the Indebtedness or any of the other obligations guaranteed hereby;

(f) to release or waive rights against any one or more Guarantors without releasing or waiving any rights against any other Guarantor; and/or

(g) to agree to any valuation by the Investor Member of any collateral securing payment of any of the Indebtedness in any proceedings under the United States Bankruptcy Code concerning the Investor Member or the Guarantors.

The liability of each Guarantor hereunder shall not be affected, impaired or reduced in any way by any action taken by the Investor Member under the foregoing provisions or any other provision hereof, or by any delay, failure or refusal of the Investor Member to exercise any right or remedy either may have against the Managing Member or any other person, firm or corporation, including other guarantors, if any, liable for all or any part of the Indebtedness or any of the other obligations guaranteed hereby.

3. Prior to Rental Achievement, the Guarantors will maintain collectively at least $1,000,000 in Liquid Assets. From the date of Rental Achievement through and including the Operating Deficit Guarantee Period, the Guarantors will maintain collectively at least $750,000 in Liquid Assets. After the expiration of the Operating Deficit Guarantee Period, the Guarantors will maintain collectively at least $500,000 in Liquid Assets; provided, that the requirements of this Section 3 shall be deemed satisfied in accordance with the Backstop Guaranty Agreement, so long as such agreement is in full force and effect regardless of whether Hunt is in default.
thereunder. The Managing Member shall Notify the Investor Member whenever the requirements of this Section 3 are not satisfied.

4. On or before ninety (90) days after the expiration of each fiscal year of each Guarantor, such Guarantor shall send to the Investor Member copies of the balance sheet and income statement of such Guarantor for such fiscal year.

5. The Guarantors agree that if any of the Indebtedness is not fully and timely paid or performed according to the tenor thereof, whether by acceleration or otherwise, the Guarantors shall immediately upon receipt of written demand therefor from the Investor Member pay all of the Indebtedness hereby guaranteed in like manner as if the Indebtedness constituted the direct and primary obligation of the Guarantors. The Guarantors shall not have any right of subrogation as a result of any payment hereunder or any other payment made by the Guarantors or a Guarantor on account of the Indebtedness, and each Guarantor hereby waives, releases and relinquishes any claim based on any right of subrogation, any claim for unjust enrichment or any other theory that would entitle a Guarantor to a claim against the Managing Member based on any payment made hereunder or otherwise on account of the Indebtedness until the Indebtedness is paid in full.

6. This Guaranty and the obligations of the Guarantors hereunder shall be continuing and irrevocable until the Indebtedness has been satisfied in full. Notwithstanding the foregoing or anything else set forth herein, and in addition thereto, if at any time all or any part of any payment received by the Investor Member from a Guarantor under or with respect to this Guaranty is or must be rescinded or returned for any reason whatsoever (including, without limitation, determination that said payment was a voidable preference or fraudulent transfer under insolvency, bankruptcy or reorganization laws), then Guarantors’ obligations hereunder shall, to the extent of the payment rescinded or returned, be deemed to have continued in existence, notwithstanding such previous receipt of payment by the Investor Member, and Guarantors’ obligations hereunder shall continue to be effective or be reinstated as to such payment, all as though such previous payment to the Investor Member had never been made. The provisions of the foregoing sentence shall survive termination of this Guaranty, and shall remain a valid and binding obligation of each Guarantor until satisfied.

7. Each Guarantor hereby waives notice of acceptance of this Guaranty by the Investor Member, and this Guaranty shall immediately be binding upon each Guarantor. Any Guarantor who executes this Agreement shall be fully bound hereby regardless of whether or not any other Guarantor subsequently executes this Guaranty.

8. Each Guarantor hereby waives and agrees not to assert or take advantage of:

(a) any right to require the Managing Member or the Company to proceed against any other person or to proceed against or exhaust any security held by the Managing Member or the Company at any time or to pursue any other remedy in the Managing Member’s or Company’s power before proceeding against any one or more Guarantors hereunder;

(b) any right to require the Investor Member to proceed against the Managing Member or any other person or to proceed against or exhaust any security held by the Investor
Member at any time or to pursue any other remedy in the power of the Investor Member before proceeding against any one or more Guarantors hereunder;

(c) the defense of the statute of limitations in any action hereunder or in any action for the collection of the Indebtedness or the performance of any other obligations guaranteed hereby;

(d) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of the Investor Member to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(e) demand, presentment for payment, notice of non-payment, protest, notice of protest and all other notices of any kind, including, without limitation, notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of the Investor Member or any endorser or creditor of either the Investor Member or any Guarantor or on the part of any other person whomsoever under this or any other instrument in connection with any obligation or evidence of indebtedness held by the Investor Member or in connection with the Indebtedness;

(f) any defense based upon an election of remedies by the Investor Member, and until the Indebtedness is paid in full, the right of Guarantors to proceed against the Investor Member for reimbursement, or both, or if contrary to the express agreement of the parties;

(g) any election by the Investor Member to exercise any right or remedy it may have against the Company or any security held by the Investor Member, including, without limitation, the right to foreclose upon any such security by judicial or non-judicial sale, without affecting or impairing in any way the liability of Guarantors hereunder, except to the extent the Indebtedness has been paid, and until the Indebtedness is paid in full, any default arising out of the absence, impairment or loss of any right of reimbursement, contribution or subrogation or any other right or remedy of the Guarantors against the Company or any such security whether resulting from such election by the Investor Member or otherwise. The Guarantors understand that if all or any part of the liability of the Company to the Investor Member for the Indebtedness is secured by real property the Guarantors shall be liable for the full amount of their liability hereunder, notwithstanding foreclosure on such real property by trustee sale or any other reason impairing the Guarantors’ right to proceed against the Company; and

(h) all duty or obligation on the part of the Investor Member to perfect, protect, not impair, retain or enforce any security for the payment of the Indebtedness or performance of any of the other obligations guaranteed hereby.

9. Until the Indebtedness is paid in full, all existing and future indebtedness of the Managing Member to the Guarantors or to any person controlled or owned in whole or in part by any of the Guarantors and, the right of the Guarantors to withdraw or to cause or permit any person controlled or owned in whole or in part by any of the Guarantors to withdraw any capital invested by any Guarantor or such person in the Managing Member, is hereby subordinated to the Indebtedness at any time after a default exists under the Indebtedness. Furthermore, at any
time after a default exists under the Indebtedness, without the prior written Consent of the Investor Member, such subordinated indebtedness shall not be paid and such capital shall not be withdrawn in whole or in part nor shall any Guarantor accept or cause or permit any person controlled or owned in whole or in part by a Guarantor to accept any payment of or on account of any such subordinated indebtedness or as a withdrawal of capital. Any payment received by the Guarantors in violation of this Guaranty shall be received by the person to whom paid in trust for the Investor Member, and Guarantors shall cause the same to be paid to the Investor Member immediately on account of the Indebtedness. No such payment shall reduce or affect in any manner the liability of the Guarantors under this Guaranty.

10. The amount of each Guarantor’s liability and all rights, powers and remedies of the Investor Member hereunder shall be cumulative and not alternative and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to the Investor Member under the Operating Agreement, any document or agreement relating in any way to the terms and provisions thereof or otherwise by law. With respect to each Guarantor, this Guaranty is in addition to and exclusive of the guaranty of any other Guarantor executing this Guaranty or any other person or entity which guarantees the Indebtedness and/or the other obligations guaranteed hereby.

11. The liability of each Guarantor under this Guaranty shall be an absolute, direct, immediate and unconditional guarantee of payment and not of collectability. The obligations of each Guarantor hereunder are independent of the obligations of the Managing Member or any other party which may be initially or otherwise responsible for performance or payment of the obligations hereunder guaranteed and each other Guarantor, and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted against any one or more Guarantors, whether or not the Managing Member is joined therein or a separate action or actions are brought against the Managing Member. The Investor Member may maintain successive actions for other defaults. The Investor Member’s rights hereunder shall not be exhausted by its exercise of any of their rights or remedies or by any such action or by any number of successive actions until and unless the Indebtedness has been paid in full.

12. The Investor Member, in its sole discretion, may at any time enter into agreements with the Managing Member or with any other person to amend, modify or change the Operating Agreement or any document or agreement relating in any way to the terms and provisions thereof, or may at any time waive or release any provision or provisions thereof and, with reference thereto, may make and enter into all such agreements as the Investor Member may deem proper or desirable, without any notice or further assent from any Guarantor and without in any manner impairing or affecting this Guaranty or any of the rights of the Investor Member or each Guarantor’s obligations hereunder.

13. The Guarantors hereby agree to pay to the Investor Member, upon demand, reasonable attorneys’ fees and all costs and other expenses which the Investor Member expends or incurs in collecting or compromising the Indebtedness or in enforcing this Guaranty against each Guarantor whether or not suit is filed, including, without limitation, all costs, attorneys’ fees and expenses incurred by the Investor Member in connection with any insolvency, bankruptcy, reorganization, arrangement or other similar proceedings involving a Guarantor which in any way affect the exercise by the Investor Member of its rights and remedies hereunder. Any and
all such costs, attorneys’ fees and expenses not so paid shall bear interest at an annual interest rate equal to the lesser of (i) 18%, or (ii) the highest rate permitted by applicable law, from the date incurred by the Investor Member until paid by the Guarantors.

14. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

15. No provision of this Guaranty or right of the Investor Member hereunder can be waived nor can any Guarantor be released from such Guarantor’s obligations hereunder except by a writing duly executed by the Investor Member. This Guaranty may not be modified, amended, revised, revoked, terminated, changed or varied in any way whatsoever except by the express terms of a writing duly executed by the Investor Member.

16. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The word “person” as used herein shall include any individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever.

17. If any or all of the Indebtedness is assigned by the Investor Member, this Guaranty shall automatically be assigned therewith in whole or in part, as applicable, without the need of any express assignment and when so assigned, each Guarantor shall be bound as set forth herein to the assignee(s) without in any manner affecting such Guarantor’s liability hereunder for any part of the Indebtedness retained by the Investor Member.

18. Each Guarantor is jointly and severally liable with each other Guarantor.

19. Co-Managing Member’s Employer Identification Number is 45-3062708. Administrative Member’s Employer Identification Number is 80-0641068. Saigebrook Development’s Employer Identification Number is 45-3062708. O-SDA Developer’s Employer Identification Number is 80-0641068. Lisa M. Stephens’ and Megan D. Lasch’s Social Security Numbers have been provided to the Investor Member.

20. This Guaranty shall inure to the benefit of and bind the heirs, legal representatives, administrators, executors, successors and assigns of the Investor Member and Guarantors.

21. This Guaranty shall be governed by and construed in accordance with the laws of the State of Texas without regard to principles of conflicts of law, except to the extent that any of such laws may now or hereafter be preempted by Federal law, in which case, such Federal law shall so govern and be controlling. In any action brought under or arising out of this Guaranty, each Guarantor hereby consents to the jurisdiction of any competent court within the State of Texas and consents to service of process by any means authorized by the laws of such state. Except as provided in any other written agreement now or at any time hereafter in force between the Investor Member and any Guarantor, this Guaranty shall constitute the entire agreement of Guarantors with the Investor Member with respect to the subject matter hereof, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon the Investor Member or any Guarantor unless expressed herein.
22. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by depositing same with Federal Express for next business day delivery or by depositing same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

**Investor Member:**
HCP-ILP, LLC
15910 Ventura Boulevard, Suite 1100
Encino, California 91436
Attention: Jeffrey N. Weiss

**Guarantors:**
Saigebrook Mistletoe, LLC
220 Adams Drive Ste. 280 #138
Weatherford, Texas 76086
Attention: Lisa Stephens

O-SDA Mistletoe, LLC
5714 Sam Houston Circle
Austin, Texas 78731
Attention: Megan D. Lasch

Saigebrook Development, LLC
220 Adams Drive Ste. 280 #138
Weatherford, Texas 76086
Attention: Lisa Stephens

O-SDA Industries, LLC
5714 Sam Houston Circle
Austin, Texas 78731
Attention: Megan D. Lasch

Lisa M. Stephens
689 FM 3028
Millsap, Texas 76066

Megan D. Lasch
5714 Sam Houston Circle
Austin, Texas 78731

All notices, demands and requests shall be effective upon such personal delivery or upon being deposited with Federal Express or in the United States mail as required above. However, with respect to notices, demands or requests so deposited with Federal Express or in the United States mail, the time period in which a response to any such notice, demand or request must be given shall commence to run from the next business day following any such deposit with Federal Express or, in the case of a deposit in the United States mail as provided above, the date on the return receipt of the notice, demand or request reflecting the date of delivery or rejection of the
same by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto at least 30 days’ written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

23. Each Guarantor hereby agrees that this Guaranty, the Indebtedness and all other obligations guaranteed hereby shall remain in full force and effect at all times hereinafter until paid and/or performed in full notwithstanding any action or undertakings by, or against, the Investor Member, any Guarantor, and/or any partner and/or member in the Investor Member in any proceeding in the United States Bankruptcy Court, including, without limitation, any proceeding relating to valuation of collateral, election or imposition of secured or unsecured claim status upon claims by the Investor Member pursuant to any Chapter of the Bankruptcy Code or the Rules of Bankruptcy Procedure as same may be applicable from time to time.

24. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS GUARANTY, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS GUARANTY OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

25. Any married person who signs this Guaranty hereby agrees that recourse may be had against his or her separate property for all of his or her obligations.

26. This Guaranty may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, with the same effect as if all parties hereto had signed the same signature page. Any signature page of this Guaranty may be detached from any counterpart of this Guaranty without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Guaranty identical in form hereto but having attached to it one or more additional signature pages. Execution by any Guarantor shall bind such Guarantor regardless of whether any one or more other Guarantors execute this Guaranty.
(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

GUARANTORS:

SAIGEBROOK MISTLETOE, LLC, a Texas limited liability company

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: 
Name: Lisa M. Stephens
Its: Manager

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: 
Name: Lisa M. Stephens
Its: Manager

Lisa M. Stephens, an individual
STATE OF TEXAS  )
COUNTY OF Tarrant  ) ss.

The foregoing instrument was acknowledged before me this ___ day of August, 2018, by Lisa M. Stephens, as manager of Saigebrook Development, LLC, managing member of Saigebrook Mistletoe, LLC.

WITNESS my hand and official seal.

My commission expires:

[Signature]
Notary Public

STATE OF TEXAS  )
COUNTY OF Tarrant  ) ss.

The foregoing instrument was acknowledged before me this ___ day of August, 2018, by Lisa M. Stephens, as manager of Saigebrook Development, LLC.

Witness my hand and notarial seal.

My commission expires:

[Signature]
Notary Public

STATE OF TEXAS  )
COUNTY OF Tarrant  ) ss.

The foregoing instrument was acknowledged before me this ___ day of August, 2018, by Lisa M. Stephens, an individual.

WITNESS my hand and official seal.

My commission expires:

[Signature]
Notary Public

DMEAST #34514769 v6
O-SDA MISTLETOE, LLC, a Texas limited liability company

By: O-SDA Industries, LLC, a Texas limited liability company, its sole member

By: ____________________________
Name: Megan D. Lasch
Its: Managing Member

O-SDA INDUSTRIES, LLC, a Texas limited liability company

By: ____________________________
Name: Megan D. Lasch
Its: Managing Member

Megan D. Lasch, an individual
STATE OF TEXAS  

)  

) ss.

COUNTY OF  

)  

The foregoing instrument was acknowledged before me this 21st day of August, 2018, by Megan D. Lasch, as managing member of O-SDA Industries, LLC.

WITNESS my hand and official seal.

My commission expires:

Notary Public

STATE OF TEXAS  

)  

) ss.

COUNTY OF  

)  

The foregoing instrument was acknowledged before me this 21st day of August, 2018, by Megan D. Lasch, as managing member of O-SDA Industries, LLC, sole member of O-SDA Mistletoe, LLC.

WITNESS my hand and official seal.

My commission expires:

Notary Public

STATE OF TEXAS  

)  

) ss.

COUNTY OF  

)  

The foregoing instrument was acknowledged before me this 21st day of August, 2018, by Megan D. Lasch.

WITNESS my hand and official seal.

My commission expires:

Notary Public
SPOUSAL CONSENT TO GUARANTY

I acknowledge that I am the spouse of Lisa M. Stephens, a guarantor who signed that certain Guaranty Agreement (the "Guaranty Agreement"), dated as of August __, 2018 for the benefit of HCP-ILP, LLC, a Nevada limited liability company. I acknowledge that I have read the Guaranty Agreement and know its contents. I am aware that the Guaranty Agreement may affect community property, and I hereby consent to the terms of the Guaranty Agreement and agreed to be bound by the terms thereof. I hereby waive any right that I may have to set aside the Guaranty Agreement.

Dated: As of August 30, 2018

[Signature of Spouse]

Print Name of Spouse
SPOUSAL CONSENT TO GUARANTY

I acknowledge that I am the spouse of Megan D. Lasch, a guarantor who signed that certain Guaranty Agreement (the "Guaranty Agreement"), dated as of August ____, 2018 for the benefit of HCP-ILP, LLC, a Nevada limited liability company. I acknowledge that I have read the Guaranty Agreement and know its contents. I am aware that the Guaranty Agreement may affect community property, and I hereby consent to the terms of the Guaranty Agreement and agreed to be bound by the terms thereof. I hereby waive any right that I may have to set aside the Guaranty Agreement.

Dated: As of August 30, 2018

[Signature]
Print Name of Spouse

[Signature]
Signature of Spouse
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet
Documentation of Request for Consent Cover Page §11.9(c)(6)(A)(ii)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Mistletoe Station

ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program)

Describe and attach the request made by the Applicant or Affiliate to the Third Party asking for consent:
Letter to Hunt Capital Partners Feb. 18 requesting to add 811 units.

ATTACH PDF OF THE REQUEST FROM THE APPLICANT OR AFFILIATE TO THE THIRD PARTY BEHIND THIS PAGE.
February 18, 2019

Mr. Omar Chaudry
Director
Hunt Capital Partners
15910 Ventura Blvd., Ste. 1100
Encino, CA 91436

Re: 811 Units – Mistletoe Station

Dear Omar:

Per the 2019 TDHCA Qualified Allocation Plan, we are hereby submitting a request for your consideration to add an additional ten 811 program units at Mistletoe Station, in Fort Worth, Texas.

Under the First Amended and Restated Operating Agreement for Mistletoe Station, the Managing Member’s Authority is restricted under section 5.3 without consent of the Investor Member to modify any agreement with the Agency, to enter into any new Project Document or amend any Project Document. As such, Investor Member consent would be required to add 811 units other than those underwritten at the time of closing. Mistletoe Station already has proposed ten 811 units as was contemplated during underwriting and closing of the transaction plus 5% supportive housing units as required by the City of Fort Worth. An additional ten units would result in more than 20% of the property being 811 and/or supportive housing tenants.

A written response is required by TDHCA for submission in our 2019 applications. If you have any questions about this request, you may reach me at 352-213-8700.

Sincerely,

Lisa M. Stephens
President
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet
Documentation of Request for Consent Cover Page §11.9(c)(6)(A)(iii)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name: Mistletoe Station

iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party that they are denying an Existing Development from participation).

Describe and attach the response from the Third Party that was received by the Applicant or Owner that reflects their decision not to provide the requested consent:
Letter from Hunt Capital Partners denying the request to add 811 units.

ATTACH PDF OF THE RESPONSE FROM THE THIRD PARTY THAT REFLECTS THEIR DECISION TO DENY THE REQUESTED CONSENT BEHIND THIS PAGE.
MEMORANDUM

February 21, 2019

Texas Department of Community Affairs (TDHCA)
Attn: Spencer Duran, Section 811 PRAC Program Manager
221 E. 11th Street
Austin, TX 78701

RE:    #17259 Mistletoe Station – additional 811 units

Mr. Duran:

As the limited partner in Mistletoe Station, LLC, we have reviewed your request to enter into a Section 811 contract to provide additional Section 811 units in the Mistletoe Station project in Fort Worth. Given that Mistletoe Station was underwritten and closed without contemplation of additional Section 811 units and the impact of adding units was not evaluated prior to closing, HCP cannot approve the addition of Section 811 units for this property at this time.

Should you need any further assistance, please feel free to contact me with any questions at (972) 803-3416 or via email at omar.chaudhry@huntcompanies.com.

Sincerely,

[Signature]

Director, Acquisitions
Hunt Capital Partners
Section 811 Project Rental Assistance (“PRA”) Program Supplement Packet

Legal Right to Withhold Cover Page §11.9(c)(6)(A)(i)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Mistletoe Station

(i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement)

Describe the specific legally enforceable agreement being attached: Credit Support and Funding Agreement (CS&FA) and Construction Deed of Trust, Absolute Assignment of Rents, Security Agreement and Financing Statement (DOT)

Provide the name of the Third Party: JP Morgan Chase Bank, N.A.

List the specific citation in the agreement that clearly denotes the Third Party has a legal right to withhold consent: CS&FA: Section 5.1 Negative Covenants - para f DOT: Section 2 Mortgagor’s Representations and Agreements - para e, Section 6 Events of Default - p ara e

List the page number in the agreement that clearly denotes the Third Party has a legal right to withhold consent: CS&FA: Pg 59 - 61 and definitions on page 6, 15 & 19 DOT: 7 & 15 and definitions on page 1, 2 & 5

ATTACH PDF OF THE LEGALLY ENFORCEABLE AGREEMENT BEHIND THIS PAGE.
CREDIT SUPPORT AND FUNDING AGREEMENT

BY

AND

BETWEEN

MISTLETOE STATION, LLC
as Borrower

AND

JPMORGAN CHASE BANK, N.A.
as Bank

DATED AUGUST 30, 2018
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CREDIT SUPPORT AND FUNDING AGREEMENT

This Credit Support and Funding Agreement (this "Agreement") is dated as of August 30, 2018, by and between MISTLETOE STATION, LLC, a Texas limited liability company ("Borrower"), having its address at 5501-A Balcones Drive, #302, Austin, TX 78731, and JPMORGAN CHASE BANK, N.A., a national banking association ("Bank"), and having its address at 2200 Ross Avenue, 9th Floor (TX1-2951), Dallas, Texas 75201, Attention: Community Development Real Estate Group.

In consideration of the mutual covenants and agreements contained herein, and intending to be legally bound hereby, Bank and Borrower agree as follows:

I – DEFINITIONS

1.1 Definitions and Reference Terms. In addition to any other terms defined herein, the following terms shall have the meanings set forth with respect thereto:

Act: United States Housing Act of 1937, as amended from time to time, and any successor legislation.

Affiliate: Each of the following: (a) any Person which directly or indirectly Controls, is Controlled by, or is under common Control with such Person, and (b) an affiliate as determined in accordance with GAAP.

Agent to Request Disbursements: Any of the individuals listed on Exhibit "A".

Anti-Corruption Laws: All laws, rules, and regulations of any jurisdiction applicable to the Borrower and its Affiliates from time to time concerning or relating to bribery or corruption.

Appraisal or appraisal: A written statement setting forth an opinion of the Appraisal Value of the Premises that (i) has been independently and impartially prepared by a qualified appraiser directly engaged by the Bank or its agent, (ii) complies with all applicable federal and state laws and regulations dealing with appraisals or valuations of real property, and (iii) has been reviewed as to form and content and approved by the Bank, in its reasonable judgment.

Appraisal Value: The stabilized, as-completed, rent restricted for the Affordable Units (including current HUD utility allowances) value of the Premises, as reasonably determined by the Bank based on its review of the most current Appraisal obtained pursuant to Section 4.1(t) or otherwise. The Appraisal Value shall be calculated on an as-completed and stabilized basis (after taking into account any tax abatement for the Premises, the contributory value of the Low Income Housing Tax Credit allocated to the Affordable Units, and any other collateral acceptable to
Bank in Bank’s reasonable determination. In making this determination, the “value of the Low Income Housing Tax Credit” will be based on, among other factors, the total Capital Contributions made or to be made by the Investor Member pursuant to the Operating Agreement.

**Approved Leases:** A lease of individual residential units in the Improvements which satisfies the requirements of Section 4.1(a).

**Architect:** Architects Collaborative, Inc. d/b/a BGO Architects, a Texas corporation.

**Assignment of Accounts:** Assignment of Accounts (Security Agreement) of even date herewith from Borrower to Bank.

**Assignment of Management Agreement:** Assignment of Management Agreement dated of even date herewith from Borrower to Bank, and joined in by Accolade Property Management, Inc., the management company described therein.

**Authority:** The Housing Authority of the City of Fort Worth dba Fort Worth Housing Solutions, a public body corporate and politic organized under the laws of the State of Texas and a “public housing agency” as defined in the United States Housing Act of 1937 (42 U.S.C. §1401 et seq., as amended).

**Bank’s Required Completion Date:** The earliest to occur of (a) December 31, 2019 (which date may be extended by the Credit Agency as evidenced by documentation acceptable to the Bank), (b) the date the Investor Member shall require Substantial Completion (as such term is used in the Operating Agreement) as provided in the Operating Agreement, (c) the date required in the TIF Agreement for completion of the Improvements, (d) the date required for completion of the Improvements under the Subordinate Loan Documents, (e) the date required to be completed in the Tax Credit Allocation (or otherwise by the Credit Agency) for placing the Premises in Service (as such term is used by the Credit Agency in this context) in order to maintain its Low Income Housing Tax Credit, (f) the date required for completing the Improvements in the HAP Commitment, and (g) the date required for completing the Improvements in the TIF Agreement.

**Bonded or bonded:** A lien bonded by a surety acceptable to Bank in a manner which precludes the holder of that lien from having any recourse against the Premises or Borrower for payment of any debt or other obligation.

**Budget:** The budget prepared by Borrower, and approved by Bank, setting forth in detail all direct and indirect costs for the acquisition
and construction of the Improvements and the City Infrastructure Improvements (subject to reallocations permitted by Section 2.8), as provided for in Exhibit "B" attached hereto. The Budget shall in any event include a 5% contingency (based on the total amount of the Construction Contract, including profit, overhead, and general conditions).

**Business Day:** A day that is not a Saturday, Sunday, or any day on which national banks in New York City or Houston, Texas are authorized or required by law to remain closed.

**Capital Contribution Account:** An interest-bearing account (Account No. 352851494) in the name of Borrower, located at Bank to be used for deposit of the proceeds of certain Capital Contributions which will in turn be disbursed by Bank for deposit into the Construction Account to pay for budgeted items.

**Capital Contributions:** The Capital Contributions to be made by the Investor Member to Borrower described in Exhibit "H", and as more particularly provided in the Operating Agreement (subject to the terms and conditions contained therein), as may be adjusted for "tax credit adjusters". References to specific Capital Contributions shall be to the associated installment of the Capital Contributions listed in Exhibit "H" (for example, the second Capital Contribution will be to the second Capital Contribution listed in Exhibit "H").

**CFA:** Collectively, each Community Facilities Agreement, whether one or more, between the City and the Borrower relating to the Borrower's development of the City Infrastructure Improvements.

**City:** City of Fort Worth, a Texas municipal corporation.

**City HOME Loan:** A third lien subordinate construction and permanent loan to be made by the City to Borrower which shall not accrue interest during its construction term and which shall accrue simple interest at the rate of the lesser of 1% or the long-term applicable federal rate ("AFR"), per annum, during its permanent term, having a maturity even with the date of the expiration of the twenty year affordability period as described in the HOME Contract, amortization during the permanent term of 35 years, and in an amount equal to $1,056,000.00 (which shall be otherwise on terms acceptable to Bank).

**City HOME Loan Documents:** All contracts, notes, mortgages, any other agreements, instruments and documents relating to or securing the City HOME Loan, including, without limitation, the City HOME Contract from the City to Borrower relating to the City HOME Loan (as may be
amended), and each note, mortgage, and document evidencing, pertaining to, or securing the City HOME Loan.

**City Infrastructure Improvements:** The following infrastructure improvements to be made for the benefit of the Premises pursuant to the City Infrastructure Improvements Construction Contract: (a) the storm sewer relocation and replacement north and south of Mistletoe Boulevard, (b) water line removal and replacement, and (c) residential street improvements.

**City Infrastructure Improvements Construction Contract:** Collectively, (a) a Section 00 52 43 Agreement between Borrower and Maker Bros, LLC with respect to the portion of the City Infrastructure Improvements which were not publicly bid (the "**Maker Bros Infrastructure Contract**"), and (b) a contract between Borrower and Rumsey Construction LLC with respect to the portion of the City Infrastructure Improvements which were publicly bid (the "**Rumsey Infrastructure Contract**"). The form of each of the foregoing contracts shall be on the form mandated by the City.

**City Infrastructure Improvements Escrow Accounts:** Collectively, the Maker Bros Infrastructure Escrow Account and the Rumsey Infrastructure Escrow Account. Amounts on deposit in each City Infrastructure Improvements Escrow Account are Security Funds under and as provided for in each City Infrastructure Improvements Escrow Agreement. Notwithstanding anything in this Agreement, the Construction Note, or any other Loan Document to the contrary, Bank shall have no lien, right of setoff or offset, or other claim against the City Infrastructure Improvements Escrow Accounts (or funds deposited therein, except to reimburse Bank in the event Bank performs any of Borrower's obligations with respect to the City Infrastructure Improvements) until the City Infrastructure Improvements Escrow Agreement terminates in connection with the completion of the City Infrastructure Improvements, except as a collateral assignee of the CFA.

**City Infrastructure Improvements Escrow Agreement:** Escrow Agreement (whether one or more) entered into among the City, the Borrower, and the Bank in order to provide a mechanism for paying for the City Infrastructure Improvements.

**City Infrastructure Improvements Escrow Cost Overrun Portion:** That portion of the Security Funds required to be deposited in the City Infrastructure Improvements Escrow Accounts under the terms of each City Infrastructure Improvements Escrow Agreement which is in excess of the estimated cost of constructing the applicable City Infrastructure Improvements (each City Infrastructure Improvements
Escrow Agreement requires a deposit of Security Funds in the amount of 125% of the estimated cost of constructing the related City Infrastructure Improvements under the applicable CFA; the portion of the Security Funds in excess of 100% of the estimated cost of constructing the related City Infrastructure Improvements under the applicable CFA is the City Infrastructure Improvements Escrow Cost Overrun Portion).

Closing Date: The date of this Agreement.

Collateral Assignment of Account: Collateral Assignment of Account of even date herewith from Hunt to Bank, which is collateral for the payment and performance of the Limited Guaranty.

Commencement Deadline: Thirty (30) days after the Closing Date for the City Infrastructure Improvements and one hundred twenty days (120) after the Closing Date for the Improvements (or the date required in the TIF Agreement, if earlier).

Construction Account: A non-interest bearing account of Borrower located at Bank (Account No. 273267606) to be used for the deposit by Bank in accordance with the terms of this Agreement, of the proceeds of the Construction Note, proceeds of the Subordinate Loans, and disbursements from the Capital Contribution Account.

Construction Commitment: Any written or oral agreement or commitment issued or made by Bank to Borrower before the Closing Date with respect to the terms and manner upon which Borrower will make the Construction Loan (including the term sheet provided for discussion purposes dated on or about April 12, 2018 (last updated April 16, 2018), and all subsequent proposals, term sheets, and amendments), but only if accepted by Borrower.

Construction Contract: Collectively, the Improvements Contract and the Improvements Primary Subcontract, with respect to the Improvements, and the City Infrastructure Improvements Construction Contract, with respect to the City Infrastructure Improvements, and otherwise shall have the meaning assigned to that term in Section 4.3.

Construction Loan: The loan in the aggregate principal amount of up to $22,282,000.00, for the development of the Improvements and the City Infrastructure Improvements in accordance with this Agreement.

Construction Loan Maturity Date: The earlier to occur of (i) twenty-four (24) months after the Closing Date (as may be extended in accordance with Section 2.4), (ii) the date of the expiration, termination, or cancellation of the Permanent Mortgage Loan Commitment, or (iii) an Event of Default.
**Construction Mortgage:** The Construction Deed of Trust, Absolute Assignment of Rents, Security Agreement and Financing Statement, of even date herewith, from Borrower to Randall B. Durant, Trustee, covering, among other things, the Land, the Improvements and the City Infrastructure Improvements, and all amendments, supplements, restatements, renewals, and extensions thereof.

**Construction Note:** The Advance Promissory Note, of even date herewith, in the maximum amount of $22,282,000.00, executed by Borrower and made payable to the order of Bank, and all renewals, extensions, modifications, increases, restatements, replacements, and rearrangements thereof.

**Contractor:** FWHFC and each other contractor, whether one or more, engaged by Borrower and approved in writing by Bank, to construct the Improvements (it being agreed that Maker Bros, LLC will be the primary subcontractor for the construction of the Improvements and in such role, will be treated as Contractor for purposes of this Agreement). If Maker Bros, LLC is not the primary subcontractor, Bank shall approve any other primary subcontractor.

**Control:** The possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" shall have meanings correlative thereto.

**Credit Agency:** Texas Department of Housing and Community Affairs, together with its successors and assigns in such capacity.

**Debt:** (a) All items of indebtedness or liability (other than the debt of an Affiliate, capital, surplus, deferred credits and reserves, as such) which in accordance with GAAP would be included in determining total liabilities as shown on the liability side of a balance sheet as of the date as of which indebtedness is to be determined, (b) indebtedness or other liabilities secured by any mortgage, security agreement, pledge, or lien existing on or encumbering property owned by Borrower, whether or not the indebtedness or other liabilities secured thereby shall have been assumed by Borrower, (c) all liabilities under capitalized leases; (d) all indebtedness of Borrower to Bank under any interest rate swap agreement, interest rate agreement, and interest rate collar agreement; and (e) all indebtedness of any Person (i) which Borrower has directly or indirectly guaranteed, endorsed (other than for collection or deposit in the ordinary course of business), discounted with recourse, agreed (contingently or otherwise) to purchase or repurchase or otherwise acquire, (ii) in respect of which Borrower has agreed to supply or advance funds (whether by way of loan,
purchase of securities or capital contribution, through a commitment to pay for property or services regardless of the nondelivery of such property or the nonfurnishing of such services or otherwise), or (iii) in respect of which Borrower has otherwise become directly or indirectly liable, contingently or otherwise, whether now existing or hereafter arising.

**Default:** Any event or circumstance which with the passage of time, lapse, or both, would constitute an Event of Default.

**Disqualified Person:** Any Person that is (a) the subject of any current or prior debarment by HUD or any state housing agency (unless such Person shall have been fully reinstated), (b) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury and/or any other similar list maintained by the Office of Foreign Assets Control pursuant to any authorizing statute, Executive Order or regulation, (c) a "Designated National" as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515, or a Person designated under Section 1(b), (c) or (d) of Executive Order No. 13224 (September 23, 2001) issued by the President of the United States, or any related enabling legislation or other similar Executive Order.

**Effective Gross Income:** Gross potential rent and other income collected from the residential units less a vacancy rate. For Affordable Units, Bank will underwrite gross potential rent at the lower of restricted, actual or market rent levels (as reasonably determined by Bank based on unrestricted rents at comparable properties in the same geographic region). Market Rate Units will be underwritten at the lower of market or actual rent levels. Gross potential rent will be reduced by any current, existing or future tenant rent concessions. Other income shall be recurring on a stabilized basis including income collected from administrative fees, application fees, pest control, insufficient funds charges, cleaning/damage charges, vending revenue, reletting fees, cable televisions and internet providers, storage, carports, garage, parking, laundry, pet and late fees as determined by Bank in its reasonable discretion, as well as proceeds from rental interruption insurance. Other income shall not include interest income, commercial income, tenant deposits and other non-residential related income. Vacancy shall be the greater of 7% or actual or average market vacancy for comparable properties as determined by Bank in its reasonable discretion. A collection loss estimate will be added to the vacancy percentage after Bank review of the Premises’ monthly cash operating statements, monthly bank statements and current aged receivables report.

**Eligible Stocks:** Any common or preferred stock which (i) is not subject to statutory or contractual restrictions on sales, (ii) is traded on a
U.S. national stock exchange or included in the National Market tier of NASDAQ and (iii) has, as of the close of the most recent trading day, a per share price of at least $15.

**Entity Guarantors:** Saigebrook Development, LLC and O-SDA Industries, LLC.

**Environmental Indemnity Agreement:** Environmental Indemnity Agreement of even date herewith from Borrower and each Guarantor to Bank.

**Event of Default:** Any of the events specified in Section 7.1 of this Agreement, provided that any applicable requirements specifically provided for in Section 7.1 for notice, lapse of time, grace, cure, or otherwise have been satisfied.

**Excusable Delays:** Unusually adverse weather conditions which have not been taken into account in the construction schedule, fire, hurricane, tornado, flooding, wind damage, earthquake or other acts of God, shortages of labor or materials, strike, lockout, acts of public enemy, riot, or insurrection or any unforeseen circumstances or events (except financial circumstances or events or matters which may be resolved by the payment of money on commercially reasonable terms) beyond the control of Borrower, provided Borrower shall notify Bank in writing within 15 days after knowledge of such occurrence, unless the State of Texas or the area in which the Premises are located is declared by a duly authorized Governmental Authority to be under a state of emergency or a disaster area, but no Excusable Delay shall suspend or abate any obligation of Borrower or any other person to pay any money under this Agreement and the other Loan Documents.

**Financial Institution:** (a) Any national bank, banking corporation, national banking association or other banking institution, whether acting in its individual or fiduciary capacity, organized under the laws of the United States, any state, any territory or the District of Columbia, the business of which is substantially confined to banking and is supervised by the Comptroller of the Currency or a comparable state or territorial official or agency; (b) an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies and which is subject to supervision by the insurance commissioner or a similar official or agency of a state, a territory or the District of Columbia; (c) an investment company registered under the Investment Company Act of 1940 or a business development company as described in Section 2(a)(48) of that Act; (d) an employee benefit plan, including an individual retirement account, which is subject to the provisions of the Employee Retirement Income Security Act of 1974, if
the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such Act, which is either a bank, insurance company or registered investment company; or (e) institutional investors or other entities who customarily purchase commercial paper or tax-exempt securities in large denominations.

Financial Statements: The financial statements of Borrower, Contractor, and Guarantors, which have been delivered to Bank in connection with Borrower's application to Bank for the Construction Loan to be made by Bank pursuant to this Agreement.

Forward Commitment: Freddie Mac's commitment to Permanent Lender with respect to the purchase by Freddie Mac from the Permanent Lender of the Permanent Mortgage Loan pursuant to Freddie Mac's Multifamily Affordable Housing Forward Commitment.

Freddie Mac: Federal Home Loan Mortgage Corporation, a corporation organized and existing under the laws of the United States.


Funds Disbursement Agreement: The Disbursement and Rate Management Agreement of even date herewith from Borrower and agreed to by Bank.

FWHFC: Fort Worth Housing Finance Corporation.

FWHFC Local Government Loan: A second lien local government construction and permanent loan to be made by the FWHFC to Borrower accruing interest at the same rate as the Construction Loan as provided in the Construction Note, per annum, during the construction term and accruing simple interest at the fixed rate of 2% per annum during the permanent term, having a maturity even with the date that is 6 months after the maturity of the Permanent Mortgage Loan as provided in the Permanent Mortgage Loan Commitment, amortization of 35 years, and in an amount equal to $750,000.00 (which shall be otherwise on terms acceptable to Bank).

FWHFC Local Government Loan Documents: The Loan Agreement, and all notes, mortgages, any other agreements, instruments and documents relating to or securing the FWHFC Local Government Loan.

GAAP: Generally accepted accounting principles established by the Financial Accounting Standards Board or the American Institute of
Certified Public Accountants and in effect in the United States from time to
time, applied on a basis consistent with that of the preceding fiscal year of
Borrower, reflecting only such changes in accounting principles or practice
with which the independent public accountants of Borrower concur.

**Governmental Authority:** Any nation, country, commonwealth,
territory, government, state, county, parish, municipality, agency, or other
political subdivision and any entity exercising executive, legislative,
judicial, regulatory, or administrative functions of or pertaining to
government (which shall include the City, the Authority, the TIF, FWHFC,
and the Credit Agency), including, without limitation, Freddie Mac, the
City, the Treasury Department of the United States of America, and any
state agencies and Persons responsible in whole or in part for monitoring
compliance with the LURA and with environmental matters in the states in
which Borrower is located or otherwise conducting its business activities
and the United States Environmental Protection Agency.

**Governmental Permits:** All certificates, licenses, zoning
variances, permits, and no action letters from any Governmental Authority
required to evidence full compliance by Borrower, and conformance of the
construction or renovation of the Improvements and the City Infrastructure
Improvements, with all Requirements of Law applicable to the Land, the
construction of the Improvements and the City Infrastructure
Improvements to completion, and the operation of the Improvements and
the City Infrastructure Improvements.

**Guarantors:** Collectively, the Individual Guarantors, the Co-
Managing Member, and the Entity Guarantors (each as to payment and
completion).

**Guaranty:** The Guaranty of Payment and Completion, of even
date herewith (whether one or more), executed by Guarantors, as may be
restated, supplemented, affirmed, and ratified from time to time. The
Guaranty will include a guaranty of completion.

**Guide:** The Freddie Mac Multifamily Seller/Servicer Guide in its
present form and as amended, modified, supplemented, or reissued from
time to time.

**Guidelines:** Freddie Mac Multifamily Seller/Servicer Forward
Commitment Guidelines, as incorporated into the Forward Commitment,
as amended, modified, supplemented, or reissued from time to time.

**HAP Commitment:** The commitment letter dated July 30, 2018,
provided to the Borrower by the Authority to enter into the HAP Contract
after construction is completed and the units pass inspection.
HAP Contract: The Project Based Section 8 Housing Assistance Payments Contract to be entered into by the Authority and the Borrower pursuant to the HAP Commitment, which shall in any event cover 8 of the planned residential units in the Project and have an initial term of at least 20 years and all renewals and extensions thereof.

Hazardous Materials: All materials constituting "Hazardous Substances" under and as defined in the Environmental Indemnity Agreement.

HOME: The HOME Investments Partnership Program enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, and the HOME Investment Partnerships Program Final Rule, as amended.

HUD: The United States Department of Housing and Urban Development.

Hunt: Hunt Capital Partners, LLC, a Delaware limited liability company.

Hunt Backstop Guaranty: Backstop Guaranty Agreement issued on or about the date hereof by Hunt.

Improvements: The 110-unit affordable housing apartment residential rental project, to be known as Mistletoe Station consisting of one, 3-story and one, 4-story residential building, a parking lot, clubhouse, and related amenities, which will be located on the Land, and will be developed with the proceeds of the Construction Loan, the Subordinate Loans, and the Capital Contributions, and in substantial accordance with the Plans. 74 of the units will be Low Income Housing Tax Credit Units (collectively "Affordable Units"), of which 8 of the units will be set aside for households with incomes of 30% or less of area median income, 30 of the units will be set aside for households with incomes of 50% or less of area median income, and 36 of the units will be set aside for households with incomes of 60% or less of area median income. 36 of the units will be market rate units with no restrictions on the rent that may be charged or the income of the tenants renting such market rate units (the "Market Rate Units"). 8 of the units will be Section 8 Units. 11 of the units will be HOME units. 9 of the units will accessible units (6 for individuals with mobility impairments and 3 for individuals with visual or hearing impairments). 8 of the units will be permanent supportive housing units.

**Improvements Primary Subcontract:** The AIA Document A401 – 2007 Standard Form of Agreement between FWHFC and Maker Bros, LLC with respect to the Improvements.

**Individual Guarantors:** Lisa Stephens and Megan Lasch.

**Initial Capital Contribution:** The first Capital Contribution set forth in the schedule provided in Exhibit "H".

**Intercreditor Agreements:** Collectively, (a) the Intercreditor and Subordination Agreement among Bank, Borrower, and the FWHFC, outlining the relative priorities of the Construction Loan and the FWHFC Local Government Loan, and (b) the Intercreditor and Subordination Agreement among Bank, Borrower, and the City, outlining the relative priorities of the Construction Loan and the City HOME Loan.

**Internal Revenue Code:** The Internal Revenue Code of 1986, as amended; all references to a particular section of the Internal Revenue Code include (a) rulings of the Internal Revenue Service applicable to such sections and (b) final, proposed and temporary regulations issued under the Internal Revenue Code with respect to such sections, to the extent such are available to the general public.

**Investor Member:** HCP-ILP, LLC, a Nevada limited liability company, and its successors and assigns (to the extent permitted by this Agreement).

**Investor Sponsor:** Hunt Capital Partners, LLC, a Delaware limited liability company.

**Land:** Initially, a 2.842 acre tract (more or less) and then, once platted, a 2.587 acre tract (more or less) located at 1916 Mistletoe Boulevard in Fort Worth, Texas and more particularly described in Exhibit A attached to the Construction Mortgage.

**Lease Stabilization:** Such time when the Premises shall have satisfied the occupancy, debt coverage, and loan value requirements of the Permanent Mortgage Loan Commitment for the funding of the Permanent Mortgage Loan.

**Limited Guaranty:** Limited Guaranty of even date herewith executed by Hunt to Bank.

**Liquid Assets:** Shall have the meaning assigned to that term in the Operating Agreement.
Loan Documents: This Agreement, the Assignment of Management Agreement, the Construction Note, the Construction Mortgage, the Guaranty, the Limited Guaranty, the Environmental Indemnity Agreement, the Assignment of Accounts, the Funds Disbursement Agreement, the Intercreditor Agreements, the Tri-Party Agreement, the Assignment of Accounts, the Collateral Assignment of Account, and such other instruments, documents, and agreements evidencing, securing, or pertaining to the loans which have heretofore been or hereafter are from time to time executed and delivered to Bank by Borrower, or any other party pursuant to this Agreement or any Swap Agreement.

Loan to Value Ratio: The ratio expressed as a percentage of (a) the maximum commitment (as then applicable) of the Bank with respect to the Construction Loan, and to (b) the Appraisal Value.

Low-Income Housing Tax Credit: The 2017 allocation of a Low-Income Housing Tax Credit as that term is used in Section 42 of the Internal Revenue Code allocated to the Premises in the anticipated amount of $1,500,000.00 annually for 10 years (total sum of award of $15,000,000.00).

LURA: The Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits to be executed with the Credit Agency with respect to the Low Income Housing Tax Credit.

Maker Bros Infrastructure Escrow Account: The escrow account in the name of Borrower established at the Bank with an opening balance of $4,391,250.00, funded with an advance under the Construction Loan, the proceeds of which will be used to make payments owing by Borrower on the Maker Bros Infrastructure Contract.

Material Adverse Change: Any act, circumstance, or event (including, without limitation, any announcement of action) which (i) causes an Event of Default, or (ii) in any manner would reasonably be expected to be material and adverse to the financial condition or operations of Borrower or any Guarantor, or (iii) in any manner would reasonably be expected to materially and adversely affect the validity or enforceability of any Loan Document.

Maximum Rate: On any day, the maximum legal rate of interest permitted for that day by whichever of applicable federal or Texas law permits the higher interest rate, stated as a rate per annum. On each day, if any, that the Texas Finance Code, as it may from time to time be amended establishes the Maximum Rate, the Maximum Rate shall be the
weekly rate ceiling", as defined and referenced in Section 303.002 of the Texas Finance Code, after application of Section 303.009 of the Texas Finance Code, for that day. Provided, however, that to the extent permitted by applicable law, Bank reserves the right to change, from time to time by further notice and disclosure to Borrower, the ceiling on which the Maximum Rate is based under the Texas Finance Code; and, provided further, that the "highest non-usurious rate of interest permitted by applicable law" for purposes of this Agreement shall not be limited to the applicable rate ceiling under the Texas Finance Code if federal laws or other state laws now or hereafter in effect and applicable to this Agreement (and the interest contracted for, charged and collected thereunder) shall permit a higher rate of interest.

Net Operating Income: The Effective Gross Income less Operating Expenses.

Obligations: All indebtedness, obligations, and liabilities of Borrower to Bank, of every nature and description, now or hereafter existing or arising with respect to the development of the Premises or otherwise as provided in this Agreement, the Construction Note, the Construction Mortgage, or any other Loan Document (whether or not budgeted), whether such indebtedness is direct or indirect, primary or secondary, fixed or contingent, or arises out of or is evidenced by a promissory note, deed of trust, security agreement, open account, overdraft, endorsement, surety agreement, guaranty, letter of credit reimbursement obligations, letter of credit application, or otherwise, including, without limitation, all such obligations, liabilities, and indebtedness of Borrower to Bank under or in connection with the Loan Documents and any and all obligations, contingent or otherwise, whether now existing or hereafter arising of Borrower to Bank or to JPMorgan Chase & Co., or any of their subsidiaries or Affiliates or successors arising under or in connection with a Swap Agreement. Obligations shall include all renewals, extensions, and rearrangements of any of the above described obligations and indebtedness.

Operating Agreement: The First Amended and Restated Operating Agreement of Borrower which will be entered into among Saigebrook Mistletoe, LLC, as co-managing member (the "Co-Managing Member"), O-SDA Mistletoe, LLC, as administrative member, HCP SLP, LLC, as the special member, and the Investor Member, as the investor member, as the same may be amended from time to time subject to and in accordance with this Agreement.

Operating Expenses: All recurring line item expenses based on the higher of the following: originally underwritten, historical annualized expenses at the Premises, the Budget, or third party appraisal or other
current third report or information then available to Bank which can serve as a basis for the comparable) and market expense comparables (based on the most current third party appraisal or other current third party report or information then available to Bank which can serve as a basis for the comparable). However, real estate taxes will be adjusted for fully assessed actual taxes based on 100% completion of the development of the Premises. If abatement applies, taxes will be adjusted to any payment in lieu of taxes that are assessed against the Premises. Management fee shall be defined as the greater of the management fee of the existing contract in place or the then market rate for management fees in the area of the Premises. A replacement reserve of $250.00 per unit per year will be included in the Operating Expenses estimate.

**Payment and Performance Bond.** Collectively, separate payment and performance bonds providing that Maker Bros, LLC or Rumsey Construction LLC, as applicable, is bonded for payment and performance under the Improvements Primary Subcontract and the respective City Infrastructure Improvements Construction Contract, in an aggregate amount at least equal to the Improvements Primary Subcontract and the City Infrastructure Improvements Construction Contract (together with any additional bonding required by the TIF Agreement) by a surety having an AM Best rating of at least A+/XV or where an AM Best rating is unavailable, an S&P rating of at least AA (the bond shall contain a dual obligee rider naming Bank, ISAOA). Each Payment and Performance Bond is subject to counterparty approval by Bank.

**Permanent Lender:** Hunt Mortgage Partners, LLC.

**Permanent Mortgage Loan Commitment:** The Permanent Lender's commitment to Borrower, with respect to the Permanent Mortgage Loan, to provide for, among other things, (i) a permanent mortgage loan of at least $8,300,000.00, or such lesser amount as Borrower may elect and Bank may consent to (referred to herein as the "Permanent Mortgage Loan"), and (ii) the Permanent Mortgage Loan being funded upon Lease Stabilization and the satisfaction of other certain terms and conditions provided for in the Permanent Mortgage Loan Commitment.

**Permanent Supportive Housing Agreement:** Mistletoe Station Apartments Permanent Supportive Housing Agreement entered into among the City, the Borrower and the FWHFC setting forth requirements for the permanent supportive housing units in the Project.

**Permitted Encumbrances:** Shall mean all of the Permitted Encumbrances under and as defined in the Construction Mortgage, but for
Purposes of this Agreement, shall include the LURA and the Deed Restriction entered into with respect to the City HOME Loan.

Permitted Transfer: Shall have the meaning ascribed to such term in Section 5.1(l)(2). Provided, however, under no circumstances shall a Permitted Transfer be interpreted to mean, include or permit a sale, assignment or other Transfer to a Disqualified Person or to a Person which is Controlled by or in common Control with a Disqualified Person.

Person: Any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other form of entity.

Placed in Service: Shall have the meaning attributed by the Credit Agency for purposes of the Low Income Housing Tax Credit (and, in any event, shall occur no later than the date required in the Tax Credit Allocation).

Plans: The plans and specifications, relating to the Improvements and the City Infrastructure Improvements, prepared by the Architect which have been delivered to and then reviewed and approved by the Bank, the TIF (to the extent such approval is required by the TIF Agreement), FWHFC (to the extent such approval is required by the FWHFC Local Government Loan Documents), the City (to the extent such approval is required by the City HOME Loan Documents) and the Credit Agency (to the extent such approval is required by the Credit Agency), on or before the date of this Agreement, and any and all amendments thereto.

Premises: The Land, the Improvements and the City Infrastructure Improvements, and any other improvements, fixtures, and buildings currently or hereafter existing on the Land.

Publicly-Held Corporation: The corporation the outstanding voting stock of which is registered under Section 12(b) or 12(g) of the Securities and Exchange Act of 1934, as amended.

QAP: Qualified Allocation Plan for the 2017 Housing Tax Credit Program adopted by the Credit Agency (as may be amended, replaced, or superseded).

Requirements of Law: As to any Person: the certificate or articles of incorporation and by-laws, Operating Agreement, or other organizational or governing documents of such Person; all applicable requirements of the QAP, HOME, Freddie Mac, the City, the Forward Commitment, the Permanent Mortgage Loan Commitment, the Operating Agreement, and other requirements of the Credit Agency, TAC, the City,
FWHFC and the Subordinate Loan Documents, the Permanent Supportive Housing Agreement, the TIF, the LURA, the HAP Commitment and the HAP Contract (once it is executed) and any other restrictions or covenants affecting the use and development of the Premises; and any applicable law, treaty, ordinance, order, judgment, rule, decree, regulation, or determination of an arbitrator, court, or other Governmental Authority, including, without limitation, the City’s policy for the installation of community facilities dated March 2001, approved by the City Council of the City, as amended, and all other rules, decrees, judgments, regulations, orders, and requirements for permits, licenses, registrations, approvals, or authorizations (and any authoritative interpretation of any of the foregoing), in each case as such now exist or may be hereafter amended or adopted and are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject. Without limiting the generality of the foregoing, Requirements of Law shall also include, without limitation, the requirements of Section 42 of the Internal Revenue Code, any and all applicable (a) federal, state, county, and municipal laws, codes, ordinances, rules and regulations applicable to the Premises, whether currently existing or hereafter promulgated, including without limitation environmental laws, building codes, land use, and zoning codes, (b) all requirements and terms of the QAP, (c) HUD regulations and the provisions of 24 CFR Part 570, as amended from time to time and all other applicable laws and regulations relating to the City HOME Loan (including those listed in the HOME Contract), (d) Section 504 of the Rehabilitation Act of 1973, and (e) federal regulations and policies issued pursuant to these regulations, including without limitations: (a) the Architectural Barriers Act of 1968 (42 U.S.C. §§4151-4157); (b) the Uniform Federal Accessibility Standards, as set forth in 24 CFR Part 570.614; (c) the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973; (d) the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. §276(a) to (a-7) 24 CFR Part 570.603) and supporting Department of Labor regulations; (e) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (49 CFR Part 24) and Section 104(d) of the Housing and Community Project Act of 1974 as amended, and 24 CFR Part 570.606; and (f) for existing properties built prior to 1978, the Lead-Based Paint Poisoning Protection Act (42 U.S.C. §4831(b)) and the Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851-4856) and implementing regulations at 24 CFR Part 35.

**Retainage:** An amount equal to ten percent (10%) of hard costs of the amount of each payment to Contractor shall be retained by Borrower, unless a greater amount is required to be retained under applicable Requirements of Law, to secure the payment of artisans and mechanics who perform labor or service and the payment of any and all other persons who furnish material and labor, or specifically fabricated material.
for any contractor, subcontractor, agent, or receiver for the construction of the Improvements and the City Infrastructure Improvements; provided that Retainage will not be withheld for the following items: preconstruction, mobilization, erosion control/SWPPP, site amenities, miscellaneous metals, rough carpentry materials, truss materials, finish carpentry materials, moisture protection, access doors and panels, windows, finish hardware/bath accessories, pre-hung doors, louvers and vents, postal specialties, residential appliances, miscellaneous specialties, light fixtures and fans, punch out/construction cleaning, general requirements, overhead and profit. The Retainage shall in no event be less than the amount actually held back by the Borrower from the Contractor and all subcontractors and materialmen engaged in the construction of the Improvements.

Review Fee: $3,000.00 (unless the Transfer has been approved by Bank on or before the Closing Date, then in that case, the Review Fee shall be zero).

Rumsey Infrastructure Escrow Account: The escrow account in the name of Borrower established at the Bank with an opening balance of $419,230.00, funded with an advance under the Construction Loan, the proceeds of which will be used to make payments owing by Borrower on the Rumsey Infrastructure Contract.

Sanctions: Economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

Sanctioned Country: Any time a country, region or territory which is the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea, Sudan and Syria).

Sanctioned Person: At any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

Section 8 Property: A property which all of a portion thereof qualifies for “project based assistance” under 42 U.S.C. §1437f and all regulations issued pursuant thereto.

Stored Materials: Shall have the meaning given that term in Section 4.1(y)(i).
**Subordinate Loan Documents:** Collectively, the FWHFC Local Government Loan Documents and the City HOME Loan Documents.

**Subordinate Loans:** Collectively, the FWHFC Local Government Loan and the City HOME Loan.

**Substantial Completion:** The completion of the construction and equipping of the Improvements free and clear of all liens other than Permitted Encumbrances in substantial accordance with the Plans in all material respects and otherwise to the reasonable satisfaction of Bank and the Bank's construction consultant, except for such defects or departures which do not, in the opinion of Bank, the Bank's construction consultant, materially and adversely affect either the value of the work in place or the full utilization of the applicable portion of the Improvements for which it is intended, and the issuance and delivery to Bank of a Certificate of Substantial Completion by the Architect on a form reasonably acceptable to Bank and copies of all permits and approvals of Governmental Authorities for the occupancy of all apartment units comprised of the Improvements including, and not by way of limitation, a conditional or permanent certificate of occupancy.

**Swap Agreement:** Any agreement with respect to any swap, cap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions (including any I.S.D.A. Master Agreement which may be entered into with Bank, or its Affiliates, with respect to a Note).

**TAC:** Texas Administrative Code, a compilation of all state agency rules in Texas (including rules of the Credit Agency).

**Tax Credit Allocation:** The carryover allocation issued by the Credit Agency awarding the allocation of a Low-Income Housing Tax Credit for the Premises and any carry over agreement which has been issued which is attached as Exhibit "K".

**TIF:** Tax Increment Reinvestment Zone Number Four City of Fort Worth, Texas.

**TIF Agreement:** Tax Increment Financing Development Agreement entered into by Borrower and the Board of Directors of the TIF for the reimbursement of up to $2,600,000.00 of qualified costs with respect to the Premises as provided for in the TIF Agreement.
Transfer: (a) A sale, assignment, transfer or other disposition (whether voluntary, involuntary, or by operation of law), (b) the grant, creation, or attachment of a lien, encumbrance or security interest (whether voluntary, involuntary, or by operation of law), (c) the issuance or other creation of a direct or indirect ownership interest, (d) the withdrawal, retirement, removal or involuntary resignation of any owner or manager of a legal entity, or (e) the merger, dissolution, liquidation or consolidation of a legal entity. The term “Transfer” shall not mean or include (i) the conveyance of the Premises at a judicial or non-judicial foreclosure sale under the Construction Mortgage, or (ii) the Premises becoming part of a bankruptcy estate by operation of law under United States Bankruptcy Code, or (iii) as otherwise expressly permitted by the terms of this Agreement and/or the other Loan Documents.

Transfer Fee: An amount equal to one percent (1%) of the outstanding principal balance of the Construction Loan at the time of determination.

Tri-Party Agreement: The Tri-Party Agreement of even date herewith among the Permanent Lender, Bank, and Borrower.

1.2 Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP consistent with such principles. In the event that changes in GAAP shall be mandated by the Financial Accounting Standards Board and/or the American Institute of Certified Public Accountants or any similar accounting body of comparable standing, or shall be recommended by Borrower's certified public accountants, to the extent that such changes would modify such accounting terms or the interpretation or computation thereof as contemplated by this Agreement at the time of execution hereof, then in such event, such changes shall be followed in defining such accounting terms only after Bank and Borrower amend this Agreement to reflect the original intent of such terms in light of such changes, and such terms shall continue to be applied and interpreted without such change until such agreement.

1.3 Other Terms. All other terms contained in this Agreement shall have, when the context so indicates, the meanings provided for in the Texas Uniform Commercial Code (the “UCC”) to the extent the same are used or defined therein.

1.4 References. References in this Agreement to Section or Exhibit numbers shall be to Sections and Exhibits of this Agreement, unless expressly stated to the contrary. References in this Agreement to "hereby," "herein," "hereinabove," "hereinafter," "hereinbelow," "hereof," and "hereunder" shall be to this Agreement in its entirety and not only to the particular Section or Exhibit in which such reference appears.
1.5 **Sections.** This Agreement, for convenience only, has been divided into Sections and it is understood that the rights and other legal relations of the parties hereto shall be determined from this instrument as an entirety and without regard to the aforesaid division into Sections and without regard to headings prefixed to such Sections.

1.6 **Number and Gender.** Whenever the context requires, reference herein made to the single number shall be understood to include the plural; and likewise, the plural shall be understood to include the singular. Definitions of terms defined in the singular or plural shall be equally applicable to the plural or singular, as the case may be, unless otherwise indicated. Words denoting sex shall be construed to include the masculine, feminine and neuter, when such construction is appropriate; and specific enumeration shall not exclude the general but shall be construed as cumulative.

1.7 **Incorporation of Exhibits.** The Exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for all purposes.

1.8 **Certain Other Matters of Construction.** All references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations. All references to any instruments or agreements, including, without limitation, references to any of the Loan Documents, shall include any and all modifications or amendments thereto and any and all extensions or renewals thereof. Knowledge, for purposes of this Agreement (and the other Loan Documents), shall mean actual and constructive knowledge. Current, for purposes of this Agreement and the other Loan Documents, shall mean within 30 days from the applicable date. The term, "or" when used in this Agreement and the other Loan Documents in a sequence shall mean "and/or". References in this Agreement and the other Loan Documents to particular sections of the Internal Revenue Code, the Uniform Commercial Code, or any other legislation, rule, or regulation shall be deemed to refer also to any successor sections thereto or other re-designation for codification purposes.

II – CONSTRUCTION COMMITMENT

2.1 **Commitments.**

(a) Subject to the full, complete, and timely satisfaction by Borrower of each of the applicable conditions precedent described in Sections 6.1, 6.2, and 6.3, and all of the other terms and conditions of this Agreement, and relying on the representations and warranties of Borrower hereinafter set forth, Bank agrees to make an advancing loan to Borrower, pursuant to which Borrower may borrow but not reborrow and repay, up to an aggregate amount of the Construction Loan, through, but not including, the Bank’s Required Completion Date, which advancing loan shall be evidenced by the issuance, execution, and delivery of the Construction Note.
(b) Borrower shall be entitled (subject to Section 6.3) to request Bank to make distributions of amounts in the Capital Contribution Account (to the extent amounts are then on deposit in the Capital Contribution Account) and to make advances under the Construction Note until, but not including the Bank's Required Completion Date, when (except as hereafter provided in the last sentence of this subsection), provided no Event of Default is then existing) the Construction Loan shall then automatically convert to a non-advancing term loan. On the Construction Loan Maturity Date, the outstanding balance and all unpaid and accrued interest of the Construction Note shall be fully and finally due and payable in accordance with the terms and provisions of the Construction Note. Notwithstanding the foregoing or anything to the contrary herein, advances of the Construction Loan for budgeted interest reserve and for other hard and soft costs approved by Bank in writing and which are provided for in the Budget as being payable from the Construction Loan and reflected in the draw schedule provided to Bank pursuant to Section 6.1 as being payable after the Bank's Required Completion Date (but in any event, in each case, prior to the Construction Loan Maturity Date), subject to compliance with Section 6.2, for hard and soft costs approved by the Bank, interest carry, other items approved by the Bank and only to the extent contained in the Budget, and for the final advance for Retainage; provided that with respect to any such hard and soft costs payable after the Bank's Required Completion Date (and not fundings of interest carry), the conditions listed in Section 6.2 are fully satisfied or waived by Bank in writing, and with respect to the final advance of the Construction Loan or disbursement of the Capital Contribution for Retainage, the conditions listed in Section 6.6 are fully satisfied or waived by Bank in writing.

(c) Subject to subsection (d) below and Section 2.12, without limiting the foregoing, requests made by Borrower for amounts to be disbursed by Bank to Borrower in accordance with the terms of this Agreement shall be (subject to the further terms hereof) made first, from deposits with Bank of the Subordinate Loans (to the extent Subordinate Loan proceeds are then on deposit in the Construction Account), second from deposits in the Capital Contribution Account from the funding of the Initial Capital Contribution described in Exhibit "H" (to the extent amounts are then on deposit in the Capital Contribution Account), and then from advances under the Construction Note up to the face amount thereof.

(d) Except for certain soft costs approved by Bank to be funded under the Construction Note on the Closing Date, an advance under the Construction Loan to fund the City Infrastructure Improvements Escrow Accounts, and as hereafter specifically provided, no advances shall be made under the Construction Note unless and until all of the first three Capital Contributions described in Exhibit "H" have been deposited in and fully disbursed from the Capital Contribution Account subject to the terms of this Agreement to pay for budgeted items (except for that portion, which may be the entirety of the Initial Capital Contribution in accordance with the settlement statement approved by Bank on the Closing Date, of the Initial Capital Contribution used to pay the
closing costs, the Predevelopment Loan under and as defined in the Operating Agreement, and developer fees, as provided for in Exhibit "H"). Notwithstanding the foregoing, provided no default is then existing under the Operating Agreement, if after the Initial Capital Contribution is funded and the payment of the next installment described in Exhibit "H" is not yet then payable under the terms of the Operating Agreement, and has not been actually deposited in the Capital Contribution Account, subject to the terms of this Agreement, Bank shall make advances of the Construction Loan as provided for in this Section and in Sections 6.1, 6.2, and 6.3 until the next funding of the Capital Contribution described in Exhibit "H" is payable under the terms of the Operating Agreement.

(e) Notwithstanding any of the foregoing or anything in this Agreement (or in the Operating Agreement) to the contrary, (i) the second Capital Contribution described in Exhibit "H", when funded subject to and in accordance with the terms of the Operating Agreement, shall be first paid to Bank as provided in this Agreement and then shall be applied first to pay any unpaid budgeted construction items, and then, to the extent there are any amounts remaining from that Capital Contribution, to the outstanding principal balance of the Construction Note (and interest accrued thereon) to the extent necessary to pay the balance of the Construction Note down to the amount of the Permanent Mortgage Loan Commitment (or such lesser amount required for Lease Stabilization), (ii) the third Capital Contribution described in Exhibit "H", when funded subject to and in accordance with the terms of the Operating Agreement, shall be first paid to Bank as provided in this Agreement and then shall be applied first to pay any unpaid budgeted construction items, and then, to the extent there are any amounts remaining from that Capital Contribution, to the outstanding principal balance of the Construction Note (and interest accrued thereon) to the extent necessary to pay the balance of the Construction Note down to the amount of the Permanent Mortgage Loan Commitment (or such lesser amount required for Lease Stabilization), and (iii) the fourth Capital Contribution described in Exhibit "H", when funded subject to and in accordance with the terms of the Operating Agreement, shall be first paid to Bank to the outstanding principal balance of the Construction Note (and interest accrued thereon) to the extent necessary to pay the balance of the Construction Note down to the amount of the Permanent Mortgage Loan Commitment (or such lesser amount required for Lease Stabilization) on or before the Conversion Deadline, then to all reserves required to be funded by the Operating Agreement and/or to pay budgeted developer fees. The foregoing shall not change the treatment of the payment of such Capital Contributions as Capital Contributions from the Investor Member for purposes of the Operating Agreement.

2.2 (RESERVED)

2.3 **Loan Purpose.** The advances to be made under this Agreement and the Construction Note shall be used by Borrower in connection with the acquisition,
development, construction, financing, leasing, ownership, and operation of the Premises
(to the extent provided for in the Budget).

2.4 **Renewal Option.** The Construction Loan Maturity Date may be extended, as of right, on a one time basis, for six (6) calendar months, provided that each of the following conditions have been fully, completely, and timely satisfied on or before August 30, 2020:

(a) At least 30 days but not more than 90 days prior to August 30, 2020, Borrower shall have notified Bank in writing that it requests an extension of the Construction Loan Maturity Date for six calendar months;

(b) Substantial Completion of the Improvements shall have occurred as evidenced by a temporary certificate of occupancy and certificate of substantial completion from the Architect (and concurred to by Bank's construction consultant);

(c) No event which materially limits, reduces, or impairs the Low Income Housing Tax Credit for the Premises (in a manner which would cause the amount of Capital Contributions payable prior to conversion to the Permanent Mortgage Loan to not be paid) shall have occurred and be continuing, and Borrower shall otherwise be in compliance in all material respects with all guidelines relating to the Low Income Housing Tax Credit for the Premises;

(d) During the renewal term, sources for the payment of interest due under this Agreement and the other Loan Documents are not less than Estimated Debt Service (as defined hereafter). Sources for the payment of such interest can be any combination of (i) remaining balances in the Budget for interest and, if applicable, letter of credit fees; (ii) cash deposited with the Bank on or before commencement of the extension period from a source other than the Construction Loan and/or the scheduled Capital Contributions in the amounts set forth in Exhibit "H" to pay such interest and fees, or (iii) Net Operating Income for the extension period (calculated using Net Operating Income in the most recent three months). **Estimated Debt Service** is the sum of (1) interest (deemed to be the then current interest rate applicable to the Construction Note plus 0.25%), and (2) if applicable, letter of credit fees, each calculated for the entire extension period;

(e) As independent consideration for the extension of the maturity of the Construction Note, on or before the commencement of the extension term, Borrower shall pay to Bank an extension fee of one quarter percent (0.25%) of the outstanding balance of the Construction Note on the date the extension term commences;
(f) Borrower shall have delivered, at its sole cost and expense, all extension and other agreements, instruments, amendments, title insurance endorsements, and modifications required by Bank in its reasonable discretion to effect such renewal and extension (which extension agreement will extend the maturity of the Construction Note for six calendar months and will provide for, among other things, that interest shall continue to accrue on the Construction Note at the rate provided for in the Construction Note), and the Construction Note shall continue to be payable and accrue interest as provided for in the Construction Note;

(g) Borrower shall have reimbursed Bank for all of its reasonable costs and expenses (including reasonable attorneys' fees) relating to the extension;

(h) The Permanent Loan Commitment shall be in full force and effect and no party shall be in default thereunder;

(i) The Permanent Supportive Housing Agreement shall be in full force and effect and the Borrower shall not have breached its obligations thereunder;

(j) Unless all amounts owed to Borrower under the TIF Agreement have already been reimbursed to Borrower at such time, the TIF Agreement shall be in full force and effect and Borrower shall not then be in default under the TIF Agreement;

(k) Each Subordinate Loan shall be in full force and effect and Borrower shall not then be in default under any Subordinate Loan Document, which may be evidenced by a certification by Borrower at such time in form and content satisfactory to Bank;

(l) No Material Adverse Change shall exist with respect to the Borrower, the Guarantor, or the Premises;

(m) No Default or Event of Default shall be then existing; and

(n) The Construction Loan shall then be in balance as required by this Agreement and all installments of the Capital Contribution and fundings of the Subordinate Loans then payable shall have been funded as set forth in this Agreement.

2.5 Fees.

(a) As independent consideration for Bank's commitment to make the Construction Loan evidenced by the Construction Note as provided for herein, prior to or contemporaneously with Borrower's execution and delivery of this
Agreement, in addition to all other amounts due or to be due by Borrower to Bank (including, but not limited to, reimbursement for the appraisal review, the environmental review, and Borrower shall pay to Bank, a construction commitment fee equal to $167,115.00.

(b) Borrower shall pay reasonable inspection fees of Bank's construction consultant as provided in Section 6.7.

2.6 Payment of Contractor Overhead and Profit. Provided no Event of Default is then continuing, Borrower shall be permitted to pay general conditions on the basis of one-fifteenth (1/15) of such amounts each month and contractor profit and overhead on a percentage of completion basis during the course of construction all in accordance with the construction draw schedule approved by Bank and in a manner acceptable to Bank.

2.7 Payment of Developer Fees and/or Overhead. Until the Obligations have been fully paid and performed and Bank has no further funding commitments to Borrower under this Agreement, no developer fees or overhead shall be paid. Notwithstanding the foregoing, in no event may developer fee or overhead be paid in an amount that would exceed the amount permitted under the Operating Agreement or in any other way violate the Operating Agreement.

2.8 Reallocation of Budget. The Budget has been prepared by Borrower, and Borrower represents to Bank that the Budget includes all costs and expenses incident to the Construction Loan, and the construction of the Improvements and the City Infrastructure Improvements after taking into account the requirements of the Loan Documents. Subject to Section 4.1(c), Borrower shall: (a) only reallocate Loan funds from one Budget line item to another or otherwise amend the Budget with the Bank's written approval (which will not be unreasonably withheld, delayed or conditioned) and if the reallocation is from the contingency line item, the amount of the contingency line item reallocated through that date (on a percentage basis) shall not exceed the amount of the Improvements and the City Infrastructure Improvements which have been completed to that date (on a percentage basis), provided that in no event may any reallocation be made from the interest reserve line item without Bank's consent, such consent not to be unreasonably withheld, conditioned or delayed, and in any event, the reallocation shall always leave a sufficient amount available with respect to a particular line item to complete the work associated with that line item), and (b) notify Bank promptly whenever Borrower becomes aware that the Budget is, or will be, inaccurate in any material respect.

2.9 Equity. The Investor Member has agreed to make Capital Contributions in accordance with the terms and provisions of the Operating Agreement. The Investor Member has agreed that the Capital Contributions shall be deposited by the Investor Member into the Capital Contribution Account to be disbursed by Bank as provided for in this Agreement and Exhibit "H". Further, notwithstanding anything herein to the contrary, no additional/further portion of the Loan will be made available to Borrower.
unless all Capital Contributions then scheduled to be paid have been paid as and when required by the terms and conditions contained in the Operating Agreement, and disbursed to Borrower for budgeted items. On or after the full and final payment of the Construction Note and the expiration of all funding commitments thereunder, any amounts then on deposit in the Capital Contribution Account shall be made available to Borrower at the written request therefor by Borrower.

2.10 **Cash Flow.** Unless and until the Construction Note has been fully and finally paid and Bank has no further funding commitments thereunder, if required by Bank, upon the written request therefor by Bank (which shall only be made during the continuance of an Event of Default), all Net Operating Income, less payment of principal and interest made therefrom on the Construction Note shall be deposited by Borrower, on a monthly basis, in an account of Borrower located at Bank which shall be a blocked collateral account. Borrower shall have no access to such account except to pay continuing Operating Expenses and debt payment until Construction Loan has been paid in full; provided however, Borrower shall have access and full use of the funds in such account if there is no Event of Default then continuing.

2.11 **Interest Reserve.** The portion of the Construction Loan allocated in the Budget for interest shall be held by the Bank as an unfunded interest reserve, and the Borrower hereby authorizes the Bank to make advances thereof to pay interest when due under the Construction Loan to the extent not paid out of Borrower's own funds or Net Operating Income. Such authorization is irrevocable and no further direction or authorization shall be required for the Bank to make such advances. The Bank may make such advances notwithstanding that the Borrower may be in default under the terms of this Agreement or any other Loan Document (Bank may at Borrower's expense, obtain an endorsement to its mortgagee's title insurance policy in connection with any advance under the Construction Loan to pay interest if the advance is not made pursuant to a request for disbursement under Section 6.3). If funds are not available from the interest reserve, or the blocked collateral account as provided in Section 2.10, or Net Operating Income to pay interest due under the Construction Loan, Borrower shall pay such interest from its own funds which may include the amounts on deposit in the Capital Contribution Account. Nothing in this provision shall prevent the Borrower from paying interest from its own funds and from Net Operating Income.

2.12 **Subordinate Loans.** Each Subordinate Loan shall close before or in connection with the Closing Date and in connection therewith, Bank shall have received and approved copies of the Subordinate Loan Documents, together with each original Intercreditor Agreement. The proceeds of the Subordinate Loans, when paid, will be used to pay budgeted construction items which are the basis of a pending request for disbursement under this Agreement (and which relate to eligible expenditures) or shall be deposited with Bank for disbursement prior to the disbursement of any Capital Contribution or advance of the Construction Loan to pay items subject to that pending request for disbursement. Further, in the event, for any reason (excluding, however, an action or omission on the part of Bank), all or any portion of the proceeds of the Subordinate Loans which are deposited with Bank for later disbursement, are required
to be returned to the FWHFC or City, as applicable. Borrower shall promptly reimburse Bank for any amounts as may be returned by Bank and which are required by the Budget to pay development costs. If and to the extent any Subordinate Loan is funded directly to Borrower (and not deposited with Bank), Borrower shall provide Bank with evidence of the budgeted items paid with the proceeds of the Subordinate Loans upon and in connection with each such payment (and with copies of all requests for advances of the Subordinate Loan when those requests are submitted). In any event, Borrower shall properly draw down, expend, and account for all Subordinate Loan funds as required by the FWHFC and City and shall not take any action which would cause the FWHFC or the City to de-obligate such Subordinate Loan funds. Notwithstanding anything herein to the contrary, Borrower agrees that if Bank, subject to the terms of this Agreement, shall fund amounts under the Construction Loan as and when requested by Borrower pursuant to a request for disbursement for items which Borrower has requested an advance under a Subordinate Loan (and for which disbursement of that advance is pending), upon the funding of that request by FWHFC or the City, the proceeds shall be deposited with Bank as reimbursement for Bank’s agreement to fund those amounts and then used to fund the next request for disbursement under the terms of this Agreement. Notwithstanding anything to the contrary contained herein, all proceeds of the Subordinate Loans shall be fully funded and used by Borrower to pay budgeted items no later than within sixty (60) days of the occurrence of Substantial Completion (in particular, $700,000.00 of the FWHFC Local Government Loan will be funded on the Closing Date with the remaining balance of $50,000.00 funded no later than the occurrence of Substantial Completion and $900,000.00 of the City HOME Loan will be funded on the Closing Date with the remaining balance funded during construction, and, in any event, no later than within sixty (60) days of the occurrence of Substantial Completion). Further, in connection with the fundings of the Subordinate Loans at completion, at least $150,000.00 of those fundings shall be paid to Bank and applied to the outstanding principal balance of the Construction Note.

2.13 Recourse. Subject to the terms, provisions, covenants and agreements set forth in this Agreement and the other Loan Documents, Bank agrees to lend to Borrower, and Borrower agrees to borrow from Bank, up to the amount of the Construction Loan, which Loan shall be used by Borrower in accordance with the terms of the Loan Documents. Bank shall have full recourse against Borrower and each Guarantor (with respect to each Guarantor, subject to the terms of the Guaranty), as well as against the Premises, for payment and performance of the Construction Loan and the Loan Documents and for completion of the Improvements in substantial accordance with the Plans therefor and the Budget. All payments due from Borrower or a Guarantor to Bank shall be made without offset or other reduction. Notwithstanding the foregoing, Bank acknowledges that nothing herein shall impair or modify the limitation of liabilities provided to members or limited partners under the Texas Business Organizations Act (Bank shall have no recourse directly against any member or limited partner with respect to the Construction Note and the other Obligations).

2.14 City Infrastructure Improvements. Borrower shall fully and timely complete, or cause to be completed, the City Infrastructure Improvements as and when
required by the CFA and all related City rules, ordinances, and regulations (and in any event completion of the City Infrastructure Improvements shall occur within 120 days after the Closing Date). Borrower has and does hereby collaterally assign to Bank all of its right, title, and interest under and with respect to the CFA (including the right to payment of amounts in each City Infrastructure Improvements Escrow Account in the event Bank performs Borrower's obligations under the CFA to develop the City Infrastructure Improvements); it being agreed and understood that Bank has no obligation to construct and develop the City Infrastructure Improvements. Notwithstanding anything herein to the contrary, no amounts will be funded from a City Infrastructure Improvements Escrow Account unless and until the associated draw relating to that City Infrastructure Improvements Construction Contract has been approved by City and Bank as set forth in the City Infrastructure Improvements Escrow Agreements. Further, without limiting the requirements of Section 4.1(g), if any amount is funded from a City Infrastructure Improvements Escrow Account which is drawn from the City Infrastructure Improvements Escrow Cost Overrun Portion, unless there is budgeted hard cost contingency available to cover that amount, within ten (10) Business Days after written notice thereof from Bank, Borrower shall deposit with Bank cash in the amount of the City Infrastructure Improvements Escrow Cost Overrun Portion which has been disbursed from a City Infrastructure Improvements Escrow Account as Bank may reasonably require (such deposit will be treated in the same manner as a deposit made under Section 4.1(g) as collateral for the Construction Loan and when that deposit will be used). Any amounts remaining in the City Infrastructure Improvements Escrow Accounts after completion of the applicable portion of the City Infrastructure Improvements shall, with the consent of the City, be paid to Bank for application to the outstanding balance of the Construction Note.

2.15 TIF Reimbursement. Notwithstanding anything herein to the contrary, upon and in connection with the funding to Borrower of the amounts payable under the TIF Reimbursement Agreement, an amount not less than $2,525,000.00 shall be paid to Bank and applied to the outstanding balance of the Construction Note.

III – REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of Borrower. As an inducement to Bank to enter into this Agreement and to make the Construction Loan, Borrower represents and warrants to Bank as follows:

   (a) Borrower Organization. Borrower is duly organized and existing and has an "active" status for the right to transact business under the laws of the state of its organization and is duly qualified in the state where the Land is located to own, construct, and operate the Improvements and the City Infrastructure Improvements. Borrower has the authority and the legal right to carry on the activities now being conducted by it and to engage in the transactions contemplated by the Loan Documents. The other members of Borrower have authorized the Co-Managing Member of Borrower to enter into this Agreement and the other Loan Documents for and on behalf of Borrower.
(b) **Binding Documents.** The Loan Documents executed by Borrower are legal, valid, and binding obligations of Borrower in accordance with their terms (subject to any exceptions, assumptions or limitations set forth in the opinion of Borrower's counsel to the Bank) and have been duly authorized, executed, and delivered by Borrower.

(c) **Legal and Environmental Compliance.** To Borrower's current, actual knowledge, the Plans for the Improvements and the City Infrastructure Improvements and the anticipated use of the Premises and all easements and rights appurtenant thereto comply in all material respects with all applicable Requirements of Law, including, without limitation, all restrictive covenants, zoning ordinances, laws and regulations relating to environmental matters and access and facilities for persons with disabilities, building laws and codes. To Borrower's knowledge, Borrower's use of the Premises will be in full compliance with the requirements of the HAP Commitment, the HAP Contract (once it is executed), and of the provisions of the Internal Revenue Code related to obtaining and preserving the Low-Income Housing Tax Credit. Without limiting the foregoing, eight (8) of the residential units associated with the Low-Income Housing Tax Credit will be eligible for "project based housing choice vouchers" and will be eligible to receive the benefit of operating assistance pursuant to the HAP Commitment as a Section 8 Property. All of the Affordable Units in the Premises will be dedicated to affordable housing residents as required by the Tax Credit Allocation, the LURA, the City, the Authority, the TIF, FWHFC, HOME, and otherwise satisfying the requirements for completing and operating the Improvements and the City Infrastructure Improvements in accordance with the Guide, the Guidelines, the Operating Agreement, and as set forth in the Permanent Mortgage Loan Commitment, HOME Loan Documents, and the Affordable Units in accordance with the QAP, and as otherwise required by all Governmental Authorities. All Governmental Permits and other approvals necessary to commence work on the Premises, including, without limitation, all requisite approvals of the Credit Agency, FWHFC, and the City have been or will be obtained by Borrower prior to the time needed in connection with the construction and development of the Improvements and the City Infrastructure Improvements. To the Borrower's current actual knowledge, except as provided for in the environmental assessment report provided to Bank prior to the Closing Date, the Premises have not been used in violation of any federal laws, rules or ordinances for environmental protection, regulations of the Environmental Protection Agency, the environmental requirements of the Guidelines, the City, and the Credit Agency and of any applicable local or state law, rule, regulation or rule of common law and any judicial interpretation thereof relating primarily to the environment or Hazardous Materials.

(d) **Low-Income Housing Tax Credit.** The Low Income Housing Tax Credit has been allocated to the Premises in the amount set forth in the Tax Credit Allocation and, to Borrower's knowledge, all requirements to Borrower's right to receive the tax credit allocation have been met. The Tax Credit
Allocation is in full force and effect, and, to Borrower's knowledge, Borrower is in full compliance with the terms and provisions thereof.

(e) **Subordinate Loan Documents.** No Event of Default, or to Borrower's knowledge, which with notice, the passage of time, or both, would constitute an Event of Default, has occurred with respect to a Subordinate Loan under the Subordinate Loan Documents.

(f) **Utilities Availability.** To Borrower's knowledge, after a due and reasonable inquiry, all utility services necessary for the construction and full utilization of the Premises for their intended purposes are presently, or will be prior to the need therefor, available at the boundaries of the Land through public or unencumbered private easements or rights of way and are, or will be prior to the need therefor, available for connection to the Improvements (for the area in which the Land is located) at ordinary costs and impact fees.

(g) **Access to the Premises.** To Borrower's knowledge, access necessary for the construction and full utilization of the Premises for their intended purposes is presently, or will be prior to the need therefor, available to the Premises over streets or roads which have been dedicated to public use and accepted therefor by appropriate Governmental Authorities and any permits necessary for connecting the driveways on the Premises to such streets or roads have been, or will be prior to the need therefor, obtained without impairing the construction schedule for the Improvements and the City Infrastructure Improvements.

(h) **Financial Statements.** To Borrower's knowledge, the Financial Statements (i) are true and correct in all material respects, (ii) have been prepared in accordance with accounting practices historically used (as applicable) by Borrower, Contractor, and each Guarantor consistently applied, (iii) fairly represent the financial condition of Borrower and each Guarantor, and (iv) no Material Adverse Change has occurred in the financial condition of Borrower, Contractor, and each Guarantor since the date thereof.

(i) **Litigation.** There is no litigation against Borrower or a Guarantor pending or, to the current actual knowledge of Borrower, threatened against Borrower or the Premises before any Governmental Authority, except as disclosed to Bank in writing.

(j) **No Commencement.** Except as otherwise specifically disclosed to the Bank in writing, prior to the Closing Date, there has been no commencement of work of any nature on, or delivery of materials to, the Premises.

(k) **Leases.** There are and will be no leases of the Premises in effect, other than Approved Leases and leases for laundry, data, telephone, security, internet, and cable television.
Reaffirmations. Each request to Bank for a disbursement or an approval of a request for disbursements of amounts on deposit in the Capital Contribution Account, or a disbursement of any deposit of a Subordinate Loan, or for a Construction Loan advance under this Agreement shall constitute an express representation, warranty, and affirmation to Bank, as of the date of the request, that each of the representations and warranties of this Section 3 (other than representations and warranties made as to a specific date) are true and correct in all material respects as of the date of each request and on the date of its disbursement, except as may be otherwise disclosed to Bank in writing.

No Conflicting Agreements. To Borrower's knowledge, there is no charter, bylaw, stock provision, constitution or other document pertaining to the organization, power, or authority of Borrower and no provision of any existing agreement, mortgage (other than mortgages to be paid in full in connection with the closing), indenture or contract binding on Borrower or affecting its property, which would conflict with or in any way prevent the execution, delivery, or carrying out of the terms of this Agreement and the other Loan Documents.

Ownership of Assets. Borrower has good and indefeasible title to the Premises, and the Premises are free and clear of liens, except those granted to Bank, and those provided for in Section 5.1(d) and Section 5.1(f), and the other Permitted Exceptions and liens disclosed to Bank in writing prior to the date of this Agreement or approved by Bank (in writing) after the date of this Agreement.

Taxes. All taxes and assessments payable and as they become due and payable by Borrower have been paid or will be paid before becoming past due and incurring penalties, or are being contested in good faith by appropriate proceedings (to the extent permitted by this Agreement) and the Borrower has filed all tax returns which it is required to file.

Place of Business. Borrower's chief executive office is located at the address disclosed by Borrower and on file with the Bank.

No Misstatements or Misrepresentations. To Borrower's knowledge, no information, exhibit, or report prepared by or at the direction or with the supervision of Borrower and furnished to Bank in connection with the negotiation and preparation of this Agreement or any other Loan Documents contain any material misstatements of fact or omits to state a material fact necessary to make the statements contained therein not misleading in any material respect as of the date made or deemed made. To Borrower's knowledge, there is no fact which Borrower has failed to disclose to Bank in writing which materially affects adversely or, so far as Borrower can now foresee, will materially affect adversely the business, prospects, profits, or condition (financial or otherwise) of Borrower or the ability of Borrower to perform this Agreement.
(r) **No Event of Default.** To Borrower's knowledge, as of the date hereof, no event has occurred and no condition exists which would, upon the execution and delivery of this Agreement or Borrower's performance hereunder, constitute an Event of Default.

(s) **Other Representations.** To Borrower's knowledge, all representations made by the Co-Managing Member in the Operating Agreement are true and correct in all material respects.

(t) **Specially Designated Nationals.** Neither the Borrower nor any of its respective officers, managers or principal employees is on the list of Specially Designated Nationals and Blocked Persons issued by the Office of Foreign Assets Control of the U.S. Department of Treasury.

(u) **Permanent Mortgage Loan Commitment.** The Permanent Mortgage Loan Commitment and the Forward Commitment are each in full force and effect and no event has occurred, which with notice, passage of time or both, would allow or permit the Permanent Lender not to make the Permanent Mortgage Loan under the terms of the Permanent Mortgage Loan Commitment.

(v) **TIF Agreement.** The TIF Agreement is in full force and effect and no event has occurred, which with notice, passage of time or both, would allow or permit the TIF not to make a payment expected under the terms of the TIF Agreement.

(w) **Permanent Supportive Housing Agreement.** The Permanent Supportive Housing Agreement is in full force and effect and no breach has occurred thereunder.

(x) **Anti-Corruption Laws and Sanctions.** The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its subsidiaries, and their respective officers and employees and to the knowledge of the Borrower its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) the Borrower, any subsidiary or to the knowledge of the Borrower or such subsidiary any of their respective directors, officers or employees, or (b) to the knowledge of the Borrower, any agent of the Borrower or any subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No borrowing of the Construction Loan or use of proceeds, or other transaction contemplated by this Agreement will violate Anti-Corruption Laws or applicable Sanctions.
IV – AFFIRMATIVE COVENANTS

4.1 **Covenants of Borrower.** In addition to the covenants and agreements of Borrower made elsewhere in this Agreement, unless Bank shall otherwise consent in writing, Borrower covenants and agrees with Bank as follows:

(a) **Approved Leases:** Borrower shall lease tenant space in the Improvements only pursuant to Approved Leases. An "Approved Lease" is a tenant lease of space in the Improvements (i) that is substantially on the standard form submitted to Bank prior to the Closing Date and which has been approved by Bank, (ii) complies with all requirements of the Subordinate Loan Documents, and (iii) which is on terms and to a tenant who satisfies the requirements (1) if an Affordable Unit, of the Internal Revenue Code and the QAP for preserving the Low-Income Housing Tax Credit, (2) of the HAP Commitment and the HAP Contract (once it is executed and to the extent applicable), (3) of the terms and conditions of the Act, FWHFC, the City, the TIF, and as otherwise required in the Subordinate Loan Documents and by Requirements of Law (to the extent applicable), (4) of the Operating Agreement, (5) of the Permanent Lender for satisfying minimum occupancy requirements (which include that the lease agreement be with a bona fide tenant and be for an initial term of at least six months), and comply with all terms and requirements of the Guide and the Guidelines (or other rules and regulations of Freddie Mac) relative to achieving Lease Stabilization, and otherwise, as required by the Permanent Mortgage Loan Commitment, and (6) of all other applicable Requirements of Law. Further, if the applicable tenant is to receive Title IX Housing Protection for the associated lease to be an Approved Lease, the Borrower shall have provided to that tenant a copy of the HUD disclosure form. Borrower shall not, without the consent and approval of Bank, which consent shall not be unreasonably withheld, delayed or conditioned, make any material change to its standard form of lease, or amend, or terminate any Approved Lease, other than in the ordinary course of business (including, based on its rights, as a result of an event of default by lessee thereunder). Further, if the lease is a commercial lease, for that lease to be an Approved Lease, Bank shall have received a subordination, non-disturbance, and attornment agreement executed by the tenant and Borrower, and on a form satisfactory to Bank. Borrower may lease a portion of the Premises to providers of cable, laundry services, telephone, internet, security and electronic data transmission with prior written approval of Bank, which such consent shall not be unreasonably withheld, conditioned or delayed.

(b) **Progress of Work; Lien Free Completion:** All Governmental Permits and other approvals necessary to commence the work on the Premises, including, without limitation, all requisite approvals to commence the work on the Premises of the Credit Agency, the TIF, the City, and the FWHFC will be obtained by Borrower prior to the commencement of the construction and development of the Improvements and the City Infrastructure Improvements. Borrower shall commence construction on or before the Commencement
Deadline and then continually prosecute the work (subject to Excusable Delays and the terms of this Agreement) in a commercially reasonable (based on standards in that general geographic area) manner and guarantees and commits that it will Substantially Complete the construction and development of the Improvements on or before the Bank’s Required Completion Date, all in substantial conformity in all material respects with the approved Plans and the Budget and in compliance with all Requirements of Law. Without limiting the foregoing, the Improvements shall contain each unit amenity, design item, and standard of construction listed in Borrower’s approved low income housing tax credit application unless approved in advance by Bank and the Credit Agency. Notwithstanding anything herein to the contrary, no advance shall be made under the Construction Loan after the Closing Date until Bank has received and approved evidence that all such building and other requisite permits and governmental approvals have been issued or will be issued in a timely manner. Borrower shall not permit cessation of work on the Premises for a period in excess of 30 consecutive Business Days, without Bank’s written consent, provided that in no event shall there be a cessation of work on the Premises for an aggregate period in excess of 45 Business Days (whether or not consecutive), without Bank’s prior written consent unless the cessation is a result of Excusable Delays. Borrower shall, within 30 days after Borrower obtains knowledge thereof, correct any material defect in the Improvements and the City Infrastructure Improvements, any material departure from the Plans, Requirements of Law, or good construction practices for Fort Worth, Texas, and any encroachment by the Improvements on any property line, set-back line, easement or other restricted area. Borrower shall keep the Premises free at all times from all liens for services, labor, materials, or indebtedness (other than the liens securing the Loan, other liens and encumbrances permitted under the terms of the Mortgage, including, without limitation, the Permitted Encumbrances, and liens with respect to which Borrower, Contractor, or a subcontractor has furnished and perfected a Bond issued by a company satisfactory to Bank and on a form and in an amount reasonably satisfactory to Bank, or the other liens and encumbrances permitted by Sections 5.1(d) and (f) hereof or existing contests permitted pursuant to Section 4.1(z) hereof). Any water wells encountered in the development of the Premises shall be plugged in accordance with all applicable Requirements of Law. Prior to the Bank’s Required Completion Date, the Premises will be Substantially Completed and in any event fully equipped and ready for use for their intended purposes. Borrower shall cause the Improvements to be “placed in service” within the time required by, and as defined in, all requirements of applicable law for maintaining the Low Income Housing Tax Credit. Within 90 days after the Closing Date, the planned new sanitary sewer line shall have been completed, and, promptly thereafter, but, in no event more than 45 days following completion of the new sanitary sewer line, the existing sanitary sewer line (over tracts 2 and 3 of the Land) and sanitary sewer, drainage, distribution and utility easements over tracts 1, 2 and 3 of the Land, as applicable, then in effect as of the Closing Date, shall have been duly abandoned by the filing of the final plat in the plat records or recording of such
other instruments to effect such abandonment such that the Improvements shall not encroach thereon.

(c) **Building Permits:** Within 90 days after the Closing Date, all building and other permits necessary to commence vertical construction of the Improvements shall have been issued.

(d) **Plans, Contracts and Budget Approval; Assignment of Contracts:** Borrower shall submit all contracts for construction and other services to the Premises, the Plans, the Budget, surveys of the Land, and all other items required by the Loan Documents to Bank for approval, and Bank shall have no obligation to make any disbursement hereunder after the Closing Date until it has approved those items, which approval shall not be unreasonably withheld, delayed or conditioned. Borrower agrees that the approved Construction Contract will not be terminated and that it and the Plans and Budget will not be modified or otherwise changed in any material respects, in whole or in part, without the prior written consent of Bank, which consent will not be unreasonably withheld, conditioned, or delayed; provided, however, subject to the other terms of this Agreement, and the terms of the Operating Agreement. Borrower may make changes to the Plans and/or reallocate Loan funds from one Budget line item to another without Bank's consent as long as the amount of any single change order does not exceed $100,000.00, and the aggregate amount of all such change orders does not exceed $250,000.00; provided that a reallocation from the contingency line item may not be in excess of the percentage of completion of the Improvements at the time of the reallocation without Bank's prior written consent. Borrower further agrees to perform all of its obligations under the approved Construction Contract in a timely manner. Notwithstanding the foregoing, all change orders shall be properly documented in a manner satisfactory to Bank on the related G702 and G703 draw requisitions.

(e) **Insurance Requirements:** In addition to the requirements of the Subordinate Loan Documents, Borrower, at its expense, shall maintain (or cause to be maintained) and deliver to the Bank, policies of insurance providing the following:

(i) Borrower and Contractor will each maintain Commercial General Liability Insurance, naming Bank as "Additional Insured", with limits of not less than $1,000,000.00 per occurrence combined single limit and $2,000,000 in the aggregate for the policy period, or in whatever higher amounts as may be required by Bank from time to time by notice to Borrower, and in each case, extended to cover: (a) Contractual Liability assumed by Borrower with defense provided in addition to policy limits for indemnities of the named (or additional named, as the case may be) insured, (b) if any of the work is subcontracted, Independent Contractors Liability providing coverage in connection with such portion of the work which may be subcontracted, (c) Broad Form Property Damage Liability,
(d) Products & Completed Operations for coverage, such coverage to apply for two (2) years following completion of construction, (e) waiver of subrogation against all parties named additional insured, (f) severability of interest provision, and (g) Personal Injury & Advertisers Liability.

(ii) Contractor will maintain Automobile Liability including coverage on owned, hired, and non-owned automobiles and other vehicles, if used in connection with the performance of the work, with Bodily Injury and Property Damage limits of not less than $1,000,000.00 per occurrence combined single limit, with a waiver of subrogation against all parties named as additional insured.

(iii) Windstorm insurance (if and to the extent required by Bank) in the amount of the insurable value replacement cost of the Improvements and the City Infrastructure Improvements.

(iv) Borrower and Contractor will each maintain Umbrella/Excess Liability in excess of Commercial General Liability, Automobile Liability (contractor only), Independent Contractors Liability, Property Damage Liability, Products and Completed Operations Liability, Personal Injury and Advertisers Liability, and Employers' Liability coverages which is at least as broad as these underlying policies with a limit of liability of $10,000,000.00 (and shall include a waiver of subrogation against all named additional insureds and a severability of interest provision).

(v) Borrower will maintain (or cause to be maintained) All-Risk Property (Special Cause of Loss) Insurance on the Improvements in an amount not less than the full insurable value on a replacement cost basis of the insured Improvements and personal property related thereto. During the construction period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" with no coinsurance requirement and shall contain a provision granting the insured permission to occupy prior to completion. Such policy shall contain an exclusion for terrorism losses. However, if such an exclusion exists in the All-Risk policy, a separate Terrorism policy covering Certified Acts of Terrorism must be evidenced to the Bank in an amount equal to the full replacement cost of the Improvements and the City Infrastructure Improvements. This policy must also list the Bank as mortgagee and loss payee.

(vi) Contractor will maintain Workers' Compensation and Employer's Liability Insurance in accordance with the applicable laws of the state in which the work is to be performed or of the state in which Contractor is obligated to pay compensation to employees engaged in the performance of the work. The policy limit under the Employer's Liability
Insurance section shall not be less than $1,000,000.00 for any one accident.

(vii) Borrower shall maintain (or cause to be maintained) Business Interruption/Loss of Rents Insurance, once construction is completed, for Borrower insuring at least twelve (12) months gross revenue.

(viii) If the buildings located on the Land, or any part thereof, lies within a "special flood hazard area" as designated on maps prepared by the Department of Housing and Urban Development, Borrower shall maintain a National Flood Insurance Association standard flood insurance policy (and Borrower shall provide Bank a copy of such policy), plus insurance from a private insurance carrier if necessary, for the duration of the Construction Loan in the amount at least equal to the face amount of the Construction Note (as then outstanding), or the full insurable value of the Improvements and the City Infrastructure Improvements (in such event, Borrower shall provide Bank with a copy of such policy).

(ix) Such other insurance as Bank may require, which may include, without limitation, errors and omissions insurance with respect to the contractors, architects and engineers, earthquake insurance, rent abatement and/or business loss.

(x) With respect to the City Infrastructure Improvements, all insurance as required by the City in the CFA, and as otherwise required by Bank.

All insurance policies shall (i) be issued by an insurance company licensed to do business in the state where the property is located having a rating of "A-" VIII or better by A.M. Best Co., in Best's Rating Guide or if an AM Best ratings unavailable, then an S&P rating of at least AA, (ii) name "JPMorgan Chase Bank, N.A., any and all subsidiaries as their interest may appear" as additional insureds on all liability insurance and as mortgagee and loss payee on all All-Risk Property insurance, with a loss payable clause naming Bank as loss payee (or a lender's payable clause), (iii) be endorsed to show that Borrower's insurance shall be primary and all insurance carried by Bank is strictly excess and secondary and shall not contribute with Borrower's insurance, (iv) provide that Bank is to receive thirty (30) days written notice prior to non-renewal or cancellation, (v) be evidenced by a certificate of insurance to be provided to Bank along with a copy of the policy for the All Risk Property coverage, (vi) include either policy or binder numbers on the Accord form, and (vii) be in form and amounts acceptable to Bank. Without limiting the foregoing, the policy shall include the following endorsements: (A) non-contributing mortgagee clause naming Bank as Mortgagee, (B) loss payable clause naming Bank as loss payee (or a Bank's payable clause), and (C) ordinance or change in law endorsement
(demolition, contingent liability, and increased cost of construction) equal to 10% of property insurance limit.

(f) **Title Instruments:** Borrower shall submit all proposed easements, permits, licenses, and other instruments which would or may affect title to the Premises to Bank for approval prior to the execution thereof by Borrower (such approval not to be unreasonably withheld, conditioned, or delayed).

(g) **Use of Proceeds:** The proceeds of the Construction Loan and funds from the Capital Contribution Account disbursed by Bank to Borrower in accordance with this Agreement shall be used only for the purposes set forth in Section 2.3 and as provided in the Budget.

(h) **Additional Equity:** If the sum of (i) the undisbursed portion of the proceeds of the Capital Contributions intended to be used to pay budgeted construction items and to pay the Construction Note, plus (ii) the undisbursed portion of the Subordinate Loans and amounts to be reimbursed to Borrower under the TIF Agreement to pay budgeted construction items and the Construction Note, plus (iii) the undisbursed portion of the Construction Loan to be used for the acquisition (or refinancing of the acquisition, as the case may be) and development of the Improvements and the City Infrastructure Improvements, plus (iv) any sums then on deposit with Bank and pursuant to this subsection, plus (v) any other funds available to and not then used by Borrower for the development of the Premises (which shall include any portion of the TIF funds owed to Borrower under the TIF Agreement that has not then been already reimbursed to and used by Borrower, and otherwise in a manner satisfactory to Bank), plus (vi) NOI actually available to pay Operating Expenses as provided in this Agreement, are at any time insufficient, in Bank’s reasonable judgment, to fully complete the development of the Improvements and the City Infrastructure Improvements in substantial accordance with the Plans and development of the Improvements and the City Infrastructure Improvements (but excluding the payment of budgeted developer fees in determining Borrower’s cash needs for the development of the Improvements and the City Infrastructure Improvements) and to pay all interest under the Construction Note when due, Borrower shall within ten (10) Business Days after written notice thereof from Bank (including a calculation of the deficiency, which, absent manifest error, shall be deemed correct), deposit with Bank such sums of money in cash as Bank may reasonably require to remedy such condition and to pay any liens for services and materials due and payable at that time (unless same is being contested in accordance with Section 4.1(z) below). At Bank’s option, no further disbursements from deposits of the Capital Contribution Account and/or deposits (if any) of the Subordinate Loans to be used to pay budgeted construction items and advances of the Loan shall be made unless and until Borrower has fully complied with the terms of this Section (and all amounts deposited pursuant to
this Section will be used first to fund requests for disbursements). All deposited
sums under this subsection (g) shall stand as additional security for Borrower's
obligations under this Agreement and may be disbursed, at Bank's option, before
any further disbursements from the Capital Contribution Account and/or deposits
(if any) of the Subordinate Loans and any further advances of the Construction
Loan. Any deposited funds under the terms of this subsection (g) subsequently
determined by the Bank, in its sole and reasonable discretion, to not be needed
for the development of the Improvements and the City Infrastructure
Improvements in accordance with the Plans and to pay interest under the
Construction Note when due (and to pay any principal on the Construction Note
to achieve Lease Stabilization and to otherwise satisfy the terms of the
Permanent Mortgage Loan Commitment) shall be promptly refunded to Borrower,
provided no Event of Default is then continuing. Upon the full and final payment
of the Construction Note, Borrower shall be entitled to withdraw all amounts in
such account without restriction.

(i) Environmental Inspections; Inspection of Improvements and
the City Infrastructure Improvements: (i) Subject to the rights of tenants of
apartment units in the Premises under Approved Leases, Borrower agrees to
permit Bank, its agents, contractors, and employees to enter and inspect the
Premises at any reasonable time during normal business hours, with reasonable
cause (except as hereafter provided, at Bank's own cost unless an Event of
Default has occurred and is continuing, in such event, at Borrower's cost), upon
three (3) Business Days prior written notice (provided that no such notice will be
required during the continuance of a Default or Event of Default) for the purposes
of conducting an environmental investigation and audit (including taking physical
samples) to ensure that Borrower is complying with the representations made in
Section 3.1(c) hereof. Borrower shall provide Bank, its agents, contractors,
employees, and representatives with access to and copies of any and all data
and documents in its possession or control relating to or dealing with any
Hazardous Materials used, generated, manufactured, stored, or disposed on the
Premises within five (5) Business Days of the written request therefor. Additionally, Borrower shall permit Bank and its representatives to enter upon the
Premises at reasonable times during normal business hours and with at least
three (3) Business Days prior notice (provided that no such notice will be
required during the continuance of a Default or Event of Default) and to
inspect the Improvements and the City Infrastructure Improvements and all
materials used in the construction thereof. Bank (or its construction consultant)
shall have the right to reject and require Borrower to replace any material or work
which does not substantially comply in any material respect with the Plans or
good construction practices in Fort Worth, Texas. It is understood and agreed
that Bank's rights under this Section 4.1(h) are solely for Bank's loan
administration purposes and do not impose any duty of care of Bank to Borrower
or to any other Person. Bank shall have no liability, obligation, or responsibility
whatsoever with respect to the construction or development of the Improvements
and the City Infrastructure Improvements, except as otherwise expressly
provided in the Loan Documents, including, without limitation, to approve and make (a) advances under the Construction Note pursuant to this Agreement, (b) disbursements of the Capital Contributions (to the extent the Capital Contributions deposited in the Capital Contribution Account), (c) disbursements of any deposits of the Subordinate Loans, (d) disbursements of amounts deposited pursuant to Section 4.1(g) and (d) to otherwise comply with Bank’s obligations as set forth in the Loan Documents. Bank shall not be obligated to cause to be performed any environmental audit or investigation or inspect the Premises or the construction of the Improvements and the City Infrastructure Improvements. Bank shall not be liable for any defect in the Premises by reason of inspecting or not inspecting the same. Without limiting any of the foregoing, it is specifically agreed and acknowledged that Bank, at its option, may engage an independent construction consultant as set forth in Section 6.7 (at Borrower’s sole and reasonable cost and expense as provided in Section 6.7) to periodically inspect the Improvements and the City Infrastructure Improvements, as a condition to any requested consent and authorization to the disbursement funds from the Capital Contribution Account or any advance under the Construction Note to pay budgeted items, to in each case confirm, among other things, the accuracy of the materials provided in connection with that consent or request for an advance or disbursement and that all previously disbursed proceeds of the Construction Note, deposits of the Subordinate Loans, and the deposits of Capital Contributions in the Capital Contributions Account have been used in the construction of the Improvements and the City Infrastructure Improvements in the manner represented to Bank. Bank shall not be liable for the performance or default of Borrower, any architect, engineer, contractor, construction consultant or any other party, nor for any failure to construct, complete, protect or insure the Improvements and the City Infrastructure Improvements, nor for the payment of the costs of labor, materials or services supplied for the construction of the Improvements and the City Infrastructure Improvements, nor for the performance of any obligation of Borrower, except for any portion of such liability that arises solely and exclusively due to the gross negligence or willful misconduct of Bank, or any Bank’s agents, contractors, employees, representatives or invitees.

(ii) Borrower shall provide Bank, its agents, contractors, employees, and representatives with access to and copies of any and all data and documents relating to or dealing with any Hazardous Materials used, generated, manufactured, stored, or disposed on the Premises, and any other environmental documents produced or otherwise delivered to Borrower during the term of the Construction Loan with respect to Hazardous Materials located on or about the Premises (including, without limitation, asbestos close out reports, final construction monitoring report, Remedial Action Plans, Health and Safety Plans, Remedial Action Completion Reports, Approvals for Remedial Action Plans, Approvals for Health and Safety Plans, Approvals for Remedial Action Completion Reports, Lead Based Paint Sampling Reports, and Lead Based Paint Abatement Close Out Reports). Any request for disbursement
made pursuant to Section 6.3 for reimbursement for any such environmental
documents shall be subject to Bank's review and acceptance of those reports.

(j) Notice of Environmental Claims and Actions: Without limiting
the foregoing, Borrower shall advise Bank in writing, promptly after Borrower
obtains actual knowledge thereof, of (i) any and all enforcement, cleanup,
remedial, removal, or other governmental or regulatory actions instituted,
completed or threatened pursuant to any applicable federal, state, or local laws,
ordinances or regulations relating to any Hazardous Materials affecting the
Premises or the use of the Premises and (ii) all claims made or threatened by
any third party against Borrower relating to damages, contribution, cost recovery,
compensation, loss or injury resulting from any Hazardous Materials. Borrower
shall at all times comply with any and all applicable environmental laws and shall
deliver to Bank any and all environmental reports prepared during the term of this
Agreement, which may, to the extent applicable, include, but not be limited to,
asbestos close out reports, the final construction monitoring report, remedial
action plans, health and safety plans, remedial action completion reports,
approvals for remedial action plans, approvals for health and safety plans,
approvals for remedial action completion reports, lead based paint sampling
reports, and lead based paint abatement close out reports (together with any
environmental reports and requirements received by the Borrower and delivered
to the Bank prior to the date hereof, each an "Environmental Report"). Without
limiting the foregoing, as soon as available, Borrower shall provide Bank with all
asbestos close-out reports and the final construction monitoring report.

(k) Financial Statements and Other Information: Borrower shall
maintain a system of accounting reasonably satisfactory to Bank and in
accordance with Borrower's historical accounting practices applied on a
consistent basis throughout the period involved, and permit, Bank's officers or
authorized representatives to visit and inspect Borrower's books of account and
other records at such reasonable times and as often as Bank may desire upon at
least two (2) Business Days' prior written notice to Borrower (provided that during
the continuance of any Event of Default, no such prior notice shall be required
and the reasonable cost of the inspections shall be paid by Borrower and nothing
herein shall limit Borrower's obligations to reimburse Bank for the reasonable
fees of Bank's construction consultant as provided for in Section 6.7). Unless
written notice of another location is given to Bank, Borrower's books and records
will be located at Borrower's chief executive office set forth above or at the
Premises or in the property manager's office for the Premises.

(l) Retainage: Borrower shall withhold Retainage as required herein
in the definition of Retainage and by all Requirements of Law in connection with
the development of the Improvements and the City Infrastructure Improvements
(except as otherwise may be provided for in Section 6.6).
(m) **Existence and Compliance:** Borrower shall maintain its existence and qualification to do business, where required, and comply with all Requirements of Law, including, without limitation, environmental laws applicable to it or to any of its property, business operations and transactions. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions. Borrower shall at all times operate the Premises in a manner which preserves the Low-Income Housing Tax Credit including, without limitation, the Premises shall be placed in service (as such term is used by the Credit Agency in connection with the Low Income Housing Tax Credit by the date required by the Credit Agency, and is otherwise in accordance with the requirements of the Permanent Loan Commitment, the Forward Commitment, the Guidelines, HUD, and the Operating Agreement). The Borrower will cause all of the residential units in the Premises to be rented or available for rental on a basis that satisfies the requirements, if any, of the LURA, the Permanent Supportive Housing Agreement, the Subordinate Loan Documents, the HAP Commitment, and the HAP Contract (once issued). Borrower shall (and cause the Co-Managing Member to) comply in all material respects with all terms and provisions of the Operating Agreement. The other members of Borrower have authorized the Co-Managing Member of Borrower to enter into this Agreement and the other Loan Documents for and on behalf of Borrower.

(n) **Taxes and Other Obligations:** Borrower shall pay or contest in accordance with the terms of this Agreement all of its current tax and assessment obligations with respect to the Premises, if any, before they become delinquent, including all federal, state and local taxes and all other payments required under federal, state, or local law. Without limitation of the foregoing, Borrower will cause to be paid prior to delinquency all taxes and assessments heretofore or hereafter levied or assessed against the Premises, or any part thereof, and will furnish to Bank, on or before March 31st of each year after the Closing Date, receipts showing payment of such taxes and assessments with respect to the preceding calendar year, to the extent the same are due and payable on such date, provided that Borrower may in good faith, by appropriate proceedings, contest the validity, applicability, or amount of any asserted tax or assessment, and pending such contest Borrower shall not be deemed in default hereunder if (i) Borrower shall diligently prosecute such contest in a manner not prejudicial to the rights, liens and security interests of Bank; (ii) prior to delinquency of the asserted tax or assessment and to the extent Borrower has not paid such disputed tax or assessment to the relevant taxing authority pending resolution of such contest, Borrower establishes with Bank, or as otherwise required by the taxing authority, an escrow reasonably acceptable to Bank adequate to cover the payment of such tax or assessment with interest, costs and penalties and a reasonable additional sum to cover possible costs, interest and penalties (which escrow shall be used to pay, or shall be returned to Borrower upon payment of all such taxes, assessments, interest, costs and
penalties or disbursed in accordance with the resolution of the contest to the claimant) or furnishes Bank with an indemnity secured by a deposit in cash or other security reasonably acceptable to Bank, or an indemnity bond with a surety reasonably acceptable to Bank, in the amount of the tax or assessment being contested by Borrower plus a reasonable additional sum to pay all costs, interests and penalties which may be imposed or incurred in connection therewith; (iii) Borrower pays to Bank promptly after demand therefor all reasonable costs and expenses incurred by Bank in connection with such contest; and (iv) Borrower promptly causes to be paid any amount adjudged by a court of competent jurisdiction to be due, with all costs, penalties and interest thereon, promptly after such judgment becomes final and non-appealable; provided, however, that in any event each such contest shall be concluded, and the tax, assessment, penalties, interest and costs shall be paid, prior to the date any writ or order is issued under which the Premises or any part thereof may be sold. To the extent there is conflict between this Section and the provisions of any of the other Loan Documents, this Section shall control.

(o) **Maintenance:** Borrower shall maintain all of its material tangible property in good condition and repair (subject to ordinary wear and tear) and make all replacements thereof as necessary to operate the Improvements for the purposes stated in the Loan Documents, and preserve and maintain all licenses, trademarks, privileges, permits, franchises, certificates and the like necessary for the operation of its business. Notwithstanding the foregoing, Borrower shall not be obligated to preserve, repair or replace any item of tangible property which has become obsolete and which will as necessary be replaced.

(p) **Financial Reporting:** Borrower shall promptly furnish to Bank such information regarding the business affairs, financial condition, assets, liabilities, operations, and transactions of Borrower as Bank may reasonably request, and, without limiting the foregoing, furnish (or cause to be furnished) to Bank the following:

(i) Within 30 days from the end of each calendar month (beginning with the first month after the first calendar month ending after leasing of the Premises has commenced) (including the last calendar month of each calendar year), a monthly report including, (A) a detailed statement of actual and budgeted income and expense for the month (on either a cash or accrual basis) and for the year to date, and (B) a rent roll identifying unit number, unit type, whether occupied or vacant as of that calendar month end and, if occupied, tenants by name, rent, lease start and end dates and concessions;

(ii) As soon as available, and in any event within 120 days from the end of each fiscal year of Borrower (beginning with the fiscal year ending December 31, 2019), an audited financial
statement of Borrower prepared by an independent, third party accounting firm reasonably acceptable to Bank, showing the financial condition of Borrower at the close of the most recently completed fiscal year and the results of operations during such fiscal year, which financial statements shall include a balance sheet, statement of operations, and statement of cash flows (sources and uses) and evidence of compliance by Borrower and the Premises with all requirements for maintaining the Low Income Tax Credit allocated to the Premises;

(iii) As soon as available, and in any event within 120 days from the end of each fiscal year of each Entity Guarantor (dated as of the end of that fiscal year, beginning with the fiscal year ending December 31, 2018), a company prepared financial statement for each Entity Guarantor, prepared on a form and in a manner reasonably acceptable to Bank, showing the financial condition of that Entity Guarantor at the close of the most recently completed fiscal year and the results of operations during such fiscal year, which financial statements shall include a balance sheet and a statement of operations, and such other matters required by Bank, including, without limitation, if requested by Bank in writing, consolidating and consolidated schedules;

(iv) As soon as available and in any event within 120 days from the end of each fiscal year of Maker Bros LLC (beginning with the fiscal year ending December 31, 2018), as long as the Improvements have not yet achieved Substantial Completion, a reviewed financial statement of the Maker Bros LLC, prepared on a form and in a manner satisfactory to Bank, showing the financial condition of the Maker Bros LLC at the close of the most recently completed fiscal year and the results of operations during such fiscal year, which financial statements shall include a balance sheet and income statement and such other matters required by Bank, including, without limitation, if requested by Bank in writing, consolidating and consolidated schedules;

(v) Within 120 days from the end of each calendar year (beginning with the calendar year ending December 31, 2018), a personal financial statement for each Individual Guarantor prepared on a form and in a manner acceptable to Bank, which shall include without limitation, a balance sheet and such other items reasonably required by Bank; and

(vi) If requested by Bank, within thirty (30) days after the filing thereof (but not later than 120 days after the end of each calendar year, beginning with the calendar year ending on
December 31, 2018, copies of Borrower's and each Guarantor's respective filed federal income tax returns for the most recently completed calendar year (and all K-1's used for preparation, as applicable) and all requests for extensions to the filing thereof.

(q) Further Assurances: Upon written notice from Bank, Borrower shall promptly cure any defects in the execution and delivery of the Loan Documents and promptly execute and deliver to Bank all such other and further instruments consistent with this Agreement as may be reasonably required by Bank from time to time in order to satisfy or comply with the covenants and agreements of Borrower made in this Agreement; provided, however, except to cure a scrivener's error, as such instruments shall change the economic terms of the transactions as contemplated by the Construction Commitment or expand the liability or reduce the rights of the parties hereunder.

(r) Delivery of Information: Subject to the effect of any confidentiality obligations of Borrower under applicable Requirements of Law, Bank is authorized by Borrower to deliver copies of all information and materials provided to Bank pursuant to the terms of this Agreement and the other Loan Documents to the Credit Agency and its respective representatives. Additionally, Borrower shall provide Bank with all additional and supplemental information regarding Borrower, Guarantors, Freddie Mac, the Permanent Lender, the TIF, FWHFC, the City, and the Premises as is reasonably required by Bank (or as may be required by HUD or the Credit Agency). Additionally, Borrower shall provide Bank with all additional and supplemental information regarding Borrower, Guarantors, Freddie Mac, the Permanent Lender, and the Premises as is reasonably required by Bank (or as may be required by the Credit Agency). Additionally, Borrower shall provide Bank with all additional and supplemental information regarding Borrower, Guarantor, and the Premises, as is reasonably required by Bank (or as may be required by Freddie Mac, the Permanent Lender, the TIF, FWHFC, the City or the Credit Agency). The Co-Managing Member shall provide Bank with copies of all notices provided to and received by the Co-Managing Member to and from the Investor Member under the terms of the Operating Agreement, or any agreement, instrument, or document issued pursuant thereto.

(s) Additional Notices: Borrower shall, in addition to, and without in any way limiting, the other requirements in this Agreement to provide certain notices to Bank, deliver to Bank, promptly upon any officer or manager or managing member of the Co-Managing Member having actual knowledge of the occurrence of any of the following events or circumstances, a written statement with respect thereto, signed by an authorized representative of Borrower, advising Bank of the occurrence of such event or circumstance and the steps, if any, being taken by Borrower with respect thereto:

(i) any Default known to Borrower or any Event of Default;
(ii) copies of any written notice of default or non-compliance provided by the Permanent Lender with respect to the Permanent Mortgage Loan Commitment and copies of any written notice of default or non-compliance provided by the Credit Agency with respect to the Low Income Housing Tax Credit;

(iii) copies of written notice of default or non-compliance received by Borrower with respect to any Subordinate Loan and/or the TIF Agreement;

(iv) any litigation or proceeding or contingent liability in which the amount involved is $75,000.00 or more, which is not covered by insurance, and which involves Borrower as a defendant or any other property of Borrower; and

(v) any other event or occasion which could reasonably be expected to cause a Material Adverse Change.

Notwithstanding the foregoing, if an Event of Default or any event, act or condition which, with the passage of time or the giving of notice, or both, would constitute an Event of Default is cured within the applicable cure periods, then any unintentional failure to provide the notice that such event has occurred shall also be deemed cured.

(t) INDEMNIFICATION: BORROWER SHALL AND DOES HEREBY INDEMNIFY AND HOLD HARMLESS BANK, THE DIRECTORS, TRUSTEES, SUBSTITUTE TRUSTEES, OFFICERS, MEMBERS, EMPLOYEES, AGENTS, HEIRS, REPRESENTATIVES, ATTORNEYS, SUCCESSORS AND ASSIGNS OF BANK, AND ANY PERSONS OWNED OR CONTROLLED BY, OWNING OR CONTROLLING, OR UNDER COMMON CONTROL OR AFFILIATED WITH BANK (INDIVIDUALLY REFERRED TO AS AN "INDEMNIFIED PERSON", AND COLLECTIVELY "INDEMNIFIED PERSONS"), FROM AND AGAINST, AND REIMBURSE THEM ON DEMAND FOR, ANY AND ALL INDEMNIFIED MATTERS (DEFINED BELOW). HOWEVER, SUCH INDEMNITIES AND THOSE SET FORTH BELOW SHALL NOT APPLY TO ANY INDEMNIFIED PERSON TO THE EXTENT THAT THE SUBJECT OF THE INDEMNIFICATION IS SOLELY AND EXCLUSIVELY CAUSED BY OR ARISES OUT OF THE MATERIAL BREACH OF OR DEFAULT BY AN INDEMNIFIED PERSON OF ANY OF THE TERMS AND PROVISIONS OF THE LOAN DOCUMENTS, THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNIFIED PERSON. ANY AMOUNT TO BE PAID UNDER THIS SECTION BY BORROWER TO AN INDEMNIFIED PERSON SHALL BE A DEMAND OBLIGATION OWING BY BORROWER, WHICH IF TO BE PAID TO BANK BY BORROWER HEREBY PROMISES TO PAY TO BANK, AS PART OF THE OBLIGATIONS, EVEN IF IN EXCESS OF THE LOAN AMOUNT, AND SECURED BY THE LOAN DOCUMENTS. NOTHING IN THIS SECTION, ELSEWHERE IN THIS AGREEMENT, OR IN ANY OTHER LOAN DOCUMENT
SHALL LIMIT OR IMPAIR ANY RIGHTS OR REMEDIES OF BANK, OR ANY OTHER INDEMNIFIED PERSON, INCLUDING WITHOUT LIMITATION, ANY RIGHTS OF CONTRIBUTION OR INDEMNIFICATION, AGAINST BORROWER OR ANY OTHER PERSON UNDER ANY OTHER PROVISION OF THIS AGREEMENT, ANY OTHER LOAN DOCUMENT, ANY OTHER AGREEMENT, OR ANY APPLICABLE REQUIREMENT OF LAW. AS USED HEREIN, THE TERM "INDEMNIFIED MATTERS" MEANS ANY AND ALL CLAIMS, DEMANDS, LIABILITIES (EXCLUDING STRICT LIABILITY), DAMAGES (EXCLUDING CONSEQUENTIAL DAMAGES), CAUSES OF ACTION, JUDGMENTS, PENALTIES, FINES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS AND OTHER PROFESSIONAL CONSULTANTS AND EXPERTS, AND OF THE INVESTIGATION AND DEFENSE OF ANY CLAIM, WHETHER OR NOT SUCH CLAIM IS ULTIMATELY DEFEATED, AND THE SETTLEMENT OF ANY CLAIM OR JUDGMENT INCLUDING ALL VALUE PAID OR GIVEN IN SETTLEMENT) OF EVERY KIND, KNOWN OR UNKNOWN, FORESEEABLE OR UNFORESEEABLE, WHICH MAY BE IMPOSED UPON, ASSERTED AGAINST, OR INCURRED OR PAID BY BANK OR ANY INDEMNIFIED PERSON AT ANY TIME AND FROM TIME TO TIME ON OR BEFORE THE RELEASE DATE (DEFINED BELOW), WHENEVER IMPOSED, ASSERTED, OR INCURRED, BECAUSE OF, RESULTING FROM, IN CONNECTION WITH, OR ARISING OUT OF ANY TRANSACTION, ACT, OMISSION, EVENT, OR CIRCUMSTANCE IN ANY WAY CONNECTED WITH THE PREMISES, THE IMPROVEMENTS AND THE CITY INFRASTRUCTURE IMPROVEMENTS OR THE LAND OR WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, INCLUDING DISBURSEMENT OF THE LOAN PROCEEDS (AND ANY TAX CONSEQUENCE RESULTING THEREFROM), THE CONDITION OF THE LAND AND THE IMPROVEMENTS AND THE CITY INFRASTRUCTURE IMPROVEMENTS, ANY BODILY INJURY OR DEATH OR PROPERTY DAMAGE OCCURRING IN OR UPON THE LAND OR THE IMPROVEMENTS AND THE CITY INFRASTRUCTURE IMPROVEMENTS THROUGH ANY CAUSE WHATSOEVER AT ANY TIME ON OR BEFORE THE RELEASE DATE (DEFINED BELOW) AND ANY CLAIM UNDER OR WITH RESPECT TO ANY LEASE (BUT EXCLUDING ANY LOSSES, DAMAGES, COSTS OR EXPENSES SUFFERED, INCURRED OR PAID BY BANK IN CONNECTION WITH FAILURE OF THE BORROWER OR ANY OTHER PERSON TO PAY OR PERFORM THE LOAN; PROVIDED THAT ANY LOSS, CLAIM, OR CAUSE OF ACTION RESULTING SOLELY AND EXCLUSIVELY FROM ANY INDEMNIFIED PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, SHALL NOT BE AN INDEMNIFIED MATTER FOR PURPOSES HEREOF). THE TERM "RELEASE DATE" AS USED HEREIN MEANS THE EARLIER OF: (i) THE DATE ON WHICH THE OBLIGATIONS HAVE BEEN FULLY AND FINALLY PAID AND PERFORMED IN FULL, OR (ii) THE DATE ON WHICH THE LIEN CREATED UNDER THE CONSTRUCTION MORTGAGE IS FULLY AND FINALLY FORECLOSED OR A CONVEYANCE BY DEED IN LIEU OF SUCH FORECLOSURE IS FULLY AND FINALLY EFFECTIVE AND
POSSESSION OF THE PREMISES HAS BEEN GIVEN TO THE PURCHASER OR GRANTEE FREE OF OCCUPANCY AND CLAIMS TO OCCUPANCY BY BORROWER AND BORROWER'S HEIRS, DEVISEES, REPRESENTATIVES, SUCCESSORS, AND ASSIGNS PROVIDED, THAT IF SUCH PAYMENT, PERFORMANCE, RELEASE, FORECLOSURE, OR CONVEYANCE IS CHALLENGED, IN BANKRUPTCY PROCEEDINGS OR OTHERWISE, THE RELEASE DATE SHALL BE DEEMED NOT TO HAVE OCCURRED UNTIL SUCH CHALLENGE IS REJECTED, DISMISSED, OR WITHDRAWN WITH PREJUDICE. THE INDEMNITIES IN THIS SECTION SHALL BE SOLELY FOR EVENTS OCCURRING PRIOR TO THE RELEASE DATE, SHALL NOT TERMINATE UPON THE RELEASE DATE OR UPON THE RELEASE, FORECLOSURE, OR OTHER TERMINATION OF ANY LOAN DOCUMENT, AND SHALL SURVIVE THE RELEASE DATE, FORECLOSURE OF THE CONSTRUCTION MORTGAGE OR CONVEYANCE IN LIEU OF FORECLOSURE, THE PAYMENT AND PERFORMANCE OF THE OBLIGATIONS, THE DISCHARGE AND RELEASE OF THE LOAN DOCUMENTS, ANY BANKRUPTCY OR OTHER DEBTOR RELIEF PROCEEDING, AND ANY OTHER EVENT WHATSOEVER. THE TERMS OF THIS SECTION ARE CUMULATIVE WITH, AND NOT LIMITED BY, THE TERMS AND PROVISIONS OF THE CONSTRUCTION MORTGAGE.

(u) **Appraisal:** Bank shall have the right to order one new Appraisal of the Premises after the Closing Date, unless any additional Appraisal is ordered during the continuation of an Event of Default or is required by applicable law, regulation or otherwise. Each Appraisal is subject to review and approval by Bank. Borrower agrees upon demand to reasonably pay to Bank the reasonable cost and expense for such Appraisals and a reasonable fee for Bank's review of each Appraisal.

(v) **Operation:** The Borrower shall operate the Premises (or cause the Premises to be operated) in a good and workmanlike manner and in accordance with all applicable Requirements of Law and will pay all fees or charges in connection therewith. In particular, the Affordable Units will be operated as a "qualified residential rental project" within the meaning of Section 42(d) of the Internal Revenue Code with all or a portion of the units to be "rent-restricted" and set aside for "low income tenants" in accordance with Section 42(d)(1)(B) of the Internal Revenue Code in a manner which ensures receipt and maintenance by the Premises of a Low Income Housing Tax Credit pursuant to Section 42 of the Internal Revenue Code. Without limitation to the foregoing, Borrower shall fully comply with the terms and provisions of the Tax Credit Allocation, the Permanent Supportive Housing Agreement and the LURA and the rules and policies established by the Credit Agency in connection with the foregoing, the HAP Commitment, the HAP Contract (once executed), and the Permanent Mortgage Loan Commitment.
Management Agreement. On or before the Closing Date, Bank shall have received and approved a fully executed copy of the management agreement for the Premises.

Expenses of Bank. Without limiting the terms of this Agreement or any of the other Loan Documents, to the extent not prohibited by applicable law, except as otherwise provided in the Loan Documents, in addition to the expenses of Bank's construction consultant provided for in Section 6.7, Borrower will pay all reasonable costs and expenses and reimburse Bank for any and all reasonable expenditures of every character reasonably incurred or expended from time to time, regardless of whether a Default or Event of Default shall have occurred, in connection with (i) the preparation, negotiation, and filing of any and all Loan Documents, (ii) Bank's evaluating, monitoring, and administering the planned construction, development, and operation of the Improvements, and (iii) Bank's creating, perfecting or realizing upon Bank's security interest in and liens on the Premises and in the Improvements and the City Infrastructure Improvements, and all reasonable costs and expenses relating to Bank's exercising any of its rights and remedies under the Loan Documents or at law, including, without limitation, all filing fees, taxes (other than taxes levied on the income of Bank), reasonable brokerage fees and commissions (provided that the fees and commissions are those of Borrower's agent), title review and abstract fees, Uniform Commercial Code search fees, other reasonable fees and expenses incident to title searches, reports and security interests, escrow fees, reasonable attorneys' fees and legal expenses, court costs, reasonable fees and expenses incurred in connection with any complete or partial liquidation of such property, and all reasonable fees and expenses for any professional service relating to such property or any operations conducted in connection with it; provided, that no right or option granted by Borrower or Bank or otherwise arising pursuant to any provision of this Agreement or any other Loan Document shall be deemed to impose or admit a duty on Bank to supervise, monitor, or control any aspect of the character or condition of the Premises or any operations conducted in connection with it for the benefit of Borrower or any other person other than Bank. Borrower shall pay all reasonable costs and expenses of complying with this subsection and the Loan Documents, whether or not such costs and expenses are included in the Budget. Borrower's obligations under this subsection shall survive the foreclosure of the Mortgage or conveyance in lieu of foreclosure, any bankruptcy proceeding, and any other event whatsoever.

Restrictive Agreements: If requested by Bank, Borrower shall provide Bank with a certification that the Premises is and will remain in ongoing compliance with the LURA and any other applicable restrictive covenants or regulatory agreement that enforces affordability restrictions, and shall thereafter annually provide Bank with a certification that the Premises is in ongoing compliance with the applicable restrictions.

Stored Materials.
(i) Bank shall have the right to approve or disapprove specifically, in its sole and reasonable judgment, all disbursements for any materials to be used for the construction of the Improvements and the City Infrastructure Improvements and not to be immediately incorporated into and made a part of the Improvements and the City Infrastructure Improvements ("Stored Materials"). Without limiting Bank's approval rights as set forth in the preceding sentence, Bank will not approve disbursements for Stored Materials until Borrower complies with the conditions set forth in subsection (ii) below.

(ii) In addition to the requirements of Sections 6.1, 6.2, and 6.3, as a condition precedent to Borrower's request for a disbursement of Capital Contributions from the Capital Contribution Account (to the extent on deposit with Bank) or an advance of the Construction Note for Stored Materials (if and to the extent applicable), Borrower shall supply Bank, as requested by Bank (v) evidence reasonably satisfactory to Bank that the Stored Materials are included in the coverage of the insurance policies required by Section 4.1(d); (w) evidence reasonably satisfactory to Bank from the seller or fabricator of the Stored Materials that, upon payment, ownership thereof will vest in Borrower free of any liens or claims of third parties; (x) all Stored Materials are incorporated into the Improvements and the City Infrastructure Improvements as planned within one hundred eighty (180) days after the purchase of the particular Stored Materials, (y) the total amount aggregate value of Stored Materials purchased by or on behalf of Borrower at any one time stored offsite with respect to the Improvements and the City Infrastructure Improvements does not exceed $300,000.00; and (z)(A) evidence reasonably satisfactory to Bank that the Stored Materials are reasonably satisfactorily stored on the Land to protect against theft or damage (which shall include, without limitation, maintaining a security guard or an approved security system), or (B) if the Stored Materials are not stored on the Land, (1) evidence reasonably satisfactory to Bank that the Stored Materials are stored in a bonded warehouse or storage yard reasonably approved by Bank, and the warehouse or yard has been notified that Bank has a security interest in the subject Stored Materials, and (2) Bank shall have received from Borrower the original warehouse receipt. With Bank's prior written approval, Stored Materials may be stored in the yard or warehouse of the seller or fabricator, subject to satisfaction of conditions (z)(B)(1) and (2) in this subsection (y)(ii), and provided further that Bank receives reasonably satisfactory evidence that the Stored Materials are protected against theft or damage, have been suitably identified as belonging to Borrower for use in the Premises, and that such seller or fabricator has been notified of the security interest of Bank therein.

(aa) Contest of Certain Claims. Notwithstanding the terms of the Construction Mortgage or any other Loan Document, Borrower may, to the extent
and in the manner permitted by applicable law, contest the payment of any claim for payment by a Contractor or subcontractor, or any tax, assessment, or other governmental charge against the Land. The failure of Borrower to pay such contested claim pending such contest shall not be or become a Default or Event of Default if (i) Borrower has notified Bank of Borrower’s intent to contest such payment at least seven (7) days prior to commencing the contest; (ii) Borrower has made any cash deposit with Bank or payment under protest, or posted security, as and to the extent required by applicable law; (iii) Borrower, or a third party on behalf of Borrower, has furnished to Bank a cash deposit reasonably satisfactory to Bank, or an indemnity or payment and performance Bond reasonably satisfactory to Bank with a surety reasonably satisfactory to Bank, in an amount reasonably satisfactory to Bank (or in the statutory amount, in the case of a bond authorized by statute), to assure payment of the matters under contest and to prevent any sale or forfeiture of any part of the Land or the Improvements and the City Infrastructure Improvements, and (iv) in the case of a claim for work which does or could result in a lien against the Land or the Improvements and the City Infrastructure Improvements, Borrower has provided (x) to the extent required by Bank and available under applicable law, a Bond which under applicable law releases the lien from the Land and the Improvements (and caused it to be Bonded), and (y) such security, assurances and other items, if any, as the title insurer may require to insure around the lien; (v) Borrower diligently and in good faith contests the same by appropriate legal proceedings which shall operate to prevent the enforcement or collection of the same and the sale of any part of the Land and the Improvements to satisfy the same; (vi) Borrower promptly upon final determination thereof pays the amount of any such claim so determined, together with all costs, interest, and penalties payable in connection therewith; (vii) the failure to pay the claim does not constitute a default under any other deed of trust, mortgage, or security interest covering or affecting any part of the Land or the Improvements entered into by Borrower with a Person other than Bank and does not subject Bank to any civil or criminal liability or to any damages or expense; and (viii) the aggregate amount of all claims being contested shall not exceed the lesser of (y) five percent (5%) of the amount of the Construction Loan or (z) any amounts retained by Bank in accordance with the terms and provisions of this Agreement. Notwithstanding the forgoing, Borrower shall promptly upon request of Bank pay (and if Borrower shall fail so to do, Bank may, but shall not be required to, pay or cause to be discharged or Bonded against) any such claim notwithstanding such contest if, in the reasonable opinion of Bank, the Land or the Improvements are in imminent jeopardy or in immediate danger of being forfeited or foreclosed. Bank may pay over any such cash deposit or part thereof to the claimant entitled thereto at any time when, in the judgment of Bank, the entitlement of such claimant is established.

(bb) Construction Account. Borrower agrees to maintain the Construction Account as a special account with Bank into which the proceeds from the Capital Contribution Account and proceeds of the Construction Note
(but no other funds, except for deposits of additional equity described in Section 4.1(g) above which are disbursed to Borrower pursuant to the terms of this Agreement) shall be deposited pursuant to the terms of this Agreement and against which checks shall be drawn by Borrower (or its designee) only for payment of all costs and expenses incident to and associated with the Budget.

(cc) Sales and Use Taxes. If Bank reasonably determines, based upon any duly issued ruling, law, opinion, or regulation (or as the result of the withdrawal of any previously issued ruling, law, opinion, or regulation), that Contractor (or its subcontractors, if applicable) is not exempt from state sales and use taxes, in such event, if Contractor has not paid such taxes, at the written request of Bank, Borrower shall create and maintain a reserve or other account in a manner satisfactory to Bank in an amount at least equal to the aggregate sales and use taxes that Contractor did not pay with respect to the development of the Premises because Contractor took the position it was exempt from such sales and use taxes. Borrower agrees Bank has not represented to Borrower or to any other Person, whether sales and use taxes are and shall be due with respect to the Premises. Borrower has and does hereby agree to indemnify and hold Bank harmless from any loss, claims, or causes of action arising as a result of the failure of Borrower or Contractor to pay any such sales and use taxes.

(dd) Disposal of Impacted Soil. If impacted soil is encountered during redevelopment of the Premises, it shall be handled by Borrower in accordance with all applicable Requirements of Law and otherwise in strict accordance with the recommendations provided in the Soil and Groundwater Management Plan dated July 13, 2018, prepared by Terracon Consultants, Inc. for the Borrower (Terracon Project No. 95175087.2) (the "Soil Management Plan") and the applicable waste manifests and other reports to be provided pursuant to the Soil Management Plan, each of which shall be delivered to Bank prior to the date hereof and may be relied upon by the Bank.

(ee) Water Wells. Without limiting any other term of this Agreement or any other Loan Documents, water wells, if any, located on the Premises shall be used for irrigation and monitoring or abandoned by Borrower in accordance with all applicable Requirements of Law.

(ff) Asbestos Containing Materials. Any suspect asbestos containing materials ("ACM") on the Premises shall be managed during maintenance, remodeling and demolition activities and in accordance with all applicable Requirements of Law. If any ACM sampling or abatement activities are conducted on the Premises, copies of all reports shall be submitted to Bank's Environmental Risk Management Department for review.

(gg) Debris and Above-Ground Storage Tanks. All debris, drums, containers and above-ground storage tanks on the Premises shall be disposed
by Borrower at an offsite facility in accordance with all applicable Requirements of Law.

(hh) Credit Agency. The Premises will contain each unit amenity, design item, standard of construction, or similar item listed in the low income housing tax credit application approved by Credit Agency unless otherwise consented to by the Bank and Credit Agency.

(ii) Loan to Value. If at any time, the Bank's most recent Appraisal shows that: the amount of the Construction Loan will exceed eighty percent (80%) of the appraised value of the Premises (on an as completed and stabilized basis giving effect to the contributory value of the Low-Income Housing Tax Credit), the Borrower shall make a deposit as security for the Construction Loan in the amount of excess, which amount shall be available to pay the Construction Loan down to the amount of the Permanent Mortgage Loan.

(jj) Affordable Restrictions. Borrower shall operate the Affordable Units in accordance with federal affordability restrictions under Section 42 of the Internal Revenue Code and other applicable Requirements of Law. Borrower shall at times comply with the LURA.

(kk) Lead Containing Material. Borrower shall use no materials containing lead in violation of quantities permitted under applicable Environmental Laws (as defined in the Environmental Indemnity Agreement) in the construction of the Improvements and the City Infrastructure Improvements.

(ll) Mold. During any construction of the Premises, if applicable, all identified mold contamination shall be remediated and all roof leaks shall be repaired and water damaged wall and ceiling materials shall be replaced.

(mm) PCB. During any construction of the Premises, if applicable, all light ballasts that are not labeled "No PCB" will be replaced with ballasts that are labeled "No PCB."

(nn) Equity Funding. Investor Member has disclosed to Bank the upper tier funding source of the Capital Contributions will initially be under a warehouse line of credit, and then upon completion of a planned syndication to a fund managed by the Investor Sponsor (the "Hunt Fund"), the upper tier funding source will be owners owning in the aggregate not less than 75% of the ownership interests (both directly or indirectly) in the Hunt Fund either Financial Institutions or are Investment Grade (Borrower shall notify Bank of the occurrence of such syndication and provide evidence the ownership of the upper tier is in compliance with the foregoing). If requested by Bank prior to the end of a particular calendar year, within 60 days after the end of that calendar year ending after such syndication, the Investor Member shall provide to Bank an annual certification that since the syndication of and transfer to the Hunt Fund (or the
most recent annual certification as the case may be) stating there has been no change in more than 25% of the ownership interest in the Hunt Fund or if there has been a change in more than 25% of the ownership interest in the Hunt Fund since the syndication (or the most recent annual certification as the case may be). The Investor Member shall certify to Bank in writing that partners owning in the aggregate not less than 75% of the ownership interests in the Hunt Fund are themselves (or such partner’s ultimate parent) Financial Institutions or Investment Grade. All information received in connection with the foregoing shall be kept confidential by Bank, unless required to be disclosed by applicable law and/or banking regulations. For purposes hereof, “Investment Grade” is an entity rated as BBB or better rated by S&P or similar rating agency or otherwise approved by Bank in writing, which approval shall not be unreasonably withheld or delayed (it is specifically agreed that, notwithstanding the foregoing, for purposes of this Agreement, Bank and any affiliate of Bank or any investment company used by Bank to invest in the Hunt Fund is considered to be investment grade).

(oo) Derivative Documents. If Borrower purchases from Bank any swap, derivative, foreign exchange or hedge transaction or arrangement (or other similar transaction or arrangement howsoever described or defined) at any time in connection with the Construction Loan, Borrower shall, upon receipt from Bank, execute promptly all documents evidencing such transaction, including without limitation, the ISDA Master Agreement, the Schedule to the ISDA Master Agreement and the ISDA Confirmation.

(pp) Project Account. Borrower shall maintain Bank as its principal depository bank for project accounts related to the Premises.

(qq) Payment and Performance Bond. The Borrower shall request that the surety under the Payment and Performance Bond pay the proceeds of such Payment and Performance Bond directly to Bank should any of the following events occur: (i) Contractor shall be in default under the Construction Contract or any subcontract or sub-subcontract, (ii) Contractor shall have failed to satisfactorily complete its work as required under the Construction Contract, or (iii) Contractor shall have failed to pay any laborer, subcontractor, supplier or materialman for labor and material required for performance of the Construction Contract. Bank hereby agrees to apply the proceeds of the Payment and Performance Bond in the following order: (i) first, to satisfy any lien which has been filed against the Premises or the Improvements in violation of this Agreement; and (ii) second, any remaining proceeds shall be used by Bank in order to complete construction of the Improvements in accordance with the provisions of this Agreement.

(rr) Septic Systems. If septic systems or water wells are encountered during construction activities of the Improvements, the Borrower shall provide the
Bank with documentation that the well(s) and/or septic system(s) were removed or abandoned in accordance with local, state and federal regulations.

(ss) **HAP Contract.** As soon as reasonable practical after the issuance of the HAP Contract, Borrower shall promptly provide Bank a copy of HAP Contract and an original Consent to Assignment of the HAP Contract executed by HUD or the contract administrator thereunder (or, in the alternative, an addendum to HAP Contract shall be attached evidencing HUD’s consent to the collateral assignment of HAP Contract from Borrower to Bank).

(tt) **Subordinate Loans.** Borrower shall provide to Bank copies of the Subordinate Loan Documents promptly after the closing of the Subordinate Loans, together with an original counterpart of each Intercreditor Agreement executed by the FWHFC and the City, as applicable (or such other parties required by Bank), relating to the each, respective Subordinate Loan, on a form acceptable to Bank.

(uu) **TIF Agreement.** Borrower shall timely and fully comply with the terms and provisions of the TIF Agreement. As soon as realistically practical, Borrower shall advise Bank in writing if the Borrower has reason to believe (i) the aggregate amount to be paid to Borrower under the terms of the TIF Agreement will be less than $2,600,000.00, or (i) the payments to be made under the TIF Agreement will be reduced.

(vv) **Permanent Supportive Housing Agreement.** Borrower shall timely and fully comply with the terms and provisions of the Permanent Supportive Housing Agreement.

4.2 **Assignment of Plans.** As additional security for the payment of the Construction Note and other Obligations, Borrower hereby transfers and assigns, and grants a security interest, to Bank all of Borrower’s rights and interest in and to the Plans and all design contracts (collectively, referred to in this Section as the “Plans”) and hereby represents and warrants to and agrees with Bank as follows:

(a) To Borrower’s knowledge, the Plans delivered to Bank are a complete and accurate description of the Plans. No approval of the Plans is required by any other Person except such approvals of any Governmental Authority, the TIF, FWHFC, the City, the Investor Member, Freddie Mac, and the Permanent Lender, all of which shall have been provided prior to the Closing Date. No approval of the Plans is required by another Person under the Permanent Mortgage Loan Commitment, the Forward Commitment, the TIF Agreement, the Subordinate Loan Documents, the Operating Agreement, or otherwise.

(b) To Borrower’s knowledge, the Plans are complete and adequate for the construction of the Improvements and there have been no modifications
thereof, except as permitted under Section 4.1(c) hereof. The Plans shall not be modified in any material respect without the prior written consent of Bank (except for change orders permitted under this Agreement, including, without limitation, under Section 4.1(c) hereof), which such consent shall not be unreasonably withheld, conditioned, or delayed.

(c) Bank may use the Plans for any purpose related to the Improvements, including, but not limited to, inspections of construction and the completion of the Improvements.

(d) Bank’s acceptance of this assignment shall not constitute approval of the Plans by Bank. Notwithstanding anything herein to the contrary, Bank has no liability or obligation whatsoever in connection with the Plans and no responsibility for the adequacy thereof or for the construction of the Improvements contemplated by the Plans. Bank has no duty to inspect the Improvements, and, if Bank should inspect the Improvements, Bank shall have no liability or obligation to Borrower arising out of such inspection. No such inspection nor any failure by Bank to make objections after any such inspection shall constitute a representation by Bank that the Improvements are in accordance with the Plans nor shall any such matter constitute a waiver of Bank’s right thereafter to insist that the Improvements be Substantially Completed in substantial accordance with the Plans.

(e) This assignment shall inure to the benefit of Bank, its successors, and assigns, including, without limitation, any purchaser upon foreclosure of the Construction Mortgage or any receiver in possession of the Land that assumes Bank’s rights and obligations under this Agreement.

4.3 Assignment of Construction Contract. As additional security for the payment of the Construction Note and other Obligations, Borrower hereby transfers and assigns, and grants a security interest, to Bank all of Borrower’s rights and interest, but not its liability for any breach, in, under, and to the Construction Contract (as hereafter defined), upon the following terms and conditions:

(a) To its knowledge, Borrower represents and warrants that the copy of each original construction contract (collectively with all other original contracts relating to the construction of the Improvements and the City Infrastructure Improvements, collectively, the “Construction Contract”, whether one or more) it has furnished or will furnish to Bank is and shall be a true and complete copy thereof and that Borrower’s interest therein is not subject to any claim, setoff, or encumbrance, other than the security interests granted to the Bank and the Permitted Encumbrances.

(b) NEITHER THIS ASSIGNMENT NOR ANY ACTION BY BANK (INCLUDING BUT NOT LIMITED TO APPROVAL OF THE PLANS BY BANK) SHALL CONSTITUTE AN ASSUMPTION BY BANK OF ANY OBLIGATION
UNDER ANY CONSTRUCTION CONTRACT, AND BORROWER SHALL CONTINUE TO BE LIABLE FOR ALL OBLIGATIONS OF BORROWER THEREUNDER, BORROWER HEREBY AGREEING TO PERFORM ALL OF ITS OBLIGATIONS UNDER THE CONSTRUCTION CONTRACT. BORROWER INDEMNIFIES AND HOLDS BANK HARMLESS AGAINST AND FROM ANY LOSS, COST, LIABILITY OR EXPENSE (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES AND EXPENSES) RESULTING FROM ANY FAILURE OF BORROWER TO SO PERFORM, BUT NOT SOLELY AND EXCLUSIVELY AS A RESULT OF BANK'S OR ANY INDEMNIFIED PERSON (OR ANY INDEMNIFIED PERSON'S INVITEES, EMPLOYEES OR AGENTS) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

(c) During the continuation of an Event of Default, Bank shall have the right at any time (but shall have no obligation) to take in its name or in the name of Borrower such action as Bank may at any time reasonably determine to be reasonably necessary or advisable to cure any default under any Construction Contract or to protect the rights of Borrower or Bank thereunder. Bank shall incur no liability if any action so taken by it or on its behalf shall prove to be inadequate or invalid, and Borrower agrees to hold Bank free and harmless against and from any loss, cost, liability or expense (including, but not limited to, reasonable attorneys' fees and expenses) incurred by or on behalf of Bank in connection with any such action, other than solely and exclusively as a result of Bank's (which shall include agents, employees and invitees of Bank and the Indemnified Persons) fraud, gross negligence or willful misconduct.

(d) Subject to the applicable terms and limitations set forth in the Loan Documents, Borrower hereby irrevocably constitutes and appoints Bank as Borrower's attorney-in-fact, in Borrower's name or in Bank's name to, during the continuance of an Event of Default, enforce all rights of Borrower under any Construction Contract.

(e) Unless an Event of Default exists, Borrower shall have the right to exercise its rights as owner under any Construction Contract, provided that except as otherwise expressly set out herein or in any of the other Loan Documents, Borrower shall not cancel or amend in any material respect any Construction Contract (except for change orders permitted hereunder) or do or suffer to be done any act which would impair the security constituted by this assignment without the prior written consent of Bank, which such consent shall not be unreasonably withheld, conditioned or delayed.

(f) This assignment shall inure to the benefit of Bank, its successors and assigns, including any purchaser upon foreclosure of the Construction Mortgage, any receiver in possession of the Premises, and any corporation formed by or on behalf of Bank which assumes Bank's rights and obligations under this Agreement.
V - NEGATIVE COVENANTS

5.1 Negative Covenants. Except as otherwise expressly permitted by this Agreement or any other Loan Document, until full payment and performance of the Construction Note and all other Obligations of Borrower, and the expiration of Bank’s funding commitments hereunder, Borrower shall not, without the prior written consent of Bank (and without limiting any requirement of any other Loan Document), which consent will not be unreasonably delayed, withheld, or conditioned:

(a) Transfer of Assets. Sell, lease, assign, or otherwise dispose of or transfer any assets, except for Approved Leases and leases for laundry facilities, cable television electronic data transmission, telephone, internet and security and other basic service providers, or if done in the normal course of its business or as otherwise permitted by the Loan Documents.

(b) Off-Site Storage. Except as otherwise specifically permitted hereunder, store or permit any materials to be used for the construction of the Improvements and the City Infrastructure Improvements to be stored off the Land except those materials purchased by Borrower prior to the Closing Date to meet the requirements of the Tax Credit Allocation and those stored in accordance with Section 4.1(y)(ii)(z)(B), or permit any materials to be stored on the Land not in a manner satisfactory to Bank (all such items shall be specified in a request for advance as “stored materials” and not “work in place”).

(c) No Amendments. Without the consent of the Lender as provided in the lead-in to this Section 5.1, amend, restate, modify, cancel, or permit to be terminated, the Operating Agreement (provided, without limiting and subject to any other terms or conditions of this Agreement or the Loan Documents, that the Operating Agreement may be amended without the necessity of prior Bank consent if the amendment does not amend or otherwise affect, directly or indirectly, the timing, amount, or conditions of and to the payment of the Capital Contributions). Further, without the prior written consent of Bank, Borrower shall not amend, restate, modify, cancel, or permit to be terminated the Permanent Loan Commitment or the Subordinate Loan Documents (once executed). Notwithstanding anything to the contrary contained in the Loan Documents, amendments to the Operating Agreement to effectuate a Permitted Transfer shall not require the prior consent of Lender.

(d) No Other Debt. Incur, create, assume, or permit to exist any Debt, except:

(i) the Obligations;

(ii) all existing loans and borrowings by Borrower as reflected in the Financial Statements; and all renewals, extensions, modifications and rearrangements thereof;
(iii) liabilities, direct or contingent, of Borrower to the extent that such liabilities existed on the date of this Agreement and continue to exist and are reflected in the Financial Statements or have been disclosed to Bank in writing and approved by Bank prior to the date of this Agreement;

(iv) indebtedness evidenced by the Delivery Assurance Note required by the Permanent Mortgage Loan Commitment;

(v) endorsements of negotiable instruments for collection or deposit in the ordinary course of business;

(vi) each Subordinate Loan, to the extent subordinated to the Construction Loan on terms satisfactory to Bank;

(vii) obligations from time to time incurred in the ordinary course of business, other than for borrowed money;

(viii) Debt contemplated by the Operating Agreement (to the extent subordinated to the Bank in a manner satisfactory to Bank);

(ix) taxes, assessments, or other government charges which are not yet due or which are being contested in good faith by appropriate action promptly initiated and diligently conducted in accordance with the conditions set forth herein for contesting such charges; and

(x) Debt to be paid in connection with the closing of the Construction Loan and from the Initial Capital Contribution (including, without limitation, any pre-development loan made prior to the Closing Date by any Person to Borrower).

(e) **No Loan, Advances, or Investments.** Make or permit to remain outstanding any loans or advances to or investments in any Person except that the foregoing restrictions shall not apply to the following:

(i) loans, advances, or investments the material details of which have been set forth in the Financial Statements, or which have been otherwise disclosed to and approved by Bank in writing prior to the date of this Agreement;

(ii) certificates of deposit or interest bearing accounts of banks or savings and loan associations insured by an agency of the United States; and

(iii) securities issued and/or guaranteed by the United States of America, the State of Texas, any other state of the United States, or any agency, unit, instrumentality or subdivision thereof.
(f) **No Mortgages.**

(i) Create, incur, assume, or permit to exist any mortgage, pledge, security interest, lien, or similar encumbrance on any of Borrower's assets, including, without limitation, any of the Premises (to the extent owned by Borrower), except as specifically disclosed in the Financial Statements, (ii) acquire or agree to acquire assets under any conditional sale agreement or title retention contract, or (iii) sell and leaseback any assets, except that the foregoing restrictions shall not apply to:

1. liens for taxes, assessments and other governmental charges not yet due unless any such taxes, assessments and/or other governmental charges are being contested in accordance with Section 4.1(z);

2. liens of vendors, carriers, warehousemen, landlords, mechanics, laborers, and materialmen arising by law in the ordinary course of business for sums not yet due or being contested in good faith as provided in this Agreement, or Bonded around or reserve shall have been made therefor as fully required by this Agreement;

3. pledges or deposits in connection with or to secure worker's compensation, unemployment insurance, pensions or other employee benefits;

4. mortgages, pledges, security interests, liens, encumbrances, landlord's liens, or title retention contracts existing as of the date of this Agreement and disclosed to Bank in writing and approved by Bank before the date hereof;

5. liens and/or security interests required by this Agreement and the other Loan Documents;

6. liens securing the Subordinate Loans (but only to the extent subordinated to the Construction Mortgage on terms satisfactory to Bank);

7. liens granted and created in and by the Delivery Assurance Note required under the Permanent Mortgage Loan Commitment (to the extent subordinate to the Construction Mortgage in a manner satisfactory to the Bank);

8. Permitted Encumbrances; and
(9) Liens contemplated by the Operating Agreement, if and to the extent made subordinate to Bank as may be required by Bank.

(g) Utilities. Except as permitted by Section 5.1(f), Borrower shall not permit any Person (other than tenants under Approved Leases) to obtain any right to its utility services necessary for the normal and customary operation of the Premises, including, without limitation, water and sewer taps, nor shall Borrower permit to expire any of its rights to utility services or commitments for capacity necessary for the normal and customary operation of the Premises, including, without limitation, water and sewer taps.

(h) No Assignment. Except as otherwise specifically provided in the Loan Documents, Borrower shall not assign, transfer, or encumber its rights or Obligations under any Loan Document or any proceeds of the Loan.

(i) Borrower's Existence. Borrower shall not dissolve or liquidate or merge with or be consolidated into any other entity or modify or amend the Operating Agreement with respect to the timing and amount of the payment of the Capital Contribution (except for the amendment and restatement of the Operating Agreement on or about the date hereof, any amendment to the Operating Agreement as permitted pursuant to Section 5.1(c) and Section 5.1(l)), Transfers permitted by Section 5.1(l) and changes in the identity of the Co-Managing Member or Investor Member in accordance with the provisions of the Operating Agreement to the extent permitted by Section 5.1(l)).

(i) Payment of Development Fees, Contractor Fees, and Lease Commissions. Except as permitted by Sections 2.6 and 2.7, Borrower shall not permit any development and developer overhead fees, contractor profit or fees, or lease commissions to be disbursed (pursuant to the draw schedule approved by Bank or otherwise) to Borrower, any Guarantor, or any other party (other than budgeted fees to be paid to the management company during lease-up).

(k) No Use For Operating Reserves. No portion of the Capital Contributions or the Construction Note shall be used by Borrower to fund operating reserves (except in accordance with the Budget, the associated draw schedule approved by Bank, the Operating Agreement and this Agreement).

(l) Transfer of the Premises or Interest in the Borrower.

(1) Except as hereinafter provided in this Section 5.1(l) and as permitted by Section 4.1(mm), the following Transfers shall be prohibited: (i) Transfer all or any part of the Premises or any interest in the Premises; (ii) Transfer of Control in the Borrower; (iii) Transfer of Control in any entity which owns, directly or indirectly through one or more intermediate entities, the Borrower; (iv) a Transfer of all or any part of an
Individual Guarantor’s ownership interest in the Borrower, or in any other entity which owns, directly or indirectly through one or more intermediate entities, an ownership interest in the Borrower (other than a Transfer of an aggregate beneficial ownership interest in the Borrower of forty-nine percent (49%) or less of such Individual Guarantor’s original ownership interest in the Borrower and which does not otherwise result in a Transfer of an Individual Guarantor’s Control in such intermediate entities or in the Borrower); (v) if the (A) Transfer of Control in an Entity Guarantor or (B) Transfer of Control in any entity which owns, directly or indirectly through one or more intermediate entities, a Controlling interest in an Entity Guarantor; (vi) if the Borrower or Guarantor is a trust, the termination or revocation of such trust (unless the trust is terminated as a result of a death of an individual trustor, in which event Bank must be notified and such Borrower or an Entity Guarantor must be replaced with an individual or entity acceptable to Bank, in accordance with the provisions of Subsection (3) below, within ninety (90) days of such death) provided, however, that a one percent (1.0%) transfer fee will not be charged; (vii) the merger, dissolution, liquidation or consolidation of (A) the Borrower, (B) an Entity Guarantor, or (C) any legal entity that Controls the Borrower or an Entity Guarantor that is an entity; (viii) a conversion of the Borrower from one type of legal entity into another type of legal entity (including the conversion of a Co-Managing Membership interest into a limited partnership interest and the conversion of a limited partnership interest into a membership interest), whether or not there is a Transfer, if such conversion results in a change in the assets, liabilities, legal rights or obligations of the Borrower (or of a Guarantor or the Co-Managing Member of the Borrower, as applicable) by operation of law or otherwise; and (ix) Transfer the economic benefits or right to cash flows attributable to the ownership interest in the Borrower separate from the Transfer or the underlying ownership interest, unless the Transfer of the underlying ownership interest would otherwise not be prohibited by this Agreement.

(2) Notwithstanding the provisions of Section 5.1(l)(1) above to the contrary, and only in any event to the extent the Transfer is permitted by the Permanent Mortgage Loan Commitment, the following Transfers will be permitted (each a "Permitted Transfer"):

(i) a Transfer to which the Bank has consented or otherwise expressly permitted in this Agreement or other Loan Documents;

(ii) prior to the full and final payment of the Construction Loan, a Transfer which satisfies the following subparagraphs A and B: (A) that satisfies the requirements of Section 4.1(mm) and is either: (y) by the Investor Member of all or a portion of its ownership interest in the Borrower directly or indirectly only to another limited
partnership or limited liability company which has, as its Co-Managing Member, manager or managing member, the Investor Sponsor or an Affiliate of the Investor Sponsor (or such Fund, if applicable) or (z) by a partner or member of the Investor Member of its partnership or membership interest in the Investor Member or of a Fund, as applicable, provided that, immediately after the Transfer, the Co-Managing Member or managing member of the Investor Member is the Investor Sponsor or an Affiliate of the Investor Sponsor and (B) the Bank has received advance written notice of the Transfer (which notice shall include the identity of the transferee and its owners) and the Bank shall have received any other information with respect to the Transfer as reasonably requested by the Bank.

(iii) provided the Bank has received information with respect to the Transfer in advance thereof, including the identity of the substitute Co-Managing Member or managing member and any other information reasonably requested by the Bank, the removal of the Co-Managing Member of Borrower for cause as set forth under the Operating Agreement so long as any substitute Co-Managing Member is a single purpose Affiliate of the Investor Sponsor;

(iv) a Transfer that occurs by devise, descent or by operation of law upon the death of a natural person;

(v) the grant of leasehold interest in an individual dwelling unit for a term of two (2) years or less not containing an option to purchase;

(vi) a Transfer of obsolete or worn out personal property or fixtures that are contemporaneously replaced by items of equal or better function and quality, which are free of liens, encumbrances and security interests other than those created by the Loan Documents otherwise consented to by the Bank;

(vii) the grant of an easement, servitude or restrictive covenant in the ordinary course of business or if otherwise provided that the easement, servitude or restrictive covenant will not materially and adversely affect the operation or value of the Premises or the Bank's interest in the Premises;

(viii) the creation of a tax lien or mechanic's lien or judgment lien against the Premises which is Bonded, released of record or otherwise remediated to the Bank's satisfaction within thirty (30) days of the date of creation, unless contested as provided herein;
(ix) the execution, delivery and recordation of a purchase option and/or right of first refusal by and between the Borrower and the Co-Managing Member or its Affiliate, provided that the same is subject, subordinate and inferior to the liens and security interests of the Loan Documents and that the exercise of any rights thereunder shall be subject to the Loan Documents;

(x) Transfers between and among Guarantors;

(xi) Transfers of assets by a Guarantor on an arms-length basis;

(xii) the execution of guarantees by a Guarantor in addition to the Guaranty;

(xiii) Transfers of ownership interests in an Entity Guarantor among the existing owners of an Entity Guarantor;

(xiv) Transfer relating to the pledge by the Investor Member of its interest in Borrower as collateral under its warehouse line of credit (to the extent such line of credit has been disclosed to the Bank prior to the Closing Date or otherwise approved by Bank in writing);

(xv) Transfer as a result of condemnation or casualty; and

(xvi) The dedication of Sandberry Drive as a public right-of-way upon recordation of the plat of the Land as contemplated on the Closing Date.

(3) The Bank will consent to a Transfer that would otherwise violate this Section 5.1(I) conditioned on the satisfaction of each of the following requirements prior to Transfer: (i) the submission to Bank of all information required by Bank to make the determination required by this Section 5.1(I), (ii) no Event of Default shall have occurred and is continuing, (iii) [intentionally omitted], (iv) the transferee meets all of the eligibility, credit, management and other standards (including any standards with respect to previous relationships between Bank and the transferee and the organization of the transferee) customarily applied by Bank at the time of the proposed Transfer to the approval of borrowers in connection with the origination or purchase of similar mortgage finance structures on similar multifamily properties, unless partially waived by Bank in exchange for such additional conditions as Bank may require and in the case of a proposed Transfer by the Investor Member of 49% or more of its original ownership interest in Borrower, all of its capital contributions have been made, and the transferee is a Financial Institution
or Publicly Held Corporation with a rating of BBB- by Standard & Poor’s or Baa1 by Moody’s Investor Service, Inc., (v) the Premises at the time of the proposed Transfer, meets all standards as to its physical condition that are customarily applied by Bank at the time of the proposed Transfer to the approval of properties in connection with the origination or purchase of similar mortgage finance structures on similar multifamily properties, unless partially waived by Bank in exchange for such additional conditions as Bank may require, (vi) if the transferor or any other Person has obligations under any Loan Document, the execution by the transferee or one or more individuals or entities acceptable to Bank of an assumption agreement (including, if applicable, the acknowledgment of each Individual Guarantor with respect to any exceptions to non-recourse guaranty) acceptable to Bank and that, among other things, requires the transferee to perform all of the obligations of the transferor or such Person set forth in the Loan Document, and may require that the transferee comply with any provisions of the Construction Mortgage or any other Loan Document which previously may have been waived by Bank, (vii) if a guaranty has been executed and delivered in connection with the Construction Note, or any of the other Loan Documents, the Borrower causes one or more individuals or entities acceptable to Bank to execute and deliver to Bank a substitute guaranty in form and substance acceptable to Bank, (viii) Bank has received all of the following: (A) except as expressly provided herein otherwise where no such fee is payable, a non-refundable Transfer Fee and Review Fee provided, however, no Transfer Fee or Review Fee will be charged for any Permitted Transfer and (B) the Borrower’s reimbursement of all Bank’s reasonable out-of-pocket costs (including reasonable attorney’s fees) incurred in reviewing the Transfer request. However, no Transfer Fee or Review Fee will be charged if the Co-Managing Member has been removed for cause or for Transfers by the Investor Member, and (ix) the Borrower has agreed to the Bank’s (and the Permanent Lender’s) conditions to approve such Transfer (and to cause the Permanent Mortgage Loan Commitment to remain in full force and effect), which may include, but are not limited to: (A) providing additional collateral, guarantees or other credit support to mitigate any risk concerning the proposed transferee or the performance or condition of the Premises and (B) amending the Loan Documents to delete any specifically negotiated terms or provisions previously granted for the exclusive benefit of the transferor and/or modify (or require if not in place) and covenants contained in the Loan Documents which may be personal to the transferor or otherwise not capable of being complied with by the transferee.

(m) Hazardous Materials. Borrower shall not use or knowingly permit any other party to use any Hazardous Materials on the Premises, except such materials as are incidental to a tenant’s tenancy, construction of the Improvements and the City Infrastructure Improvements, or to Borrower’s normal
course of business, maintenance, and repairs and which are handled in compliance with all applicable environmental laws.

(n) Property Management and Service Contracts. Borrower shall not change the management company managing the operation of the Premises except to the extent required upon occurrence of default under the terms of the related Management Agreement, or materially change any material term or provision of any management agreement relating to the Premises without Bank's written consent which will not be unreasonably withheld or delayed. Borrower shall not enter into any management agreement or service contract in connection with the Premises (other than for the provision of telephone, cable television, internet, security, electronic data transmission and coin operated laundry services) which is not terminable by Borrower (or its successors) without cause, or with not more than 30 days' notice without Bank's consent, which shall not be unreasonably withheld, conditioned or delayed.

(o) Management of Borrower. Except as otherwise provided in this Agreement, Borrower shall not permit any change in the management of Borrower (or of any managing member of Borrower), except to the extent that any of the foregoing occur as a result of or in accordance with the terms of the Operating Agreement, Section 5.1(i), Section 5.1(l), or the change has been approved by Bank (which approval will not be unreasonably withheld, delayed, or conditioned).

(p) No Change In Basic Business. Borrower shall not permit its basic business operations, as contemplated on the Closing Date to materially change or cease.

(q) Government Regulation. Borrower shall not (a) be or become subject at any time to any law, regulation, or list of any government agency (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits Bank from making any advance or extension of credit to Borrower or from otherwise conducting business with Borrower, or (b) fail to provide documentary and other evidence of Borrower's identity as may be requested by Bank at any time to enable Bank to verify Borrower's identity or to comply with any applicable law or regulation, including, without limitation, Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318.

(r) Distributions to Members. Prior to the Substantial Completion of the Improvements, except as expressly permitted by the terms of this Agreement, Borrower shall not make any distributions or advances to its members without the written consent of Bank except to pay fees, including without limitation developer fees, as permitted to be paid by this Agreement and any asset management fees to the Investor Member as described in the Operating Agreement.
(s) **Specially Designated Nationals.** Neither the Borrower nor any of its respective officers, managers or principal employees is on the list of Specially Designated Nationals and Blocked Persons issued by the Office of Foreign Assets Control of the U.S. Department of Treasury.

(t) **Use of Proceeds.** The Borrower will not request any borrowing under the Construction Loan, and the Borrower shall not use, and shall procure that its subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any borrowing under the Construction Loan (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, businesses or transactions would be prohibited by Sanctions if conducted by a corporation incorporated in the United States, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

5.2 **Single Purpose Entity.** Without limiting any of the foregoing, but in addition thereto, Borrower covenants and agrees that it has not and shall not, nor has its Co-Managing Member and its Co-Managing Member shall not:

(A) engage in any business or activity other than the acquisition, ownership, operation and maintenance of the Premises, and activities incidental thereto;

(B) acquire or own any material asset other than (i) the Premises, and (ii) such incidental Personal Property as may be necessary for the operation of the Premises;

(C) merge into or consolidate with any Person or dissolve, terminate or liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure, without in each case Bank's consent, which consent will not be unreasonably delayed, withheld, or conditioned;

(D) fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation, or without the prior written consent of Bank, amend or modify (to the extent prohibited in Section 5.1(i)), terminate Borrower's organizational documents;

(E) own any subsidiary or make any investment in or acquire the obligations or securities of any other Person without the consent of Bank, which consent will not be unreasonably delayed, withheld, or conditioned;
(F) commingle its assets with the assets of any of its partner(s), members, shareholders, Affiliates, or of any other Person or transfer any assets to any such Person other than distributions on account of equity interests in the Borrower permitted hereunder and properly accounted for;

(G) incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Construction Loan and as described in Section 5.1, except unsecured trade and operational debt incurred with trade creditors in the ordinary course of its business of owning and operating the Premises in such amounts as are normal and reasonable under the circumstances, provided that such operational and trade debt is not evidenced by a note and is paid when due and provided in any event the outstanding principal balance of such debt shall not exceed at any one time five percent (5%) of the outstanding Construction Loan;

(H) allow any Person to pay its debts and liabilities (except a Guarantor) or fail to pay its debts and liabilities solely from its own assets;

(I) fail to maintain its records, books of account and bank accounts separate and apart from those of the shareholders, partners, members, principals and Affiliates of Borrower, the Affiliates of a shareholder, partner or member of Borrower, and any other Person fail to prepare and maintain its own financial statements in accordance with the method of accounting upon which the Borrower's federal tax returns are based, and susceptible to audit, or if such financial statements are consolidated, fail to cause such financial statements to contain footnotes disclosing that the Premises is actually owned by the Borrower;

(J) other than the development agreement entered into in connection with the development of the Improvements, enter into any contract or agreement with any shareholder, partner, member, principal or Affiliate of Borrower, any Guarantor or any shareholder, partner, member, principal or Affiliate thereof, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than any shareholder, partner, member, principal or Affiliate of Borrower or Guarantor, or any shareholder, partner, member, principal or Affiliate thereof;

(K) seek dissolution or winding up, in whole or in part;

(L) fail to correct any known misunderstandings regarding the separate identity of Borrower;

(M) hold itself out to be responsible or pledge its assets or credit worthiness for the debts of another Person or allow any Person to hold itself out to be responsible or pledge its assets or credit worthiness for the debts of the Borrower (except for a Guarantor);
(N) make any loans or advances to any third party, including any shareholder, partner member, principal or Affiliate of Borrower, or any shareholder, partner, member, principal or Affiliate thereof;

(O) fail to file its own tax returns or to use separate contracts, purchase orders, stationery, invoices and checks;

(P) fail either to hold itself out to the public as a legal entity separate and distinct from any other Person or to conduct its business solely in its own name in order not (i) to mislead others as to the entity with which such other party is transacting business, or (ii) to suggest that Borrower is responsible for the debts of any third party (including any shareholder, partner, member, principal or Affiliate of Borrower, or any shareholder, partner, member, principal or Affiliate thereof);

(Q) fail to allocate fairly and reasonably among Borrower and any third party (including, without limitation, any Guarantor) any overhead for common employees, shared office space or other overhead and administrative expenses;

(R) allow any Person to pay the salaries of its own employees or fail to maintain a sufficient number of employees for its contemplated business operations;

(S) fail to 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;

(T) file a voluntary petition or otherwise initiate proceedings to have the Borrower or any general partner, manager or managing member of Borrower adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Borrower or any general partner, manager or managing member of Borrower, or file a petition seeking or consenting to reorganization or relief of the Borrower or any general partner, manager or managing member of Borrower as debtor under any applicable federal or state law relating to bankruptcy, insolvency, or other relief for debtors with respect to the Borrower or any general partner, manager or managing member of Borrower; or seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequester, custodian, liquidator (or other similar official) of the Borrower or any general partner, manager or managing member of Borrower or of all or any substantial part of the properties and assets of the Borrower or any general partner, manager or managing member of Borrower, or make any general assignment for the benefit of creditors of the Borrower or any general partner, manager or managing member of Borrower, or admit in writing the inability to the Borrower or any general partner, manager or managing member of Borrower to pay its debts generally as they become due or declare or effect a
moratorium on the Borrower or any general partner, manager or managing member of Borrower debt or take any action in furtherance of any such action;

(U) share any common logo with or hold itself out as or be considered as a department or division of (i) any shareholder, partner, principal, member or Affiliate of Borrower, (ii) any Affiliate of a shareholder, partner, principal, member or Affiliate of Borrower, or (iii) any other Person or allow any Person to identify the Borrower as a department or division of that Person; or

(V) conceal assets from any creditor, or enter into any transaction with the intent to hinder, delay or defraud creditors of the Borrower or the creditors of any other Person.

VI – CONDITIONS TO LOAN

6.1 Conditions to Closing of the Construction Loan. Bank shall be under no obligation to disburse any Capital Contribution from the Capital Contribution Account, or disburse any deposit of the Subordinate Loans, or advance any portion of the Construction Loan, unless and until each of the following conditions precedent shall have been (i) fully and completely satisfied, with proof thereof being furnished in form and sufficiency as may be reasonably required by Bank, or (ii) waived by Bank in writing:

(a) Bank shall be furnished with and shall have approved fully executed counterparts, as appropriate, of the following:

(1) the Loan Documents;

(2) copies of all instruments and documents evidencing and pertaining to the deferred developer fee which shall have been subordinated to Bank in a manner acceptable to Bank;

(3) evidence that the Borrower has obtained a binding and enforceable federal award of a Low Income Housing Tax Credit approval for the Premises (subject to the conditions therein contained) in an amount sufficient enough to allow for the development of the Premises, as provided herein, and that such allocation has not been rescinded, repealed, cancelled, or otherwise suspended, and that the Investor Member will contribute (as required by this Agreement) capital to Borrower, in an amount not less than $12,898,710.00, subject to the terms and conditions of the Operating Agreement and Exhibit “H” (subject to finalization), in exchange for the receipt of such Low Income Housing Tax Credit;
(4) the Initial Capital Contribution shall have been deposited with Bank in the Capital Contribution Account to pay budgeted items (or Bank shall have been provided evidence that any portion of the Initial Capital Contribution not deposited in the Capital Contribution Account has been used to pay budgeted items in a manner satisfactory to Bank);

(5) all fees due to Bank under Section 2.5 shall have been paid;

(6) reimbursement for all of Bank's reasonable legal fees and other costs and expenses incurred by Bank in connection with the Construction Loan and the other transactions described herein;

(7) the Payment and Performance Bond;

(8) the HAP Commitment;

(9) a current title commitment to insure the lien granted in the Construction Mortgage (which shall otherwise satisfy the requirements of Exhibit "L"), issued by a company acceptable to Bank, evidencing that there are no liens or other similar encumbrances existing against the Premises, other than in favor of the Bank and the Permitted Encumbrances, and liens to be paid in connection with the closing and as otherwise consented to by Bank, together with the payment of a premium required to issue a loan policy of title insurance in connection therewith, in the aggregate amount of the Construction Note, and all endorsements thereto as required by Bank and otherwise satisfying the requirements of Title Insurance on Exhibit "L". Bank shall have also received and approved all cross easement agreements relating to the Premises, if any;

(10) an opinion of counsel to Borrower and Guarantors, which, among other things, provides that the Loan Documents are authorized and duly executed and constitute binding and enforceable obligations of Borrower and Guarantors (including that each Guarantor has received adequate legal consideration for its and their delivery of a Guaranty), subject to any exceptions, limitations and assumptions as may be acceptable to the Bank;

(11) (x) a copy of the Operating Agreement (and all modifications and amendments thereto), and all guaranties issued pursuant thereto, (y) a copy of the filed Certificate of
Formation for Borrower and such other evidence of Borrower's and the Co-Managing Member's (and its constituent entities, if any) existence and good standing of Borrower and the Co-Managing Member as may be required by Bank, and (z) copies of the Hunt Backstop Guaranty and all development agreements, management agreements, investment agreements, deficit funding facility agreements, equity notes, purchase options, and other documents and agreements referenced in the Operating Agreement, and all modifications and amendments thereto, or otherwise required in connection therewith by the Investor Member;

(12) evidence of the authority of Borrower, the Co-Managing Member, and the Co-Managing Member's president or sole and/or Co-Managing Member, and Guarantors to enter into the transactions described herein;

(13) the certificate of organization, articles of organization, and regulations (or operating agreement, if applicable) of the Co-Managing Member, together with any and all modifications thereof as of the date hereof;

(14) the organizational documents of the Contractor and each Entity Guarantor (and all financial information of the Guarantors and the Co-Managing Member and the Contractor as may be required by Bank);

(15) an Affidavit of No Liens in the form of Exhibit "C" attached hereto;

(16) a copy of the fully executed Permanent Mortgage Loan Commitment, together with a fully executed counterpart of the Tri-Party Agreement;

(17) the Forward Commitment (and rate lock shall have occurred thereunder in a manner satisfactory to Bank);

(18) if and to the extent required by Bank, all Certificates of Authority, Certificates of Fact, evidence from the Texas Comptroller of Public Accounts related to the payment of franchise taxes, resolutions (with secretary's certificate), Secretary's Certificates of Incumbency, and all other documents required by Bank to evidence the Co-Managing Member and its constituents and their representatives are empowered and duly authorized to enter into the
agreements evidenced by the Loan Documents executed by each of them;

(19) if available and only to the extent reasonably required by Bank, a narrative report prepared by a licensed soil consultant regarding the soil conditions of the Land, which shall include results of the test borings and recommendations concerning soil bearing pressures, foundations, excavations, fill, and compaction, and evidence the proposed drainage of the Premises is adequate and that the foundation designed for the Improvements is adequate for the existing conditions;

(20) evidence of all fire, hazard, general and excess liability, flood (if applicable), builder's risk, and workman's compensation insurance required under Section 4.1(d) and all other insurance as required by Bank and the other Loan Documents;

(21) proof (such as "will issue letters") in form and substance satisfactory to Bank that the required permits, building and otherwise, and authorizations from all appropriate Governmental Authorities necessary or required in connection with the construction of the Improvements and the City Infrastructure Improvements have been obtained, or will be obtained when they become necessary for the development of the Improvements and City Infrastructure Improvements, together with copies of all other required Governmental Permits (if a "will issue" letter is accepted, it shall be in compliance with all Bank requirements with respect thereto, including, provisions of evidence of the issuance of the applicable permit within the time required by Bank);

(22) a current survey of the Premises (which shall indicate what part, if any, of the Premises is located in the 100-year flood plain based on a current flood map and shall otherwise satisfy the requirements of Exhibit "J" attached hereto);

(23) a pro-forma operating statement for the Premises and evidence of market conditions for the use of the Premises (including review and approval of the feasibility of the 110 units and review and approval that projected NOI will support the Loan);
(24) an Appraisal of the Premises, reflecting the market value of the Premises and will include for the Affordable Units the valuation of the Low Income Housing Tax Credit awarded to the Premises (on an as-completed, rent restricted (with respect to the Affordable Units), stabilized basis) to be an amount which satisfies Section 4.1(hh) above;

(25) a Phase I Environmental Audit, performed by an independent third party acceptable to Bank, and approved by all applicable departments of the Bank;

(26) a final and complete set of the Plans with all necessary regulatory approvals evidenced thereon, as well as the signatures of Borrower, the Contractor, and the Architect, and reviewed by a review architect satisfactory to Bank. The review of the Plans by Bank’s review architect shall include an evaluation of the adequacy of the scope of the proposed work;

(27) the proposed plat to be filed in the plat records for the issuance of building permits for the Improvements upon the completion of the City Infrastructure Improvements (including the new sanitary line), executed by all parties other than the City (and evidence the plat has been approved by the City and is being held pending completion of the City Infrastructure Improvements);

(28) Borrower shall have opened and maintained the Construction Account and the Capital Contribution Account;

(29) the Financial Statements (as required by Bank);

(30) the final Budget, and the final total cost breakdown (prepared on AIA document G703 and itemizing those line items to be funded from Capital Contributions and those line items to be funded from the Construction Loan), construction schedule, and draw schedule, together with a third party plan and cost review performed by a Person approved by Bank, which, among other things, shall verify the adequacy of the Budget;

(31) if and to the extent required by Bank, reasonable evidence that there will be sufficient parking for the intended use of the Premises as in accordance with all applicable Requirements of Law;
(32) the final Budget, pro forma operating statements, and a verification of market conditions for use;

(33) evidence that the Land comprises one or more separate tax parcels;

(34) the form of lease to be used for leases of units in the Premises after the Closing Date;

(35) the interest rate of the Permanent Mortgage Loan shall have been rate locked in a manner acceptable to Bank;

(36) the TIF Agreement (and an amendment thereto extending the date for commencement of the Improvements as required by the TIF Agreement to a date satisfactory to Bank) and the anticipated timing of funding of the reimbursements thereunder;

(37) a copy of the fully executed Permanent Supportive Housing Agreement;

(38) a copy of the fully executed Delivery Assurance Note and the Delivery Assurance Mortgage;

(39) a complete list of costs for the Improvements and the City Infrastructure Improvements, enumerated on AIA document G703, to include all hard (direct) costs and all anticipated soft (indirect) costs. The cost breakdown should clearly indicate those line items to be funded by Capital Contributions, the Construction Loan, the Subordinate Loans, and the TIF, and the estimated timing of each such funding;

(40) a projected schedule of (i) construction progress (which schedule provides that the Premises will be Placed in Service as such term is used by and when required by the Credit Agency for maintaining the Low-Income Housing Tax Credit), (ii) timing of amounts to be funded from Capital Contributions, and (iii) the timing of disbursements of the Construction Loan and each Subordinate Loan;

(41) an executed copy of each Construction Contract for the Improvements and the City Infrastructure Improvements, which contracts shall comply in all respects to the final approved Plans and shall set forth a "fixed price" or "guaranteed maximum price."
Subcontract for the Improvements and the City Infrastructure Improvements Construction Contract for the City Infrastructure Improvements shall be subject to the reasonable approval by Bank. The Contractor shall submit, for Bank's review and approval, a "Contractor's Qualification Statement" on AIA document A305. The general contract shall, by its terms or by separate instrument, inure to the benefit of Bank as well as Borrower. The assignment in Section 4.3 shall be acknowledged in writing by the Contractor in a manner reasonably satisfactory to Bank and shall provide for the subordination of all statutory and contractual liens and claims of the Contractor against the Premises. If required by Bank, Bank shall also have received copies of all major subcontracts (deemed to be subcontracts providing services or supplies of 5% or more of the respective Construction Contract with the Contractor under which it is performing its labor and/or delivering its materials) and a complete list with names and addresses of all subcontractors providing labor and/or materials to the Improvements and the City Infrastructure Improvements. Bank acknowledges that certain subcontracts may not be awarded prior to closing the Construction Loan, in which case Borrower shall submit an amended list of subcontracts as and when awarded (and copies of any additional major subcontracts);

(42) an executed copy of the City Infrastructure Improvements Construction Contract, together with a report on the status of completing the work required by such contract and the source for payment of amounts owing by Borrower under that contract;

(43) an executed copy of the architectural contract, which contract shall, with the Architect, be subject to reasonable approval by Bank. The contract shall, by its terms or by separate instrument, be assignable to Bank and inure to the benefit of Bank pursuant to the terms of that instrument, as well as Borrower. The assignment in Section 4.2 shall be acknowledged in writing by the Architect in a manner reasonably satisfactory to Bank and shall provide for the subordination of all statutory and contractual liens and claims of Architect against the Premises. Bank shall require that the Architect perform regular progress inspections and certify on AIA form G702 each disbursement request for quantity and quality of work in place and compliance with the approved Plans;
the identity and experience of the management company, together with all management contracts, development agreements, operating agreements, franchise agreements, or other material contractual arrangements affecting the operation of the Premises. If required by Bank, the assignment of such contracts and arrangements provided for in the Construction Mortgage and the other Loan Documents shall be acknowledged by the contracting third parties;

the account covered by and described in the Collateral Assignment of Account shall have been opened at Bank and shall have an opening balance of at least $500,000.00;

reasonable evidence in the form of letters from the appropriate provider or from the project engineer, that public water, sanitary and storm sewer, electricity, gas, and other required utilities are available to the Premises or will be available prior to the need for such utilities at the Premises (as clearly identified in said letters) and in quantities sufficient for the successful operation of the Premises. Borrower shall also provide Bank with evidence that all utility lines will enter the Premises through adjoining public streets or, if passing through adjoining private land, do so in accordance with recorded public or private easements reasonably satisfactory in form and content to Bank;

reasonable evidence that (a) the Premises and all planned Improvements and the City Infrastructure Improvements and intended uses will fully comply in all material respects with all applicable deed restrictions, laws, regulations, and zoning requirements; and (b) reasonable evidence there are no pending proceedings, either administrative, legislative, or judicial, which would in any manner adversely affect that status of zoning with respect to the Premises or any part thereof;

if and to the extent required by Bank, a marketing plan and marketing budget for the Premises;

certificates of a reporting service reasonably acceptable to Bank, reflecting the results of a search of the central and local Uniform Commercial Code records made not earlier than thirty (30) days prior to the date hereof, showing no filings against Borrower or any of the collateral for the Loan except those, if any, approved by Bank or to be paid in connection with the closing;
(50) the development agreement with respect to the Premises;

(51) a plan and cost review (and the resolution of any items raised in that report);

(52) evidence that the City's budgeted upsizing reimbursement in the amount of $134,355.00 has been (or will be) paid and applied in a manner satisfactory to Bank;

(53) the CFA, City Infrastructure Improvements Construction Contract (and related Architect Agreement), the City Infrastructure Improvements Escrow Agreement (and Bank shall be prepared to fully fund each City Infrastructure Improvements Escrow Account on or in connection with the Closing Date), and all consents related thereto as may be required by the Bank;

(54) such regulatory/grant agreements, restrictive covenants, and other information, documents, and certificates as Bank or the title company may reasonably request in connection with the transactions contemplated in this Agreement (including without limitation, the items listed in Exhibit "I"); and

(55) evidence of the closing of the Subordinate Loans (and copies of all documents, commitments, awards, instruments, and agreements then in effect securing, evidencing and pertaining to the Subordinate Loans, together with each Intercreditor Agreement) and that there is no default existing thereunder or with respect thereto.

(b) The Construction Mortgage, all financing statements, and all other documents and agreements required by Bank shall have been recorded or filed in the manner required by Bank;

(c) No Default or Event of Default is then continuing; and

(d) Each of the foregoing shall have been fully satisfied, deferred, or waived in writing by Bank no later than the Closing Date (except as otherwise provided for above).

6.2 Advances During Construction Phase. Each of the following conditions shall be fully and completely satisfied in all material respects, or waived in writing by Bank, at the time of each request by Borrower after the Closing Date under Section 6.3 for a disbursement from the Capital Contribution Account, of any deposits of the Subordinate Loans, or of an advance under the Construction Note:
(a) Bank shall have received a Request for Advance pursuant to Section 6.3(a) (executed by Borrower);

(b) Bank shall have been furnished with, and approved, fully executed counterparts, as appropriate, of a Waiver of Lien to Date, in the form of Exhibit "D" attached hereto (on the appropriate form), or such other form which substantially satisfies the requirements of HB 1456 as adopted by the Texas legislature and effective as of January 1, 2012, from the Contractor and each of the subcontractors who were paid by Borrower or the Contractor with the proceeds from the immediately preceding requested advance (as itemized in the request for disbursement for that advance submitted pursuant to Section 6.3(a) hereof) or who were paid otherwise by Borrower during the preceding thirty (30) days for work in connection with construction of the Improvements and the City Infrastructure Improvements;

(c) Borrower shall have fully and completely satisfied all of the conditions set out in Section 6.1 (compliance with same being continuing conditions for all advances hereunder), regardless if a particular condition or covenant had been waived by Bank in whole or in part in connection with the closing of the Construction Loan or a prior advance;

(d) Prior to the first disbursement or advance for hard costs pertaining to work done on the Land from the Capital Contribution Account or under the Construction Note after the Closing Date, a copy of a filed Affidavit of Commencement, in the form of Exhibit "F", as filed with the County Clerk of Tarrant County, Texas, and otherwise satisfying the requirements of the Texas Property Code (which shall evidence that commencement of construction of the Improvements and the City Infrastructure Improvements on the Land began after the date the Construction Mortgage was recorded);

(e) If the request is made for an advance of the Construction Loan, the amount of the requested advance, when added to all previous advances of the Construction Loan, shall not exceed the amount of the Construction Loan;

(f) All of Borrower's representations and warranties made in this Agreement shall be true and correct in all material respects as of the date of each advance other than representations and warranties made as to a specific date;

(g) No Default or Event of Default shall have occurred and be continuing;

(h) Except as specifically permitted by the terms of the Loan Documents, no mechanic's or materialman's lien claim or other encumbrance shall have been filed and be in effect against the Land or the Improvements and

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the City Infrastructure Improvements that has either not been Bonded or money escrowed, in a manner reasonably satisfactory to Bank;

(i) With respect to any advance or disbursement for hard costs, Bank shall have received an AIA Document G-702 and G-703 (1992 Edition), completed by the Contractor and certified by the Architect (if required by Bank);

(j) With respect to any advance for soft costs (including contingencies), all vouchers, invoices, and other evidence reasonably required by Bank;

(k) Borrower shall have delivered to Bank and its construction consultant, for their approval, reasonable evidence (which, if required by Bank, shall include a report of an inspection by its construction consultant) that (i) construction is proceeding in a manner to assure Substantial Completion of the Improvements by the Bank's Required Completion Date; (ii) the amount theretofore invested by Borrower in the Premises, together with the funds remaining to be paid from the Capital Contribution, the Subordinate Loans, the Construction Note, and from any other sources approved by Bank under this Agreement for the development of the Improvements and the City Infrastructure Improvements, are adequate to meet all costs incurred and to be incurred in connection with the construction of the Improvements and the City Infrastructure Improvements (excluding developer fee); and (iii) that construction of the Improvements and the City Infrastructure Improvements has been substantially in accordance with the Plans and in accordance with the Loan Documents, which shall include without limitation, any other due diligence with respect to the Premises reasonably required by Bank's construction consultant, and Bank shall have received and approved all third party inspection and other reports required by Bank with respect to the advance;

(l) Bank shall have received, at Borrower's cost and expense, a satisfactory "downdate endorsement" and all other endorsements if or as required by Bank to its loan title policy in connection with the advance;

(m) Borrower shall have complied with Sections 4.1(c) and 4.1(h) and the other terms and covenants of this Agreement;

(n) If and to the extent reasonably required by Bank, prior to the pouring of a slab and upon completion of that slab, Borrower shall have delivered a current survey evidencing the intended and actual location of the slab, showing no encroachment. If and to the extent required by Bank, Borrower shall have delivered a slab survey, if the proceeds of the advance are for, among other things, costs associated with the slab to the Improvements and the City Infrastructure Improvements, showing, among other things, no encroachments on or over any boundary line, easement, setback line, or other restricted area.
The survey must be dated, signed, and stamped by a surveyor licensed by the State of Texas;

   (o) The Improvements and the City Infrastructure Improvements shall not have been damaged by fire or other casualty or, in such event, to the extent permitted under the terms and provisions of this Agreement and the Construction Mortgage, the Improvements and the City Infrastructure Improvements shall have been fully repaired and restored, or be in the process of being fully repaired and restored, to the state of completion achieved immediately before the casualty;

   (p) No Material Adverse Change is then existing;

   (q) No Default or Event of Default is then existing;

   (r) All requirements of Section 6.3 shall be fully and completely satisfied with respect to the requested advance;

   (s) Borrower shall have delivered to Bank such other information, documents, schedules, affidavits, statements, invoices, bills and other supporting documentation and material reasonably required by Bank to verify the progress of construction, or otherwise reasonably required by Bank to substantiate any of the matters necessary to qualify for the advance;

   (t) Bank shall have received evidence that, to the extent required by a Governmental Authority to be then paid, all utility or reservation fees have been paid; and

   (u) Evidence that all work requiring inspection by any Governmental Authority having or claiming jurisdiction has been duly inspected and approved by such authority and by any rating or inspection organization, bureau, association or office having or claiming jurisdiction.

6.3 Disbursement Procedures and Requirements. Subject to the terms of Sections 2.1(c), 6.1 and 6.2, Bank agrees to make periodic disbursements from the Capital Contribution Account, make disbursements of any deposits of the Subordinate Loans, and advances under the Construction Note to pay for budgeted items in accordance with this Agreement (each of which shall be net of Retainage) pursuant to the following procedures and requirements:

   (a) Borrower or Borrower's Agent to Request Disbursements shall complete, sign and deliver to Bank a written request for advance (referred to herein as a "Request for Advance" or a "request for disbursement") in the form of Exhibit "E" (or such form as may be approved by Bank). Bank may require that such requests be signed by the Architect and the Contractor;
(b) Bank shall have received evidence that (i) the Investor Member has approved all hard costs requested to be funded under the Request for Advance as required by the Operating Agreement (provided that if Bank approves a particular Request for Advance based on the finding of the Bank's construction consultant's report relating to that Request for Advance no approval by the Investor Member before funding those hard costs shall be required), and (ii) that Request for Advance shall have been supported by such receipts, invoices and supporting documents as may be required by Bank;

(c) Each Request for Advance shall be funded and deposited in the Construction Account, first from deposits of the Subordinate Loans (if any), then from deposits in the Capital Contribution Account (if any), and then from advances under the Construction Note within ten (10) Business Days after the date of satisfaction of Sections 6.1 and 6.2, with respect to that disbursement or advance. Borrower shall not submit more than one Request for Advance of deposits (if any) of the Subordinate Loans, of deposits of the Capital Contribution Account or of an advance under the Construction Note (as applicable) in any calendar month. Unless Bank shall otherwise agree, disbursements of any deposits of Subordinate Loans, disbursements from the Capital Contribution Account, or advances under the Construction Note shall not be made more frequently than monthly. Bank may fund less than the amount requested if the Bank (based upon the findings of Bank's construction consultant's report and the materials provided to Bank pursuant to Sections 6.1, 6.2 and 6.3), in its sole and reasonable discretion, disagrees or objects to a portion of the amounts requested by Borrower in any Request for Advance. If Bank funds less than the amount requested by Borrower, at the written request of Borrower, Bank will provide the applicable inspection report by the construction consultant for that request or other reason for not funding the full amount;

(d) Each Request for Advance shall include a request for any expenses for which Bank is to be reimbursed pursuant to the terms of the Loan Documents (including, without limitation, reasonable inspection fees of the construction consultant), and a request for amounts to be advanced to pay interest on and under the Construction Loan; and

(e) Disbursements for any deposits of the Subordinate Loans, disbursements from the Capital Contribution Account and Construction Note advances shall be made, at the option of Bank, to one or more of the following: Borrower (into the Construction Account or by such other means as acceptable to Bank and Borrower); with prior notice from Bank to Borrower, the Contractor (by joint check or payable to Contractor); to Bank to pay amounts due to it; provided Borrower has received and approved such amounts, or if and only if, an Event of Default has occurred.
and is continuing, or with prior notice from Bank to Borrower to any subcontractor, materialman, or other supplier providing labor, services or materials in connection with the Improvements and the City Infrastructure Improvements (by check or otherwise). The execution of this Agreement by Borrower constitutes an irrevocable direction and authorization for Bank to so disburse the proceeds of the Capital Contribution Account, and advances under the Construction Note. Bank may rely on requests for disbursements made by each Agent to Request Disbursements (whether or not joined in by the Investor Member or any other Person).

6.4 Delivery of Requests for Payments. Notwithstanding anything herein to the contrary, copies of all requests for payment made by the Contractor (or any of its subcontractors) to Borrower (and all materials submitted in connection with the request) shall be promptly submitted to Bank (even if the requested payment, in whole or in part, is not to be paid with amounts on deposit in the Capital Contribution Account, any deposits of the Subordinate Loans, or the proceeds of the Construction Note).

6.5 Obligation for Further Disbursements. No disbursement made hereunder of any deposits of the Subordinate Loans, of any deposit in the Capital Contribution Account, or of any advance under the Construction Note shall constitute a waiver of any condition precedent to the obligation of Bank to make any further disbursement from any deposits of the Subordinate Loans, from the Capital Contribution Account or any advance under the Construction Note, or preclude Bank from thereafter declaring the failure of Borrower to satisfy such condition precedent (after satisfaction of any applicable requirements of grace, notice, or both) to be an Event of Default. At Bank’s sole option, any such condition precedent may be waived by Bank, in whole or in part, at any time. All conditions precedent to Bank’s obligations to make disbursements are imposed solely for the benefit of Bank, and no other party may require any such condition precedent or be entitled to assume that Bank will refuse to make any disbursement in the absence of strict compliance with such condition precedent.

6.6 Conditions to Final Disbursement for Retainage. Except as otherwise expressly provided in this Agreement, the amounts on deposit in the Capital Contribution Account and advances of the Construction Note for payment of budgeted items are to be disbursed by Bank subject to a holdback in an amount equal to the sum of the Retainage. Subject to the further terms hereof, Bank shall not be obligated to make the final advance of the amounts on deposit in the Capital Contribution Account, deposits of the Subordinate Loans, or any advances under the Construction Note under this Agreement to pay Retainage (to the extent then being withheld under the terms of this Agreement) until all of the following conditions have been fully satisfied (with proof thereof being furnished in form and sufficiency reasonably acceptable to Bank) or waived in writing by Bank:

(a) Forty-one (41) days have elapsed after the later of (i) "completion" of the Improvements and the City Infrastructure Improvements, as defined in and required by Section 53.106 of the Texas Property Code, or (ii) the date of

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completion as set forth in an Affidavit and Certificate of Completion (the "Affidavit of Completion"), filed with the county clerk of the county where the Land is located, executed by Borrower and the Contractor, and Architect (if and to the extent required by Bank) in the form of Exhibit "G" (or a certificate or affidavit in such other form which complies with Section 53.106 of the Texas Property Code and is otherwise acceptable to Bank), or (iii) the date Borrower has otherwise fully and completely satisfied the requirements of Section 53.106 of the Texas Property Code, including, without limitation, providing a copy of any such affidavit to all parties, and within the time periods, required by such Section 53.106.

(b) Bank shall be furnished with, and shall have approved, fully executed counterparts, as appropriate, of the following:

(i) Evidence that all applicable Requirements of Law have been satisfied in all material respects, including, without limitation, (v) receipt by Borrower of all necessary Governmental Permits and other licenses, certificates, and permits with respect to the completion, use, occupancy, and operation of the Improvements and the City Infrastructure Improvements, together with evidence reasonably satisfactory to Bank that such licenses, certificates, and permits are in full force and effect and have not been revoked, canceled, or modified, it being specifically agreed that Bank shall have received a certified copy of the final Certificate of Occupancy (as applicable, or if not applicable, such other evidence of completion that is reasonably required by Bank), issued by the requisite municipal authority, evidencing the ability to legally occupy the Premises, which must be unqualified and unconditional, (w) such evidence as Bank may reasonably request that Borrower is in compliance with the requirements of the Forward Commitment, the Permanent Mortgage Loan Commitment relating to the funding of the Permanent Mortgage Loan, (x) such evidence as Bank may request that Borrower is in compliance with the requirements of the Permanent Mortgage Loan Commitment and the Forward Commitment relating to the funding of the Permanent Mortgage Loan and in compliance with the requirements of the Subordinate Loan Documents (and each is in full force and effect), (y) such evidence as Bank may reasonably request that Borrower is in compliance in all material respects with the requirements of the LURA (to the extent it has been executed and filed of record with the County Clerk of Tarrant County, Texas) and that the Investor Member has not issued a notice of event of default under the Operating Agreement or otherwise informed the Co-Managing Member in writing that the Co-Managing Member is in breach of the Operating Agreement, and (z) such evidence as Bank may reasonably request to show that the Improvements and their use comply fully with any and all applicable zoning (if any), subdivision, building, and environmental requirements (such evidence shall include, without limitation, material to establish that the number of parking spaces available on the Land is
sufficient to comply with all codes and ordinances then applicable, or other appropriate Governmental Authority, and that all fire systems in the Improvements and the City Infrastructure Improvements are installed, operational, and sufficient to comply with such codes and ordinances of the appropriate Governmental Authority);
(vii) If and to the extent required by Bank, a complete inventory of the furnishings, fixtures, and equipment owned or leased by Borrower and used in the operation of the Improvements and the City Infrastructure Improvements, with leased items, if any, designated as such;

(viii) Evidence of continuing insurance coverage in accordance with Section 4.1(d);

(ix) Such endorsements to Bank's loan title insurance policy as Bank may reasonably request;

(x) Such releases and waivers of lien as Bank may reasonably request;

(xi) If required by Bank, a complete set of "as-built" plans and specifications, certified as accurate in all material respects by the Contractor;

(xii) The construction consultant and the Architect and/or the engineer shall have certified to Bank that construction has been completed in a good and workmanlike manner, in accordance with applicable requirements of all Governmental Authorities and substantially in accordance with the plans and specifications;

(xiii) Near Southside, Inc., as the TIF administrator under and for purposes of the TIF Agreement, shall have confirmed the Improvements and the City Infrastructure Improvements (and other items constituting the Project under and for purposes of the TIF Agreement) have been completed for purpose of the TIF Agreement;

(xiv) Such other evidence or information concerning completion as Bank shall reasonably request (including evidence all Completion Documentation under and as defined in the Operating Agreement has then been provided and accepted for purposes of the Operating Agreement).

(c) All representations and warranties made by Borrower in this Agreement shall be true and correct in all material respects as of the date of an advance or disbursement to be made under this Section 6.6 (other than representations and warranties made as to a specific date).

(d) No Default or Event of Default shall have occurred and be continuing.

(e) Each of the foregoing conditions listed in this Section 6.6 shall have been fully satisfied or waived in writing by Bank on or before Bank's Required Completion Date.
6.7 **Construction Consultant.** Bank shall rely upon the services of a construction consultant used by the Investor Member in order to monitor the progress of the development of the Improvements and the City Infrastructure Improvements as provided for in this Agreement (in such event, Bank may, at its option, require a satisfactory report from such construction consultant, confirming, among other things, all requests for reimbursement for labor and services to the Premises have in fact been so provided, as a condition precedent for a disbursement of any deposits of the Subordinate Loans, a disbursement from the Capital Contribution Account or for an advance under the Construction Note). Borrower shall pay directly to the construction consultant, within ten (10) days after written request therefor, an inspection fee of a maximum of $2,200.00 (except that the fee for the initial inspection and the review of the Plans shall be $8,000 plus direct expenses and the fee for the final inspection and final report shall be $2,750.00 plus direct expenses). Borrower shall pay Bank $75.00 for each additional copy of an inspection report requested by Borrower. Borrower shall cooperate with the construction consultant and shall cause Contractor, each subcontractor, and the employees of each of them to reasonably cooperate with the construction consultant and, upon request, shall furnish the construction consultant whatever the construction consultant may reasonably consider necessary or useful in connection with the performance of the construction consultant's duties. Without limiting the generality of the foregoing, Borrower shall furnish or cause to be furnished upon request such items as working details, plans and specifications and details thereof, samples of materials, licenses, permits, certificates of public authorities, and copies of the contracts between Borrower and Contractor.

6.8 **No Liability For Tax Consequences.** Bank shall not be responsible or liable in any way for any tax consequences to any Person resulting from advances authorized or made by Bank in accordance with the terms of this Agreement.

6.9 **Consent to Sharing of Information.** Notwithstanding anything herein to the contrary, Borrower acknowledges and consents to the Bank providing information (including without limitation, certain of the information provided pursuant to Sections 6.1, 6.2, 6.3, and 6.6), to other Persons, including to the Credit Agency, the Investor Member, FWHFC, the City, the TIF, the Permanent Lender, and to Bank's construction consultant described in Section 6.7 above (or to any potential participant or investor in the Construction Loan).

### VII – DEFAULTS AND REMEDIES

7.1 **Events of Default.** Each of the following shall constitute an Event of Default under this Agreement:

(a) **Monetary Default.** The failure to pay any fee or payment under this Agreement, the Construction Note, any of the other Obligations, or any of the other Loan Documents, which is not paid within ten (10) days after it is due;
(b) **Non-Monetary Default.** A default by Borrower or a Guarantor in the due observance or performance of any of their respective obligations under this Agreement and the other Loan Documents, which is not fully cured by or on behalf of Borrower, a Guarantor or the Investor Member (or any of their Affiliates, successors or permitted assigns) within thirty (30) days after written notice thereof is provided to Borrower, each Guarantor and the Investor Member by Bank; provided that the foregoing notice and opportunity to cure in this subsection (b) will not be required for monetary defaults covered by Section 7.1(a) or for any other Event of Default specifically enumerated in another subsection of this Section 7.1 (the occurrence of any such event and the continuation beyond the expiration of all applicable notice, cure or grace period shall in and of itself constitute an Event of Default). It is agreed that any Affiliate of the Special Member or the Investor Member may cure a Default for and on behalf of the Investor Member or the Special Member;

(c) **Misrepresentations.** Any representation or warranty made by Borrower or any Guarantor in any of the Loan Documents proves to have been untrue when made in any material adverse respect or any Financial Statements or certificate of Borrower or any Guarantor or furnished or made to the Bank as an inducement for Bank agreeing to enter into this Agreement, or in accordance with the terms of this Agreement, proves to have been untrue in any material respect as of the date the facts therein set forth were stated or certified (provided that if the foregoing Event of Default relates to a Guarantor, no Event of Default shall occur if Guarantor is replaced with a substitute Guarantor satisfactory to Bank in Bank's reasonable determination within said 30-day period);

(d) **Other Defaults.** A default (which means all applicable notice and cure periods have expired) by Borrower or any Guarantor (whether as principal or guarantor or other surety) in its payment or performance of the Subordinate Loan Documents, or of the loan evidenced by the Delivery Assurance Note or under the TIF Agreement or any other bond, debenture, note or other evidence of indebtedness, in excess of $250,000.00, or under any credit agreement, loan agreement, indenture, promissory note, or similar agreement or instrument executed in connection with any of the foregoing, which is not cured or waived within any applicable notice or grace period (provided that if the foregoing Event of Default relates to a Guarantor, no Event of Default shall occur if Guarantor is replaced with a substitute Guarantor satisfactory to Bank in Bank's reasonable determination within 60 days after notice of the Event of Default is provided to Borrower);

(e) **Failure to Comply with Requirements of Law.** Failure of the construction or development of the Improvements and the City Infrastructure Improvements or any materials for which an advance has been requested to comply in any material adverse respect with any Requirement of Law and such
failure shall not have been fully cured within sixty (60) days after written notice thereof is delivered by Bank to Borrower;

(f) **Swap Agreement.** The occurrence and continuation of any default, event of default, or other similar condition or event (however described with respect to a Swap Agreement) which is not fully cured within any applicable cure or grace period;

(g) **Failure to Satisfy Conditions to Closing.** Borrower shall be unable to fully satisfy any of the conditions listed in Section 6.1 (in a timely manner), and such condition(s) was not waived by Bank in writing, even if Bank has agreed to close the transaction evidenced by this Agreement and has made any advances of the Construction Loan; or disbursements of the Capital Contribution from the Capital Contribution Account (unless Bank has agreed to waive any such condition in writing and such failure is not fully and completely cured within thirty (30) days after written notice thereof is provided by Bank to Borrower);

(h) **Failure to Satisfy Conditions to Advance.** In connection with any request made under Section 6.2 for an advance of proceeds of the Construction Note and a disbursement from the Capital Contribution Account, Borrower shall be unable to fully satisfy any of the conditions to the advance listed in this Agreement, and such failure is not either waived in writing by Bank or fully and completely cured within thirty (30) days after written notice thereof is delivered by Bank to Borrower, or the failure of Borrower to satisfy the conditions listed in Section 6.2(t) are not satisfied within one hundred twenty (120) days after the Closing Date;

(i) **Completion.** Each of the conditions precedent listed in Section 6.6 are not fully satisfied or waived by Bank on or before the Bank’s Required Completion Date and in accordance with all Requirements of Law (including all requirements for ensuring the preservation of the Low-Income Housing Tax Credit);

(j) **Permanent Mortgage Loan Commitment.** (i) Failure by Borrower to comply with terms and requirements of the Permanent Mortgage Loan Commitment and the Guide, the Guidelines, or any other requirements, now or hereafter existing, of Freddie Mac and the Permanent Lender relating to the construction and use of the Premises (including that the Premises remain at all times available for a Low-Income Housing Tax Credit), if such failure is not remedied within any applicable notice or grace provision set forth in the Permanent Mortgage Loan Commitment, (ii) the expiration, cancellation, termination or unenforceability of the Permanent Mortgage Loan Commitment, or (iii) the modification or amendment to the Permanent Mortgage Loan Commitment without the prior written consent of Bank, or (iv) any receiver or bankruptcy trustee having jurisdiction over Borrower and/or the Premises shall
reject or otherwise determine it will not perform under and with respect to the Forward Commitment;

(k) **Bank Determination.** A reasonable determination by Bank (or its construction consultant) that the development and construction of the Improvements cannot be Substantially Completed by the Bank's Required Completion Date and in accordance with all Requirements of Law (including all requirements for ensuring the preservation of the Low-Income Housing Tax Credit) and such failure is not fully cured within thirty (30) days after written notice thereof is provided by Bank to Borrower;

(l) **Equity.** Failure of the Investor Member to make any scheduled installment of the Capital Contribution as and when required to do so under the Operating Agreement, or (ii) any material reduction (other than as a result of the application of standard tax credit adjustment provisions in the Operating Agreement) in the amount of the Capital Contribution or the amount of any installment of the Capital Contribution, or any change to the conditions to the funding of the Capital Contribution or any installment thereof (other than as a result of a waiver of any such conditions), or any change in the timing of the funding of the Capital Contribution, which are not consented to by Bank in writing, unless the amount of the reduction is made by the Co-Managing Member as an equity contribution in a manner satisfactory to Bank or the amount of the reduction is otherwise made available in the manner satisfactory to Bank or the reduction does not affect the amount of the scheduled Capital Contributions listed in Exhibit "H" which are to be applied to budgeted items or the Construction Note;

(m) **Liquidation or Dissolution.** Borrower, a Guarantor, Hunt, or the Investor Member shall dissolve or liquidate, or Borrower or Co-Managing Member or Contractor shall merge with or be consolidated into any other entity, modify or amend its organizational documents (except as otherwise may be permitted under the Loan Documents, including, without limitation, Section 5.1(i) hereof), or fail to remain in good standing in the State of Texas, without the prior written consent of Bank; and such situation is not remedied within thirty (30) days after written notice thereof is delivered by Bank to Borrower, it being agreed by Bank that (1) if the situation giving rise to the Default involves the Co-Managing Member or a Guarantor, that situation may be remedied by replacing, as applicable, the Co-Managing Member or a Guarantor or Contractor with a substitution acceptable to Bank within such thirty (30)-day cure period (with respect to the Co-Managing Member, Bank will condition its acceptance of a substitution on the approval of the substitution by the Investor Member), or (2) if the foregoing Event of Default relates to Freddie Mac, no Event of Default shall occur if Freddie Mac is replaced with another permanent lending source acceptable to Bank on terms acceptable to Bank within such thirty (30) day period;
(n) **Death or Legal Incapacity.** The death or legal incapacity of an Individual Guarantor and the failure of Borrower to provide Bank with a replacement Guarantor acceptable to Bank within thirty (30) days after the occurrence of any such death or legal incapacity, or event;

(o) **Failure to Observe Construction Contract.** Failure of Borrower or Contractor to perform, observe, or comply in any material respect with any of the material terms, covenants, conditions, or provisions of any applicable Construction Contract within ten (10) Business Days after written notice thereof is delivered by Bank to Borrower; provided, however, that in the case of such a failure by Contractor, if Borrower is diligently and in good faith pursuing all appropriate remedies under the pertinent Construction Contract relating to such Contractor's failure thereunder and Contractor remedies such failure or Borrower terminates the Construction Contract in good faith within thirty (30) Business Days after the occurrence of such failure, then Borrower shall not be deemed to be in default under this Agreement if another Contractor reasonably satisfactory to Bank is selected by Borrower and placed under contract with Borrower within sixty (60) days after terminating said defaulting Contractor and such substitute Contractor promptly proceeds to fully cure the defaulting Contractor's default and to construct the Improvements and the City Infrastructure Improvements in substantial accordance with the Budget and the Plans, in a diligent manner and in accordance with this Agreement;

(p) **Uninsured Casualties.** If any act or occurrence of any kind or nature (including any casualty) for which insurance required hereunder or under the other Loan Documents was not obtained (or was not obtainable) shall result in material damage to or material loss or material destruction of a material portion of the Improvements and the City Infrastructure Improvements, and such loss or damage is not fully repaired or replaced within ninety (90) days after such occurrence;

(q) **Voluntary Filings.** Borrower, any Guarantor, Hunt, Freddie Mac, or the Investor Member shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of it or all or a substantial part of its assets, (ii) file a voluntary petition commencing a bankruptcy or other insolvency proceeding, (iii) make a general assignment of all or a material part of Borrower's assets for the benefit of creditors, (iv) be unable, or admit in writing its inability, to pay its debts generally as they become due, or (v) file an answer admitting the material allegations of a petition filed against it in a bankruptcy or other insolvency proceeding (provided that (1) if the foregoing Event of Default relates to a Guarantor, no Event of Default shall occur if that Guarantor is replaced with a substitute Guarantor satisfactory to Bank in Bank's reasonable determination within sixty (60) days after any such filing, or (2) if the foregoing Event of Default relates to Freddie Mac, no Event of Default shall occur if Freddie Mac is replaced with another permanent lending source acceptable to Bank on terms acceptable to Bank within sixty (60) days;
(r) **Involuntary Filings.** An order, judgment, or decree shall be entered against Borrower, any Guarantor, Hunt, Freddie Mac, or the Investor Member by any court of competent jurisdiction or by any other duly authorized authority, on the petition of a creditor or otherwise, granting relief in a bankruptcy or other insolvency proceeding or approving a petition seeking reorganization or an arrangement of its debts or appointing a receiver, trustee, conservator, custodian or liquidator of it or all or any substantial part of its assets and such order, judgment or decree shall not be dismissed or stayed within sixty (60) days (provided (1) that if the foregoing Event of Default relates to a Guarantor, no Event of Default shall occur if that Guarantor is replaced with a substitute Guarantor satisfactory to Bank in Bank’s reasonable determination within sixty (60) days after any such filing, or (2) if the foregoing Event of Default relates to Freddie Mac, no Event of Default shall occur if Freddie Mac is replaced with another permanent lending source acceptable to Bank on terms acceptable to Bank within sixty (60) days;

(s) **Levy.** The levy against any significant portion of the property of Borrower or any Guarantor or any execution, garnishment, attachment, sequestration, or other writ or similar proceeding which is not permanently dismissed or discharged within sixty (60) days after the levy or proceeding (provided that if the foregoing Event of Default relates to Guarantor, no Event of Default shall occur if Guarantor is replaced with a substitute Guarantor satisfactory to Bank in Bank’s reasonable determination within said sixty (60)-day period);

(t) **Work Stoppage.** The failure to comply with the terms and provisions of Section 4.1(b).

(u) **Judgments.** A final and non-appealable order, judgment or decree, which is uninsured in an amount in excess of $250,000.00, shall be entered against Borrower or a Guarantor, and such order, judgment or decree shall not be paid, reserved or Bonded for Bank (in each case in a manner acceptable to Bank), dismissed or stayed within sixty (60) days after entering of such order, judgement, or decree (provided that if the foregoing Event of Default relates to a Guarantor, no Event of Default shall occur if that Guarantor is replaced with a substitute Guarantor satisfactory to Bank in Bank’s reasonable determination within said sixty (60) day period);

(v) **Challenges.** Borrower, a Guarantor, Hunt, the Investor Member, or their representatives and Affiliates shall challenge or contest in any action, suit, or proceeding the validity or enforceability of this Agreement or any of the other Loan Documents, the legality or enforceability of any of the Obligations or the perfection or priority of any lien or security interests granted to Bank;

(w) **Fraudulent Activities.** Borrower or a Guarantor shall have (i) concealed, removed, or diverted, or permitted to be concealed, removed or
diverted, any part of its property, with intent to hinder, delay or defraud its creditors or any of them; (ii) made or suffered a transfer of any of its property which is fraudulent under any bankruptcy, fraudulent conveyance or similar law; or (iii) shall have suffered or permitted, while insolvent, any creditor to obtain a lien upon any of their respective property through legal proceedings or otherwise which is not vacated within sixty (60) days from the date thereof;

(x) **Lien Priority.** The liens and/or security interests granted in any Loan Document shall not constitute a first and prior lien and/or security interest upon the collateral described therein, subject only to the Permitted Exceptions or otherwise permitted by this Agreement or any of the other Loan Documents, and such circumstances are not fully cured in a manner reasonably acceptable to Bank within 30 days after written notice thereof is delivered by Bank to Borrower;

(y) **Failure to Satisfy Development Requirements.** Failure by any Person to comply with the terms and requirements of the HAP Commitment, the HAP Contract (to the extent it is then executed) or any other requirements of the Authority or HUD relating to the HAP Commitment or the HAP Contract (to the extent it is then executed), or the modification, amendment, cancellation, or termination of the HAP Commitment or the HAP Contract (after being executed);

(z) **Low Income Housing Tax Credit.** A reasonable determination by the Credit Agency that Borrower has failed to satisfy the applicable Requirements of Law for obtaining and maintaining the Low Income Housing Tax Credit for the Premises, and all applicable notice and cure periods have expired; and/or

(aa) **Failure to Make Liquidity Contribution.** The failure of Hunt to timely pay Bank under and with respect to the Hunt Backstop Guaranty in its capacity as “Construction Lender” thereunder.

(bb) **CFA.** A draw by the City of the Security Funds from a City Infrastructure Improvements Escrow Account pursuant to Section 6 of a City Infrastructure Improvements Escrow Agreement as a result of the failure by Borrower to perform under a CFA.

Without limiting the foregoing, (A) Borrower agrees that Bank will determine whether a substitute Guarantor is satisfactory based on a variety of factors, including without limitation, financial capacity of the proposed replacement, experience of the proposed replacement in developing low income housing projects, and the reputation and general background of the proposed replacement, and (B) Borrower agrees that Bank will determine whether an alternative permanent lending source is satisfactory based on a variety of factors, including, without limitation, financial capacity and whether or not such alternative permanent lending source is known in the affordable housing industry as a provider of permanent financing.
7.2 Termination of Obligations. Any obligation of Bank to make an advance of the Construction Loan or make any other funding under this Agreement and the other Loan Documents shall immediately and automatically cease and terminate during the existence of a Default or an Event of Default unless and until Bank shall reinstate the same by agreeing to fund a Request for Advance in writing, which in connection with any such reinstatement Bank agrees to provide at Borrower's request and expense a written confirmation that the particular Default or Event of Default has been cured in a timely manner or in a manner otherwise satisfactory to Bank (provided that notwithstanding the foregoing, during the existence of an Event of Default, any and all other obligations of Bank shall terminate).

7.3 Rights and Remedies. During the continuation of an Event of Default, Bank may, at its option, do any one or more of the following:

(a) Acceleration. To the extent permitted by applicable law, Bank, at its option and without any notice of intent to accelerate, notice of acceleration, or other notice or demand, may declare the entire principal amount of the Construction Note then outstanding and the interest accrued thereon immediately due and payable, and the said entire principal, interest and all other amounts owing thereunder shall thereupon become immediately due and payable without presentment, demand, protest, notice of protest or other notice of default or dishonor of any kind, all of which are hereby expressly waived by Borrower.

(b) Additional Rights. Bank shall have, in addition to the rights and remedies given it in this Agreement and the other Loan Documents (including, without limitation, the foreclosure of the Construction Mortgage), all of the rights and remedies allowed by all applicable ordinances, statutes, rules, regulations, orders, injunctions, writs or decrees of any governmental or political subdivision or agency thereof, or any court or similar entity established by any such subdivision or agency.

(c) Enter on Premises. At the risk, reasonable cost, and expense of Borrower: (i) enter upon and take possession of the Premises and the materials and equipment owned or leased by Borrower being used in the development of the Improvements and the City Infrastructure Improvements; (ii) take such action as Bank shall in its reasonable judgment deem appropriate to protect the Premises; and (iii) take such action as Bank shall in its reasonable judgment deem appropriate to continue construction of the Improvements and the City Infrastructure Improvements with such changes therein as Bank may elect to make. If Bank shall elect to continue construction, Bank may: (v) assume or reject any construction or other contracts made by Borrower in connection with the construction or operation of the Improvements and the City Infrastructure Improvements; (w) engage or employ contractors, subcontractors, architects, engineers and others for the construction of the Improvements and the City Infrastructure Improvements; (x) pay, settle or compromise existing or future bills or claims relating to the development of the Improvements and the City Infrastructure Improvements.
Infrastructure Improvements or the Premises or affecting title thereto; (y) take or refrain from taking such other action (including, without limitation, discontinuing construction), in its name or in the name of Borrower, as Bank in its reasonable judgment may determine; and (z) enforce the right to payment of Capital Contributions under the Operating Agreement (to the extent enforceable under applicable Requirements of Law). All reasonable costs and expenses incurred by Bank in taking and protecting the Premises and in constructing the Improvements and the City Infrastructure Improvements shall be paid by Borrower to Bank upon demand, with interest at the rate provided in the Construction Note from the date of disbursement to the date of payment to Bank, and the payment of such sums shall be secured by the Construction Mortgage and the other Loan Documents. Bank shall have no obligation to take any of the foregoing actions, and if Bank should do so, it shall have no liability to Borrower or Guarantors for the sufficiency of any such actions or otherwise, provided such actions are taken in a commercially reasonable manner, as determined by a court of competent jurisdiction.

(d) Low-Income Housing Tax Credit. The parties hereby acknowledge and agree that the Low Income Housing Tax Credit is an inseparable benefit of ownership of the Premises which is transferred with the transfer of ownership of the Premises and that the Low-Income Housing Tax Credit may not be transferred or assigned by Bank separately from its security interest in the Premises nor by Borrower and its members to any other Person separately from the Borrower's and its members' ownership of the Premises. In the event that the Bank (or its designee) obtains title to and ownership of the Premises through foreclosure, deed in lieu of foreclosure, or otherwise, the Borrower (or the Investor Member) shall have no right to claim the Low-Income Housing Tax Credit which is generated by the Premises from and after the date on which the Bank (or its designee) obtains title to and ownership of the Premises.

(e) Curative Action. Bank may (but is not in any way obligated) for and on behalf of the Co-Managing Member of Borrower as its duly authorized attorney in fact to cure any default or event of default under the Operating Agreement if and to the extent that default or event of default relates to the development of the Premises and not to the Co-Managing Member itself (such as a bankruptcy of the Co-Managing Member).

(f) Bank Offset. As further security for the Construction Note, the Obligations, and all other indebtedness which may at any time be owing by Borrower to the holder of the Construction Note, whether such obligations and indebtedness are incurred directly or acquired from third parties by Bank or any other holder of the Construction Note, Borrower grants to Bank or any other holder of the Construction Note a lien, security interest, and contractual right of setoff in and to the Construction Account and the Capital Contribution Account and all other deposits (general or special, time or demand) of Borrower now or at
any time hereafter held or received by or in transit to or coming within the custody or control of Bank or any other holder of the Construction Note, including without limitation, all certificates of deposit and other accounts, irrespective of whether such certificates or accounts have matured and whether the exercise of such right of setoff results in loss of interest or other penalty under the terms of the certificate or agreement. Bank or any holder hereof shall have a first lien and security interest on all deposits and other sums at any time credited by or due from Bank or any holder the Construction Note to Borrower as collateral security for the payment of the Construction Note, and Bank or other holder hereof, at its option and after acceleration of the maturity of the Construction Note, howsoever said maturity may be brought about, may without notice and without any liability, hold all or any part of any such deposits or other sums until all sums owing on the Construction Note and all other indebtedness owing by Borrower to the holder of the Construction Note have been paid in full and all other obligations have been performed in full and/or apply or set off all or any part of any such deposits or other sums credited by or due from Bank or any holder of the Construction Note to or against any sums due on the Construction Note in any manner and in any order or preference which Bank or other holder hereof, at its sole discretion, chooses. The parties acknowledge and agree that each of the deposits is a “deposit account” within the meaning of 9-104 of the UCC. The parties further acknowledge and agree that Texas constitutes the “bank’s jurisdiction” with respect to the perfection, the effect of perfection or non-perfection, and the priority of a security interest in a deposit account maintained at a bank under 9-304(b)(1) of the UCC. The Bank shall at all times have “control” of the accounts and all assets now or hereafter credited thereto within the meaning of Section 9-106 of the UCC or Section 9-104(a) of the UCC for purposes of maintaining its first and prior perfected security interest therein. The foregoing rights of Bank are in addition to and cumulative of all other rights and remedies (including, without limitation, the liens, security interests and rights of setoff) which Bank may have.

(g) Other Rights. In addition to the other rights and remedies available to Bank, upon discovery by Bank of any material deviations from the Plans not otherwise expressly permitted by the terms of this Agreement, or of any material defective or unworkmanlike labor or materials being used in the construction of the Improvements and the City Infrastructure Improvements, Bank may immediately order stoppage of construction and demand that any unsatisfactory work be replaced and that the condition be corrected, whether or not any unsatisfactory work has already been incorporated into the Improvements and the City Infrastructure Improvements. After issuance of such an order in writing, the condition shall be corrected within thirty (30) days from the date of stoppage by Bank, subject to Excusable Delays. Bank shall have the right to withhold all further advances of the Construction Loan until the condition is corrected and no other work shall be done on the Improvements and the City Infrastructure Improvements without the prior written consent of Bank, which
consent shall not be unreasonably withheld, conditioned, or delayed, unless, and until, such condition has been fully corrected.

7.4 Due on Sale. Except as expressly permitted by the Loan Documents, including without limitation, Section 5.1(d), (f), (g), or (l), and except for Approved Leases, and except as a result of pledges or transfers of interests in the non-Co-Managing Members of Borrower otherwise expressly permitted by the Loan Documents, or except as a result of a partial condemnation, if Borrower shall sell, convey, encumber, assign or transfer all or part of its interest in the Premises or any interest therein without the prior written consent of Bank, Bank may, at Bank's option, without (unless expressly required by the terms of the Loan Documents) demand, presentment, protest, notice of protest, notice of intent to accelerate, notice of acceleration of or other notice, or any other action, all of which are hereby waived by Borrower and all other parties obligated in any manner on the Construction Note and other Obligations, declare the Construction Note and other monetary Obligations to be immediately due and payable, which option may be exercised at any time following such sale, conveyance, assignment or transfer, and upon such declaration the entire unpaid balance of the Construction Note and other Obligations shall be immediately due and payable.

7.5 Notice and Cure Rights of Investor Member. Notwithstanding anything to the contrary contained herein, the Bank agrees to accept performance on the part of the Investor Member, and any of their Affiliates as though the same had been performed by the Borrower under any of the Loan Documents. The Bank will allow the Investor Member and their Affiliates ten (10) days after giving the Investor Member notice to cure a monetary default under the Loan Documents (other than the payment due at maturity) and except as to the Borrower's filing of a voluntary bankruptcy petition, up to thirty (30) days after giving the Investor Member notice to cure of any non-monetary default under the Loan Documents, provided, however, that in the event of a non-monetary default that is not susceptible to being cured within such thirty (30) day period, the Bank will allow the party offering cure an additional period of up to sixty (60) days to cure such default, provided that the cure of such default has commenced and the person offering the cure is continuously proceeding to cure such default through the end of the sixty (60) day period. If the Investor Member or any of their Affiliates makes any such payment or otherwise offers cure of a default, the Bank will accept or reject such action as curing such default on the same basis as if payment or cure were made directly by the Borrower. The foregoing cure periods provided to the Investor Member shall run simultaneously with any cure period provided to Borrower under Section 7.1.

VIII – MISCELLANEOUS

8.1 Bank Approvals. The Construction Contract and all surveys, appraisals, insurance policies, form leases, plans and specifications, legal opinions, requests for disbursement, and other Loan Documents and items required for the Construction Loan shall be reasonably satisfactory to Bank in all material respects (Bank may, at its option, condition any such approval on the approval by the Investor Member, the TIF, FWHFC, the City, and/or the Credit Agency, if and to the extent such parties also must approve
of these items pursuant to the documents evidencing and/or governing each of their respective sources of funding to the Borrower).

8.2 No Third Party Beneficiaries. Except for the notice and cure rights provided to certain Persons in this Agreement, this Agreement is for the sole protection and benefit of Bank and Borrower, and no other Person shall have any right as a third party beneficiary hereunder or any right to bring an action hereon or claim the proceeds of the Construction Loan or the equity contributed hereunder, except with regard to the Guarantors’ and the Investor Member’s right to receive notices and effect cures pursuant to the terms of this Agreement.

8.3 No Waiver. No failure on the part of Bank to exercise any right, option, privilege, or remedy available to Bank shall operate as a waiver thereof, nor shall any single or partial exercise or waiver of any such right, option, privilege, or remedy preclude any other or further exercise thereof to its fullest extent or the exercise of any other right, option, privilege, or remedy.

8.4 Notices. Notices, requests, demands and other communications which any party is required or may desire to give to any other party under any provision of this Agreement and the other Loan Documents must be in writing and delivered to the other party at the address set forth in the first paragraph of this Agreement (or to such other address as any party may designate by written notice to the other party), with a copy to John Shackelford, Shackelford, Bowen, McKinley & Norton, LLP, 9201 N. Central Expressway, 4th Floor, Dallas, TX 75231, and to Shutts & Bowen LLP, 200 S. Biscayne Blvd., Suite 4100, Miami, Florida 33131, Attention: Robert Cheng. Each such notice, request, demand or other communication shall be deemed given or made as follows: If sent by mail, upon the earlier of the date of receipt or five (5) days after deposit in the U.S. Mail, first class postage prepaid and by certified mail, return receipt requested; and if sent by any other means, upon delivery. Copies of all notices provided by Bank to Borrower under this Agreement shall be simultaneously provided to the Investor Member at 15910 Ventura Boulevard, Suite 1100, Encino, CA, 91436, Attention: Jeffrey N. Weiss, with a copy to Ballard Spahr LLP, 1735 Market Street, 51st Floor, Philadelphia, Pennsylvania 19103, Attention: Jere Thompson (Borrower and Bank agree that the Investor Member is authorized, on behalf of Borrower, to cure any Default or Event of Default).

Any notice under the Construction Note and any other Loan Document which does not specify how notices are to be given shall be given in accordance with this Section 8.4.

8.5 Transfer of Rights. Borrower shall not assign or otherwise transfer this Agreement or the Loan Documents, in whole or in part, without the prior written consent of Bank. Bank may create and sell participation interests in the Construction Loan or otherwise assign or transfer this Agreement and the Loan Documents, in whole or in part, as provided for in Section 8.23, at any time and in the event of an assignment or
transfer by Bank, the term "Bank" shall include any such assignee or transferee to the extent of the interest assigned or transferred. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, successors, personal representatives, and assigns.

8.6 **Severability.** The unenforceability or invalidity of any provision of this Agreement shall not affect the enforceability or validity of any other provision herein, and the invalidity or unenforceability of any provision of any Loan Document to any person or circumstance shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

8.7 **Advertising.** Bank shall have the right at its sole cost and expense, to erect one or more signs on the Premises advertising its financing of the Improvements and the City Infrastructure Improvements, provided that the same complies with all Requirements of Law.

8.8 **GOVERNING LAW.** EXCEPT AS SPECIFICALLY PROVIDED FOR IN ANY OTHER LOAN DOCUMENT, THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (EXCLUSIVE OF ITS CONFLICT AND CHOICE OF LAWS PRINCIPLES) AND APPLICABLE UNITED STATES FEDERAL LAW. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT AND/OR ANY OF THE OTHER LOAN DOCUMENTS, THE UNDERSIGNED HEREBY AGREE THAT THE STATE AND FEDERAL COURTS LOCATED IN TARRANT COUNTY, TEXAS SHALL HAVE EXCLUSIVE JURISDICTION AND VENUE WITH RESPECT TO ALL ACTIONS BROUGHT BY OR AGAINST ANY PARTY UNDER OR PURSUANT TO THIS AGREEMENT AND/OR ANY OF THE OTHER LOAN DOCUMENTS, AND THE UNDERSIGNED HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS AND TO SERVICE OF PROCESS, EFFECTIVE UPON RECEIPT BY PERSONAL SERVICE, OVERNIGHT EXPRESS DELIVERY, SIGNATURE REQUESTED UPON DELIVERY, OR REGISTERED OR CERTIFIED MAIL. TO THE EXTENT OF ANY INCONSISTENCY BETWEEN THIS SECTION AND A LIKE PROVISION IN ANY OTHER LOAN DOCUMENT, THIS SECTION SHALL GOVERN AND CONTROL.

8.9 **Other Advances.** Borrower and Bank acknowledge and agree that in the future, Borrower may apply for and Bank may agree to fund additional loans to Borrower. Borrower and Bank agree that all existing and hereafter created loans and other advances from Bank, or any of its predecessors or successors in interest, to Borrower, whether or not such loans are particularly described in this Agreement, as may be amended from time to time, shall constitute Obligations for purposes of this Agreement and shall be subject to the terms, provisions, covenants, and agreements set forth in this Agreement (except that the Construction Mortgage shall only secure the Obligations therein described). Nothing herein shall constitute an offer or commitment by Bank to make any such additional loan.
8.10 **No Duty or Special Relationship.** Borrower acknowledges that Bank has no duty to Borrower with respect to the loan transactions set forth in this Agreement except as expressly provided for in this Agreement and the other Loan Documents, and acknowledge that no fiduciary, trust, or other special relationship exists between Bank and Borrower.

8.11 **Other Remedies Not Required.** Subject to the terms of the Loan Documents, Borrower may be required to pay the Construction Note in full without the assistance of any other party, or any collateral or security for the Construction Note. Except as specifically required by applicable law, Bank shall not be required to mitigate damages, file suit, or take any action to foreclose, proceed against or exhaust any collateral or security in order to enforce payment of the Construction Note.

8.12 **No Control by Bank.** Borrower agrees and acknowledges that all of the covenants and agreements provided for and made by Borrower in this Agreement and in the other Loan Documents are the result of extensive and arms-length negotiations between Borrower and Bank. Bank's rights and remedies provided for in this Agreement and in the other Loan Documents are intended to provide Bank with a right to oversee Borrower's activities as they relate to the loan transactions provided for in this Agreement, which right is based on Bank's vested interest in Borrower's ability to pay the Construction Note and perform the other obligations. None of the covenants or other provisions contained in this Agreement shall, or shall be deemed to, give Bank the right or power to exercise control over, or otherwise impair, the day-to-day affairs, operations, and management of Borrower.

8.13 **Construction Commitment Rendered.** The obligations of Bank and Borrower, if any, under the Construction Commitment, as may have been extended, are fully and completely satisfied, replaced, and superseded by the execution and delivery of the Loan Documents.

8.14 **No Partnership.** Nothing herein is intended, nor shall it be deemed or construed as, to create a partnership, joint venture, or common interest in profits or income between Borrower and Bank, or to make Bank in any way responsible for the debts or losses of Borrower or with respect to the collateral described in the Loan Documents. Borrower and Bank disclaim any sharing of liabilities, losses, costs or expenses.

8.15 **Release of Liens.** The Construction Note may represent advancing credit indebtedness. Accordingly, regardless of whether the balance outstanding under the Construction Note or anything in any Loan Document to the contrary, the Construction Note and Loan Documents (and liens and security interests granted thereunder) shall continue in full force and effect until Bank shall execute a release thereof (which will be
provided upon the full and final payment of the Obligations and provided Bank has no funding commitments under this Agreement), except for those Loan Documents which are to be terminated by their express terms upon delivery of the Conversion Certificate by Bank.

8.16 **Renewal of Indebtedness.** All provisions of this Agreement relating to the Construction Note shall apply with equal force and effect to each and all promissory notes hereafter executed which in whole or in part represent a renewal, extension, or rearrangement of any part of the indebtedness originally represented by the Construction Note, or any of them, provided that nothing herein shall constitute a commitment or offer by Bank to such a renewal, extension or rearrangement.

8.17 **Counterparts.** This Agreement may be executed in two or more counterparts, and it shall not be necessary that any one counterpart be executed by all of the parties hereto. Each fully or partially executed counterpart shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument. Delivery of an executed counterpart of the signature page of this Agreement by facsimile or electronic means shall be effective as delivery of a manually executed counterpart.

8.18 **Controlling Agreement.** Borrower and Bank intend to conform strictly to the applicable usury laws. All agreements between Bank and Borrower (or any other party liable with respect to any indebtedness under this Agreement and the other Loan Documents) are hereby limited by the provisions of this Section which shall override and control all such agreements, whether now existing or hereafter arising and whether written or oral. In no way, nor in any event or contingency (including but not limited to prepayment, default, demand for payment, or acceleration of the maturity of any obligation), shall the interest contracted for, charged, or received under the Construction Note otherwise exceeds the Maximum Rate. If, from any possible development of any document, interest would otherwise be payable to Bank in excess of the Maximum Rate, any such construction shall be subject to the provisions of this Section and such document shall be automatically reformed and the interest payable to Bank shall be automatically reduced to the Maximum Rate, without the necessity of execution of any amendment or new document. If Bank shall ever receive anything of value which is characterized as interest under applicable law and which would apart from this provision be in excess of the Maximum Rate, an amount equal to the amount which would have been excessive interest shall at the option of Bank, be refunded to Borrower or applied to the reduction of the principal amount owing hereunder in the inverse order of its maturity and not to the payment of interest. The right to accelerate maturity of the Construction Note or any other indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Bank does not intend to charge or receive any unearned interest in the event of acceleration. All interest paid or agreed to be paid to Bank shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full stated term (including any renewal or extension) of such indebtedness so that the
amount of interest on account of such indebtedness does not exceed the Maximum Rate.

8.19 **NO ORAL AGREEMENT.** THIS WRITTEN LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES.

8.20 **JURY WAIVER.** EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

8.21 **Bank Consent.** Whenever Bank is required under this Agreement or any of the other Loan Documents to provide its consent or approval, or render its determination, judgment, satisfaction, or decision, such consent, approval, determination, judgment, satisfaction, or decision (or the denial of such consent, approval, determination, judgment, satisfaction, or decision, as the case may be) shall not be unreasonably withheld or conditioned and shall be given within a reasonable time after its receipt of the request therefor (if a request therefor is required by the terms of the Loan Documents), taking into consideration the circumstances of the request.

8.22 **Governing Documents.** Except as otherwise expressly provided, all irreconcilable inconsistencies or conflicts between the terms of this Agreement with the terms of any other Loan Document shall be governed and controlled by the terms of this Agreement.

8.23 **Participations.** Borrower acknowledges and agrees that Bank may provide any information Bank may have about Borrower or about any matter relating to this Agreement to Bank, its parent, its subsidiaries, its Affiliates or their successors, or to any one or more purchasers or potential purchasers of a Note. Borrower agrees that Bank may at any time sell, assign or transfer one or more interests or participations in all or any part of its rights or obligations in the Construction Note to any one or more purchasers whether or not related to Bank. Borrower authorizes Bank to disseminate any information it has pertaining to the Construction Loan to JPMorgan Chase and Co., or any of its subsidiaries or Affiliates or their successors, or to any one or more
purchasers or potential purchasers of the Construction Loan, including, without limitation, credit information on Borrower, any of its principals, or any other party liable, directly or indirectly for the Construction Note, to any such assignee or participant or prospective assignee or participant. Borrower shall execute, acknowledge, and deliver any and all instruments reasonably requested by Bank to satisfy such assignee or participant that the Construction Loan is outstanding in accordance with the terms and provisions of the Construction Note and the Loan Documents. Subject to all applicable Requirements of Law relating to confidentiality, the Borrower agrees that the Bank may provide any information the Bank may have about the Borrower or about any matter relating to the Construction Loan to prospective participants of the Loan.

8.24 Placement of Restrictive Covenants. Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, Borrower shall be permitted to execute any restrictive covenants or restrictions which Borrower is required to enter into by the Credit Agency for issuance of Form 8609 with respect to the Premises if and to the extent Borrower has notified Bank thereof in writing prior to Borrower's execution thereof, including, without limitation, the LURA. All such documents described in this Section 8.24 are herein collectively called the "Restriction and Easement Documents". Once Bank confirms that such Restriction and Easement Documents are in the form promulgated by the Credit Agency (and approved by Bank), Bank shall subordinate its liens and security interests with respect to the Premises (including without limitation, the lien and security interest created by the Construction Mortgage) to such Restriction and Easement Document in a manner reasonably acceptable to Bank, the Credit Agency, and their respective counsel. Such subordination shall provide that Bank is subject to the limitations on evictions, termination of tenancy, and increase in rents for the three (3) year period following the acquisition of the Premises by Bank or its successors or assigns by foreclosure (or instrument in lieu of foreclosure), as set forth in Section 42(h)(6)(E)(ii) of the Internal Revenue Code, as amended.

8.25 No Offset. All payments due by Borrower to Bank under the Loan Documents are to be made by the Borrower without offset or other reduction.

8.26 RECOGNITION. BORROWER HAS BEEN ADVISED BY BANK TO SEEK THE ADVICE OF AN ATTORNEY AND AN ACCOUNTANT IN CONNECTION WITH THE COMMERCIAL LOAN EVIDENCED BY THE CONSTRUCTION NOTE; AND BORROWER HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF AN ATTORNEY AND ACCOUNTANT OF BORROWER'S CHOICE IN CONNECTION WITH THE COMMERCIAL LOAN EVIDENCED BY THE CONSTRUCTION NOTE.

8.27 Increased Costs. If, after the Closing Date, any law, regulation or change in any law or regulation or in the interpretation thereof, or any ruling, decree, judgment, guideline, directive or recommendation (whether or not having the force of law) by any regulatory body, court, central bank or any administrative or Governmental Authority charged or claiming to be charged with the administration thereof (including, without limitation, a request or requirement which affects the manner in which the Bank allocates capital resources to its commitments including its obligations hereunder) shall
either (a) impose upon, modify, require, make or deem applicable to the Bank or any of its Affiliates, subsidiaries or participants any reserve requirement, special deposit requirement, insurance assessment or similar requirement against or affecting the Construction Loan, or (b) subject the Bank or any of its Affiliates, subsidiaries or participants to any tax, charge, fee, deduction or withholding of any kind whatsoever in connection with the Construction Loan, or change the basis of taxation of the Bank or any of its Affiliates, subsidiaries or participants (other than a change in the rate of tax payable by the Bank or any of its Affiliates, subsidiaries or participants based on the overall net income of the Bank or such other Person), or (c) impose any condition upon or cause in any manner the addition of any supplement to or increase of any kind to the Bank's or an Affiliate's, subsidiary's or participant's capital or cost base for issuing or owning a participation in the Construction Loan, which results in an increase in the capital requirement supporting the Construction Loan, or (d) impose upon, modify, require, make or deem applicable to the Bank or any of its Affiliates, subsidiaries or participants any capital requirement, increased capital requirement or similar requirement, such as the deeming of the Construction Loan to be an asset held by the Bank or any of its Affiliates, subsidiaries or participants for capital adequacy calculation or other purposes (including, without limitation, a request or requirement which affects the manner in which the Bank or any participant allocates capital resources to its commitments including its obligations hereunder or under the Construction Loan), if any, and the result of any events referred to in (a), (b), (c) or (d) above shall apply only to the Premises, and shall be to increase the costs in any way to the Bank or any Affiliate, subsidiary or participant of issuing, maintaining or participating in the Construction Loan, or reduce the amounts payable by Borrower hereunder or reduce the rate of return on capital, as a consequence of the issuing, maintaining or participating in the Construction Loan to a level below that which the Bank, its Affiliates, subsidiaries or participants could have achieved but for such events; then and in such event Borrower shall, promptly upon receipt of written notice to Borrower by the Bank of such increased costs and/or decreased benefits, pay within thirty (30) days of demand therefor to the Bank all such additional amounts which, in the Bank's or participant's sole good faith calculation as allocated to the Construction Loan shall be sufficient to compensate it for all such increased costs and/or decreased benefits, all as certified by the Bank or participant's in said written notice to Borrower. Such certification shall be accompanied by information concerning the calculation of such increased costs and/or decreased benefits and shall be conclusive and binding on the parties hereto, absent manifest error. In determining such amount, the Bank or any participant may use any reasonable averaging or attribution methods.

8.28 **Business Loans.** Borrower warrants and represents to Bank, and to all other holders of any debt evidenced by the Construction Note, that the Construction Loan is and shall be for business, commercial, investment or other similar purpose and not primarily for personal, family, household or agricultural use, as such terms are used in Chapter One of the Texas Credit Code. Borrower does not expect to occupy any property covered by the Construction Mortgage.
8.29 **USA Patriot Act Notification.** The following notification is provided to Borrower pursuant to Section 326 of the USA Patriot Act of 2001, 31 U.S.C. Section 5318:

**IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each Person that opens an account, including any deposit account, treasury management account, loan, other extension of credit, or other financial services product. What this means for Borrower: When Borrower opens an account, if Borrower is an individual, Bank will ask for Borrower's name, taxpayer identification number, residential address, date of birth, and other information that will allow Bank to identify Borrower, and, if Borrower is not an individual, Bank will ask for Borrower's name, taxpayer identification number, business address, and other information that will allow Bank to identify Borrower. Bank may also ask, if Borrower is an individual, to see Borrower's driver's license or other identifying documents, and, if Borrower is not an individual, to see Borrower's legal organizational documents or other identifying documents.

Without limiting the foregoing, Bank hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow Bank to identify the Borrower in accordance with the Act.

8.30 **WAIVER OF SPECIAL DAMAGES.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER THE BANK NOR THE BORROWER SHALL ASSERT, AND EACH HEREBY WAIVES, ANY CLAIM AGAINST THE OTHER, ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS AGREEMENT OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY, THE TRANSACTIONS, THE LOAN OR THE USE OF THE PROCEEDS THEREOF.

8.31 **Swap Agreements.** All Swap Agreements, if any, between Borrower and Bank or any Affiliate of Bank are independent agreements governed by the written provisions of said Swap Agreements, which will remain in full force and effect, unaffected by any repayment, prepayment, acceleration, reduction, increase or change in the terms of the Loan Documents, except as otherwise expressly provided in said written Swap Agreements, and any payoff statement from Bank relating to the Construction Loan shall not apply to said Swap Agreements. A default or event of
default under a Swap Agreement shall be an Event of Default and an Event of Default shall be an event of default under any Swap Agreement.

8.32 **Publicity.** The Borrower hereby authorizes Bank and its Affiliates, without further notice or consent, to use the Borrower's and its Affiliates' names, logos, and photographs related to the Premises in its advertising, marketing and communications materials on a national and/or international basis. Such materials may include web pages, print ads, direct mail and various types of brochures or marketing sheets, and various media formats other than those listed (including without limitation video or audio presentations through any media form). In these materials, Bank also may discuss at a high level the types of services and solutions Bank has provided the Borrower. This authorization shall remain in effect unless the Borrower notifies Bank in writing in accordance with the notice provisions set forth herein that such authorization is revoked.
In witness whereof, the parties have duly executed this Agreement under seal as of the day and year first above written.

"BORROWER"

MISTLETOE STATION, LLC, a Texas limited liability company

By: Saigebrook Mistletoe, LLC, a Texas limited liability company, its managing member

By: Lisa M. Stephens, President
"BANK"

JPMORGAN CHASE BANK, N.A.

By: ____________
    Olivo C. Ochoa, Authorized Officer
EXHIBIT "A"

INDIVIDUALS REQUESTING DISBURSEMENTS

Lisa Stephens
Megan Lasch
**EXHIBIT "B"**

**BUDGET**

**Mistletoe Station**

**Sources**

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<th>Description</th>
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**Uses**

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<td><strong>TOTAL</strong></td>
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</table>
EXHIBIT "C"

AFFIDAVIT OF NO LIENS

BEFORE ME, a Notary Public, on this ___ day of ____________, 2018, personally came and appeared the undersigned, in her individual capacity, who, after being by me duly sworn and deposed, stated as follows:

1. The undersigned Lisa M. Stephens is the President of Saigebrook Mistletoe, LLC, a Texas limited liability company, the co-managing member of Mistletoe Station, LLC, a Texas limited liability company ("Borrower").

2. Reference is made to the loans to be made to Borrower by JPMORGAN CHASE BANK, N.A. ("Bank") in accordance with the terms and provisions of the Credit Support and Funding Agreement (the "Loan Agreement"), of even date herewith, by and between Borrower and Bank, which are to be secured by, among other things, the tract of land (the "Land") located in Tarrant County, Texas, which is described by metes and bounds on the attached Exhibit "A".

3. Except for any work previously disclosed in writing by Borrower to Bank prior to the date hereof, as of the date of this Affidavit, to the knowledge of the Borrower, all labor and services performed on or with respect to the Land (and all buildings located thereon) prior to the date hereof, have been paid and performed in full, and Borrower has obtained a lien waiver from and on behalf of all contractors and other entities who have performed all such work.

4. This Affidavit is executed by Borrower with the express knowledge and understanding that the representations made herein are made for the purpose of inducing Bank to advance the funds pursuant to the terms of the Loan Agreement, and that but for this Affidavit, the Bank would not advance such funds.
EXECUTED as of the date first above written.

MISTLETOE STATION, LLC, a Texas limited liability company

By: Saigebrook Mistletoe, LLC, a Texas limited liability company, its managing member

By: ______________________
Lisa M. Stephens,
President

STATE OF TEXAS

COUNTY OF ______

This instrument was acknowledged before me on the _____ day of __________, 2018, by Lisa M. Stephens, President of Saigebrook Mistletoe, LLC, a Texas limited liability company, on behalf of said limited liability company, managing member of MISTLETOE STATION, LLC, a Texas limited liability company.

Notary Public, State of Texas

After Recording Return To:

Debbie Spencer
JPMorgan Chase Bank, N.A.
201 N. Central Avenue
14th Floor
Phoenix, Arizona 85004-0073
EXHIBIT "D"

WAIVER OF LIEN TO DATE

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project ____________________________

Job No. ____________________________

On receipt by the signer of this document of a check from ____________________________ (maker of check) in the sum of $______ payable to ____________________________ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic’s lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer’s position that the signer has on the property of ____________________________ (owner) located at ____________________________ (location) to the following extent: ____________________________ (job description).

This release covers the final payment to the signer for all labor, services, equipment, or materials furnished to the property or to ____________________________ (person with whom signer contracted).

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer’s laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project up to the date of this waiver and release.

Date ____________________________

(Company name)

By ____________________________ (Signature)

________________________ (Title)

STATE OF TEXAS

§

COUNTY OF ____________________________ §

This instrument was acknowledged before me on this ______ day of ____________________________, 20____, by ____________________________ (name), ____________________________ (company name), ____________________________ (job title) of ____________________________ (company name).

NOTARY PUBLIC, STATE OF TEXAS

D-1
CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project __________________________

Job No. __________________________

On receipt by the signer of this document of a check from ________________ (maker of check) in the sum of $_________ payable to ________________ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of ________________ (owner) located at __________ (location) to the following extent: ____________________ (job description).

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to ________________ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date __________________________

______________________________ (Company name)

By ____________________________ (Signature)

______________________________ (Title)

STATE OF TEXAS

COUNTY OF __________

This instrument was acknowledged before me on this _____ day of ________, 20___ by ____________________ (name), ____________________ (job title) of ____________________ (company name).

______________________________

NOTARY PUBLIC, STATE OF TEXAS
NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project __________________________
Job No. __________________________

The signer of this document has been paid in full for all labor, services, equipment, or materials furnished to the property or to ______________________ (person with whom signer contracted) on the property of ______________________ (owner) located at ______________________ (location) to the following extent: ______________________ (job description). The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project up to the date of this waiver and release.

Date __________________________

______________________________ (Company name)

By ____________________________ (Signature)

______________________________ (Title)

STATE OF TEXAS

COUNTY OF ______________________

This instrument was acknowledged before me on this _____ day of ________, 20____ by ______________________ (name), ______________________ (job title) of ______________________ (company name).

______________________________ (Notary Public, State of Texas)
NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project ____________________________

Job No. ____________________________

The signer of this document has been paid and has received a progress payment in the sum of $__________ for all labor, services, equipment, or materials furnished to the property or to ____________________________ (person with whom signer contracted) on the property of ____________________________ (owner) located at ____________________________ (location) to the following extent:

__________________________ ____________________________ (job description). The signer therefore waives and releases any mechanic's lien right, any lien right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to the signer's position that the signer has on the above referenced project to the following extent:

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to ____________________________ (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date ____________________________

___________________________________ (Company name)

By ____________________________ (Signature)

___________________________________ (Title)

STATE OF TEXAS $__________________________

COUNTY OF ____________________________ $__________________________

This instrument was acknowledged before me on this day of ____________, 20__, by ______________________________________ (name), ____________________________ (job title) of ____________________________ (company name).

__________________________ (notary public, state of texas)
EXHIBIT "F"

AFFIDAVIT OF COMMENCEMENT

THE STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared Lisa M. Stephens, President of Saigebrook Mistletoe, LLC, a Texas limited liability company, co-managing member of Mistletoe Station, LLC ("Owner"), and [Name of Original Contractor], known to me to be the persons whose names are subscribed below, and who, being by me first duly sworn, did each on his or her oath state as follows (in their capacities set forth below and not individually):

1. The Owner is the owner of the real property (the "Land") situated in Tarrant County, Texas, more particularly described in Exhibit "A", attached hereto and made a part hereof for all purposes, on which building and other related Improvements (the "Improvements") are being constructed.

   The address of Owner is:

   MISTLETOE STATION, LLC
   5501-A Balcones Drive, #302
   Austin, TX 78731

   The address of Original Contractor is:

   FORT WORTH HOUSING FINANCE CORPORATION

   The name and address of any other original contractor, presently known, after reasonable inquiry, to the Affiants, to the Owner or to the Original Contractor, that is furnishing, or will furnish, labor, service, or materials, for the construction of the Improvements and the City Infrastructure Improvements, and the nature of such labor, service or materials, is as follows:

   ________________________________
   ________________________________

   F-1.
Work on the Improvements (including the first delivery of materials and equipment to the Land in connection with the Improvements and the City Infrastructure Improvements) actually commenced on __________, 20__ at _____ o'clock _____m.

This affidavit has been jointly made by Owner and Original Contractor by and through an authorized representative of each, the same being the undersigned Affiants. This affidavit may be executed in identical counterparts, each of which shall be deemed an original, and all of which, collectively, shall constitute one affidavit.

EXECUTED this __________ day of ___________________, 20__

AFFIANTS:

MISTLETOE STATION, LLC, a Texas limited liability company

By: Saigebrook Mistletoe, LLC, a Texas limited liability company, its managing member

By: __________________________

Lisa M. Stephens,
President

FORT WORTH HOUSING FINANCE CORPORATION

By: __________________________
Name: __________________________
Title: __________________________
This instrument was acknowledged before me on the ____ day of ________, 2018, by Lisa M. Stephens, President of Saigebrook Mistletoe, LLC, a Texas limited liability company, on behalf of said limited liability company, managing member of MISTLETOE STATION, LLC, a Texas limited liability company.

Notary Public, State of Texas

This instrument was acknowledged before me on ________, 2018, by _____________________ of FORT WORTH HOUSING FINANCE CORPORATION, a Texas housing finance corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

My Commission Expires: ____________________________

Printed Name

After Recording Return To:

Terri Stigler
JPMorgan Chase Bank, N.A.
700 N. Pearl Street, 13th Floor
Mail Code TX1-2625
Dallas, Texas 75201
EXHIBIT "G"

AFFIDAVIT AND CERTIFICATE OF COMPLETION

THE STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE US, the undersigned authorities, on this day personally appeared ______________________ of Architects Collaborative, Inc. ("Architect"), ______________________ of Fort Worth Housing Finance Corporation ("Original Contractor"), and Lisa M. Stephens, President of Saigebrook Mistletoe, LLC, a Texas limited liability company, co-managing member of MISTLETOE STATION, LLC, a Texas limited liability company ("Owner"), known by us to be the persons whose names are subscribed below, and who, being by first duly sworn, did on their oath state and certify as follows (on behalf of Architect, Owner and Original Contractor, respectively, and not individually), unless such statements and certifications are otherwise expressly limited below:

1. Owner, whose address is 5501-A Balcones Drive, #302, Austin, Texas 78731, is the owner of the real property situated in Tarrant County, Texas, more particularly described on Exhibit "A", on which real property certain Improvements (herein so called) were constructed and furnished under the original contract with the Original Contractor, whose address is ______________________ (the Land and the Improvements are collectively referred to as the "Premises").

2. The Improvements under the original contract between the Owner and the Original Contractor (including all on-site and off-site Improvements and the City Infrastructure Improvements) have been completed on ____________, ______, in substantial accordance in all material respects with the approved Plans and Specifications listed on the attached Exhibit "B".

3. After reasonable investigation, to the best of Owner's and Original Contractor's respective knowledge, (a) the Premises complies with all applicable restrictive covenants, building codes, permit requirements, and all other applicable laws, ordinances, codes, rules and regulations and (b) no hazardous or toxic substances or materials, as defined under any state, local or federal law have been used on-site in constructing the Improvements (or incorporated into the Premises, other than in compliance with applicable law.

4. Owner states and certifies that all utility services for the proper operation of the Improvements for its intended purpose are connected in accordance with the approved Plans and Specifications at the Premises, including water supply, storm and sanitary sewer facilities and gas (if the Plans and Specifications require the
Improvements to be served by gas), electricity and telephone facilities (in the case of Owner, this statement being made to the best of Owner's current actual knowledge).

5. After reasonable investigation, to the best of Owner's knowledge, the condition of the soil of the Premises complies with the requirement of the approved Plans and Specifications (in the case of Owner, this statement being made to the best of Owner's current actual knowledge).

6. The Improvements are ready for immediate occupancy (in the case of Owner, this statement being made to the best of Owner's knowledge).

7. Owner does hereby additionally state and certify as follows:

8. (a) Design and as built conditions for the Premises are such that no drainage or surface or other water other than normal surface drainage will drain across or rest upon either the Premises or land of others; and

(b) None of the Improvements creates or will create an encroachment over, across or upon any of the Premises boundary lines, building lines, setbacks, rights-of-way or easements, and no buildings or other Improvements on adjoining land create such an encroachment.

(c) Owner did and does hereby additionally state and certify as follows: All roads and rights-of-way necessary for the utilization of the Premises for its intended purposes have been completed or acquired.

9. ANY SUBCONTRACTOR OR OTHER LIEN CLAIMANT MAY NOT HAVE A LIEN ON RETAINED FUNDS UNLESS THE CLAIMANT FILES AN AFFIDAVIT CLAIMING A LIEN NO LATER THAN THE 30TH DAY AFTER THE DATE OF COMPLETION.

A CLAIMANT MAY NOT HAVE A LIEN ON RETAINED FUNDS UNLESS THE CLAIMANT FILES AN AFFIDAVIT CLAIMING A LIEN NOT LATER THAN THE 10TH DAY AFTER THE DATE THE WORK UNDER THE ORIGINAL CONTRACT IS COMPLETED.
AFFIANT "ARCHITECT":

Architects Collaborative, Inc.

By: ________________________
Name: _______________________
Title: _______________________

SUBSCRIBED AND SWORN BEFORE ME, on this ___ day of __________________, 20__ by __________________________.  

Notary Public, State of Texas

AFFIANT "ORIGINAL CONTRACTOR":

Fort Worth Housing Finance Corporation

By: ________________________
Name: _______________________
Title: _______________________

SUBSCRIBED AND SWORN BEFORE ME, on this ___ day of __________________, 20__ by __________________________.  

Notary Public, State of ____________
STATE OF TEXAS

COUNTY OF 

This instrument was acknowledged before me on the _____ day of ____________, 2018, by Lisa M. Stephens, President of Saigebrook Mistletoe, LLC, a Texas limited liability company, on behalf of said limited liability company, managing member of MISTLETOE STATION, LLC, a Texas limited liability company.

Notary Public, State of Texas

After Recording Return To:

Terri Stigler
JPMorgan Chase Bank, N.A.
700 N. Pearl Street, 13th Floor
Mail Code TX1-2625
Dallas, Texas 75201
## EXHIBIT "H"

### INVESTOR CAPITAL CONTRIBUTION SCHEDULE

<table>
<thead>
<tr>
<th>INSTALLMENT</th>
<th>EVENT</th>
<th>AMOUNT</th>
<th>PURPOSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Investment Closing</td>
<td>$1,289,871</td>
<td>Pay costs of closing, then pay Investor Member for its due diligence costs in the anticipated amount of $65,000, then pay predevelopment loan, and then to pay budgeted costs of construction</td>
</tr>
<tr>
<td>2</td>
<td>March 1, 2019</td>
<td>$644,936</td>
<td>Pay budgeted costs of construction</td>
</tr>
<tr>
<td>3</td>
<td>Completion</td>
<td>$8,309,161</td>
<td>Pay budgeted costs of Construction, then pay Construction Note</td>
</tr>
<tr>
<td>4</td>
<td>Conversion</td>
<td>$2,579,742</td>
<td>Pay Construction Note in full, then fund operating reserves as provided in the Operating Agreement, and pay budgeted developer fees as provided in the Operating Agreement</td>
</tr>
<tr>
<td>5</td>
<td>Form 8509</td>
<td>$75,000</td>
<td>Pay Developer Fee</td>
</tr>
<tr>
<td>TOTAL CONTRIBUTION</td>
<td></td>
<td>$12,898,710</td>
<td></td>
</tr>
</tbody>
</table>

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1. As further provided in the Operating Agreement
2. Subject to adjustment pursuant to the terms, conditions, and adjustments of the Operating Agreement
EXHIBIT "I"

ADDITIONAL ITEMS TO BE DELIVERED

A. PREMISES DEVELOPMENT ITEMS
   1. Census Tract
   2. Market Study or any market survey data prepared by borrower (Appraisal if available)
   3. Pro forma operating statement and history if applicable (2 years)
   4. Site Plan, Floor Plan/Unit Configuration with dimensions, and Elevations
   5. Preliminary Budget & Cost Breakdown and Projected Draw Schedule (including calculation of interest payable)
   6. Sources and Uses of Funds
   7. Tax Credit Application/Proposal (if applicable)
   8. Development timing assumptions including equity closing, loan closing, construction completion, qualified occupancy, projected lease-up schedule and estimated date of permanent loan funding.

B. FINANCIAL & REFERENCE INFORMATION

BORROWER:
   1. Organizational structure of Borrower
   2. Current Financial Statement to include cash flow, contingent liabilities
   3. 2 years historical financial statements
   4. Projected cash flow for one year
   5. Tax ID Number or Social Security Number

PRINCIPALS/GUARANTORS
   1. Current Financial Statement to include cash flow, contingent liabilities & statement of real estate owned (signed)
   2. 2 years historical financial statements
3. Projected cash flow for one year

4. Current ongoing projects plus any future contemplated projects (need future projects only)

5. Status of current projects

6. Tax ID Number or Social Security Number

C. **CONTRACTOR**

1. Profile including past projects

2. Current financial statements, to include cash flow, contingent liabilities of statement of real estate owned (signed)

D. **PROPERTY MANAGER**

1. Property Management Agreement including marketing plan

2. Samples of property management reports and tenant leases

3. History of state and federal audits on projects under management

E. **NONPROFIT INVOLVEMENT (IF APPLICABLE)**

1. Resume of nonprofit partner

2. Description of previous and future project involvement

3. IRS Determination letter

4. Financial Statements
MINIMUM STANDARD DETAIL REQUIREMENTS FOR
ALTA/NSPS LAND TITLE SURVEYS

I. Field Note Description. The Survey shall contain a certified metes and bounds description complying with the following: (i) the beginning point shall be established by a monument located at the beginning point, or by reference to a nearby monument; (ii) the sides of the Land shall be described by giving the distances and bearings of each; (iii) the distances, bearings, and angles shall be taken from an instrument survey by a registered professional engineer or registered professional land surveyor; (iv) curved sides shall be described by data including: length of arc, central angle, radius of circle for the arc and chord distance, and bearing; (v) the description shall be a single perimeter description of the entire Land. If and as instructed, there shall also be a separate metes and bounds description of one or more constituent tracts out of the Land; (vi) the description shall include a reference to all streets, alleys, and other rights of way that abut the Land, and the width of all rights of way mentioned shall be given the first time these rights of way are referred to; (vii) for each boundary line abutting a street, road, alley or other means of access, the description must, in calling the boundary line, state that the boundary line and the right of way line are the same; (viii) if the Land has been recorded on a map or plat as part of an abstract or subdivision, reference to such recording data shall be made; and (ix) the total acreage and square footage of the Land shall be certified.

II. Lot and Block Description. If the Land consists of one or more complete lots or blocks included within a properly established recorded subdivision or addition, then a lot and block description will be an acceptable substitute for a metes and bounds description, provided that the lot and block description must completely and properly identify the name or designation of the recorded subdivision or addition and give the recording information therefor.

III. Map or Plat. The Survey shall also contain a certified map or plat clearly showing the following: (i) the Land; (ii) the relation of the point of beginning of the Land to the monument from which it is fixed; (iii) all easements, streets, roads, alleys and rights of way on or abutting the Land, showing recording information therefor by volume and page; (iv) if the Land has been recorded on a map or plat as part of an abstract or subdivision, all survey lines must be shown, and all lot and block lines (with distances and bearings) and numbers, must be shown; (v) the established building setback lines, if any, including those by restrictive covenant, recorded plat and zoning ordinance (identifying the source in each case, by volume and page reference if applicable); (vi) all easements appurtenant to said Land, with recording information by volume and page; (vii) the boundary lines of the street or streets abutting the Land and the width of said streets and the width of the rights of way therefor; (viii) the distance from the nearest intersecting street or road to the Land; (ix) all structures and Improvements on the Land.
(with designation and dimensions of each party wall, if any) with horizontal lengths of all sides and the relation thereof by distances to (a) all boundary lines of the Land, (b) easements, (c) established building lines and (d) street lines; (x) the types of materials comprising the exterior walls and roofs of all buildings; (xi) all street addresses of Improvements on the Land; (xii) all curb cuts, driveways, fences, sidewalks, stoops and landscaping; (xiii) the number of stories of all multi story structures; (xiv) the location, type and size of all utility lines as they service the Land and Improvements (sewer, water, gas, electric and telephone); (xv) all encroachments and protrusions, if any, from or upon the Land or any Improvements thereon or upon any easement, building setback line or other restricted area, with exact measurements; (xvi) all parking and paved areas, including the number of vehicles that may be parked; (xvii) all distances, angles and other calls contained in the legal description; (xviii) the location, type and size of all monuments, and as to each monument, indication whether it was found or placed by the surveyor; (xix) the boundaries of any flood hazard area or flood plain area in which any part of the Land lies, with the map number, date and source (Governmental Authority) of each flood map shown; (xx) all surface water bodies or courses; (xxi) the date of any revisions subsequent to the initial survey prepared pursuant to these requirements; (xxii) a legend explaining the meaning of all symbols used on the plat; and (xxiii) the scale of all distances and dimensions on the plat.

IV. Certification. To (name of insured, if known), JPMorgan Chase Bank, N.A., and its successors and/or assigns, (name of insurer, if known), (names of others as negotiated with the client):

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1-4, 7(a), 7(b), 7(c), 8, 9, 11 and 16 of Table A thereof. The field work was completed on __________.

Date of Plat or Map: _______ (Surveyor's signature, printed name and seal with Registration/License Number).
EXHIBIT "K"

COPY OF TAX CREDIT ALLOCATION

2017 Carryover Allocation Agreement

2017 CARRYOVER ALLOCATION AGREEMENT

(The Owner named below must be the actual ownership entity, itself, not a General Partner or an Affiliate)

Development Name: Mistletoe Station (the "Development")

Development Address:

City: Fort Worth County: Tarrant State: TX ZIP: 76104

Building Identification Numbers

The Texas Department of Housing and Community Affairs (the "Department") hereby issues this Carryover Allocation of 2017 tax credit authority in the annual amount of $1,500,000 pursuant to Section 42(h)(1)(E) or (F) of the Internal Revenue Code of 1986, as amended (the "Code"). The allocation is subject to the terms and conditions stated in the Commitment Notice and Carryover Allocation Manual and all the representations and undertakings set forth in the Application on which the allocation is based, the material and uncured (or curable) violation of any of which may be cause for the cancellation of this Carryover Allocation. Action to cancel this Carryover Allocation may be subject to appeal to the Department's Governing Board.

MISTLETOE STATION, LLC, a Texas limited liability company (the "Owner") hereby certifies that each building for which this allocation is being made does or will meet the requirements of Section 42(h)(1)(E)(ii) of the Code (for a project which includes one building) or Section 42(h)(1)(F) of the Code (for a project which includes more than one building) and Treasury Regulation 1.42-6. The Owner hereby certifies that no later than the date that is one year after the effective date of the Carryover Allocation, the Owner will have incurred expenditures amounting to more than 10% of $20,466,704, which is the Owner's reasonably expected basis in the Development for purposes of Treasury Regulation 1.42-6. The effective date of the Allocation is the date this Carryover Allocation Agreement is executed by the Department. For the purpose of meeting the requirements of the 2017 Qualified Allocation Plan and Uniform Multifamily Rules (10 TAC Chapters 11 and 10), the Owner agrees that documentation of expenditures comprising more than 10% of said reasonably expected basis will be submitted to the Department by July 1, 2018, or such later date as is allowed by the Department pursuant to a written extension.

The Owner understands and agrees that this allocation is subject to fulfilling the requirements of the Construction Status Report as set forth in the 2017 Uniform Multifamily Rules, §10.402(b).

1 For multiple sites, reference "Exhibit A" and attach a list of addresses or descriptions of the locations as the exhibit.
2 The Development Type must be new construction, rehabilitation, or acquisition/rehabilitation only. Determine the appropriate carryover classification in consultation with your attorney or CPA.
3 The figure entered here should be consistent with the figure reflected in the 2017 HTC Commitment Notice.
4 The Development Owner must be legally formed and able to enter into contracts or the carryover allocation is not valid. DO NOT use the name of a General Partner, Affiliate, or any name other than the name of the organization that is the actual Development Owner.
5 The allocation must be justified by the amount of the reasonably expected basis.
6 Treasury Regulation 1.42-8(a)(2)(ii) refers to a 6-month period that does not reflect the Code's current one-year period for meeting the 10%-of-basis requirement.
Owner agrees to submit promptly to the Department a copy of each inspection report conducted by the lender(s) and/or equity investor as the reports become available.

The Owner hereby certifies that each building for which this allocation is made will be placed in service no later than December 31, 2019, and such placement in service shall meet the requirements of the Internal Revenue Service. In the event that placement in service is achieved with fewer than 100% of the tax credit units being available for occupancy, the Development Owner shall, on or before January 15, 2020, notify the Department in writing (to the joint attention of the Director of Multifamily Compliance and the Director of Asset Management) of the number of units that were available for occupancy in each building at the placement in service deadline, and of the date on which the Development Owner proposes to begin claiming credits. The Declaration (as defined below) on the property shall begin on the first day of January in the calendar year in which the Development owner begins to claim credits, but in the intervening period between the placement in service deadline and the commencement of the Declaration, the Department shall have the right to monitor the property and enforce representations made to obtain a tax credit award. Upon completion of the Development or any building therein, the Department may undertake, at the expense of the Owner, such inspection(s) and financial audit(s) as it deems desirable in order to verify that the Development was constructed or rehabilitated according to the representations contained in the Application and that reported expenditures were actually incurred. The Department also may require that additional work be done if necessary to meet Uniform Physical Condition Standards or other deficiencies noted in the inspection.

All owners that receive a 2017 Carryover Allocation must request issuance of IRS Forms 8609 upon the filing of cost certification documentation as required by the Department's Post Award Activities Manual, as in effect at the time of filing. The documentation must be filed no later than January 15, following the first year of the credit period. The anticipated first year of the credit period is 2019.

The Owner hereby agrees and acknowledges that all requirements stated in the Post Award Activities Manual for receiving IRS Forms 8609 must be met to the satisfaction of the Department before such forms will be issued with respect to the Development. The Owner hereby further agrees and acknowledges that all conditions, restrictions, and obligations in addition to those applicable under Section 42 of the Code, which the Owner understands in applying for this Carryover Allocation, are incorporated herein and to the extent appropriate, will be reflected in a Land Use Restriction Agreement (the “LURA”) with respect to the Development. Such LURA will also incorporate provisions requiring compliance with the Internal Revenue Code and with Chapter 2306, Texas Government Code (the “Act”), and the rules of the Department including but not limited to requirements for: annual reporting and periodic inspections; payments of the fees, charges and expenses of the Department in connection with its monitoring and compliance activities under the Code and the Act; management, operating, maintenance and repair standards for the Development; tenant selection and income certification; limitations on rents, charges, and fees payable by tenants; and development cost controls and management selection. The Owner hereby acknowledges that any rule or requirement applicable to the Development Owner, Application, award, or allocation and any representation made in the Application, as may be amended from time to time, or other materials provided to the Department in connection with the Application may be included in the LURA and the Development Owner agrees (i) to execute such LURA in substantially similar form to that provided, subject to such modifications as may be required by the Department, in its reasonable discretion, in order to reflect changes in federal or state law, and policy or program requirements, and (ii) to abide by all the terms and conditions contained in the Declaration. Any failure to comply with the terms of any such conditions, restrictions, or obligations prior to
issuance of IRS Forms 8609 with respect to the Development may be cause for cancellation or modification of this Carryover Allocation by the Department and such other action as the Department determines to be appropriate.

The Owner hereby acknowledges that it has thoroughly reviewed and agrees to abide by all terms and conditions stated in the Qualified Allocation Plan and Uniform Multifamily Rules, Commitment Notice, and 2017 Carryover Allocation Procedures Manual. The Owner hereby agrees to the return of any unused credit authority at the time of final allocation should the Department determine that a reduction in the credit amount is appropriate in accordance with the Department's rules and under Section 42(m)(2).

Applicable Percentage Election for Acquisition Credits

☐ The Owner hereby irrevocably elects, pursuant to Section 42(b)(1)(A)(ii) of the Code, to fix the applicable credit percentage for the Development as the percentage prescribed by the Secretary of the Treasury for the month in which this Carryover Allocation Agreement was executed by BOTH the Owner and the Department. The Department and the Owner acknowledge that this Carryover Allocation constitutes an agreement binding upon the Department, the Owner, and all successors in interest to the Owner as owners of the Development, subject to compliance by the Owner with the requirements of Section 42 of the Code and the requirements of the Department. Owners are advised to review IRS notice 2008-106 and subsequent changes in law related to the applicable credit percentage.

Eligible Basis Boost

☒ The Department has determined that the Development is not receiving an allocation of credit dollar amount in excess of the amount required for its financial feasibility, and has further determined that the development is eligible for an increase in the eligible basis of the development by up to 30% (a "Basis Boost") as authorized and permitted by Section 42(d)(5)(B) of the Code, and 10 TAC §11.4(c).

Nonprofit Set-Aside

☐ If this box is checked, this Carryover Allocation is being made pursuant to the Department's set-aside of credit authority for "qualified nonprofit organizations" within the meaning of Section 42(h)(5)(C) of the Code. Throughout the Compliance Period applicable to the Development under the Code and the Declaration, such a qualified nonprofit organization shall own an interest in the Development, have "control" of the Development pursuant to 10 TAC §11.5(1), and materially participate (within the meaning of Section 469(h) of the Code) in the development and operation of the Development. The qualified nonprofit organization designated to meet such obligation with respect to the Development is _______. As of the date hereof, and based solely on representations, covenants, and warranties of the Owner and other information previously submitted to the Department by the Owner, the Department has determined such nonprofit organization not to be "affiliated with or controlled by a for-profit organization" for purposes of Section 42(h)(5)(C)(ii) of the Code. In the event that any such representations, covenants, warranties and/or information is determined to have been false, materially misstated or materially misleading when made, or if subsequent events render such representations, covenants, warranties and/or information false or misleading in any material way, then the Department, at its option, may determine the issue of control with respect to Section 42(h)(5)(C)(ii) of the Code, and such

1 Section 42(b)(2)(B) fixes the applicable credit percentage of new construction and rehabilitation at 9%.
determination shall be grounds for cancellation of this Carryover Allocation and any and all such other action as the Department may deem appropriate.

Any other transfer of the allocation will be subject to approval by the Department at its discretion and in accordance with 10 TAC §10.406. The Owner hereby agrees and acknowledges that it will request prior written approval from the Executive Director of the Department in writing for any intended transfer of the Development or change in actual control of the Development for which this Carryover Allocation is made prior to such transfer or change in control. Further, any purchaser that intends to acquire the Development with respect to this allocation and to make use of this Carryover Allocation will be required to request approval from the Department of the intended acquisition of the Development and to supply the Department with any documentation which it may require, in its sole discretion. Pursuant to §10.406(e) new members may be added to the ownership structure prior to issuance of the 8609(a), but parties may not exit the ownership structure without Board approval. The approval of any such transfer by the Department does not constitute a representation to the effect that such transfer is permissible under the Code or without adverse consequences hereunder.

The Owner agrees that it will inform and seek the Department’s approval for any changes in the number of units, unit mix, unit sizes, design changes or any other material changes to the Development prior to making the changes in accordance with 10 TAC §10.405(a). Unapproved changes may result in the reduction or loss of credits or in the cancellation of this Carryover Allocation. The Owner hereby agrees that the Owner and management company will attend at least five hours of fair housing training on management and leasing issues, and the Architect or Engineer will attend at least five hours of training on fair housing design within two years prior to the deadline for submitting 10% Test documentation.

In issuing this Carryover Allocation, the Department has relied upon the information submitted to it by the Owner. This allocation is conditioned upon satisfying all requirements set forth herein, in the Code and in the Department’s Rules, including demonstrating the financial feasibility and long-term viability of the Development. In light of the amount allocated to the Development, Owner may propose changes to Development configuration consistent with the allocation amount, which the Department, in a manner consistent with Tex. Gov’t Code, §2306.6712, may accept, reject or approve with modifications with respect thereto. If Owners or Affiliates are found to be in violation of any rule regarding the Application or any rule regarding actions performed prior or subsequent to submission of the Application, specifically including actions that would have resulted in the ineligibility of the Owner or Affiliate to participate in the Application process, this Carryover Allocation may be cancelled by the Department in accordance with the applicable rule or statute. The Department makes no representations concerning or guaranteeing the Owner’s eligibility to receive the credit stated herein; such determination rests with the Internal Revenue Service based upon the actions and determinations of the Owner in light of all applicable laws, regulations and rulings.

The Owner expressly acknowledges that this Carryover Allocation is subject to downward adjustment in accordance with the Department’s rules in connection with the Department’s review required by Internal Revenue Code §42(m)(2).
Under penalty of perjury, I certify that individually and on behalf of the Owner, on whose behalf I represent and warrant I am authorized to act, the information and the statements in this Carryover Allocation Agreement are true and accurate.

[INTENTIONALLY LEFT BLANK]
EXECUTED to be effective as of the last date written below.

DEVELOPMENT OWNER:

MISTLETOE STATION, LLC, a Texas limited liability company

By: Lisa M. Stephens, President.

Owner's Federal Taxpayer or Employer Identification Number (TIN or EIN): 61-1855865

Owner Address: 421 West 3rd St., Ste. 1504
City: Austin
State: TX
ZIP: 78701

Email: lisa@saigebrook.com
Phone: 352.213.8700 Ext. NA
Email: njcurpen@gmail.com
Phone: 512.789.1295 Ext. NA

THE STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Lisa M. Stephens, known to me to be President of MISTLETOE STATION, LLC, a Texas limited liability company, the limited liability company that executed the foregoing instrument, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of said limited liability company, and that she executed the same as the act of such limited liability company for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 21st day of November, 2017.

(Seal)

KATHERINE E. JOHNSON
Notary Public, State of Texas

1 DO NOT use the taxpayer identification number of a General Partner, Affiliate or any organization or Person other than the organization that is the Development Owner.
Acknowledged, agreed, and accepted:

DEPARTMENT:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas

By: [Signature]
Margaret L. Holloway, Director of Multifamily Finance

221 E. 11th Street, Austin, Texas 78701

Department Taxpayer Identification Number: 74-2610542

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Margaret L. Holloway, duly authorized representative of the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas, on behalf of such agency.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 19th day of December, 2017.

(Seal)

[Signature]
Notary Public, State of Texas
EXHIBIT "L"

TITLE INSURANCE REQUIREMENTS

A current commitment for title insurance covering the subject property issued by a title insurance company acceptable to Bank, addressed to Bank for the amount of the Construction Note, which must:

a. Show record title to be vested in Borrower; or, if not then vested in Borrower, show how title is vested and require that title be vested in Borrower prior to closing;

b. Contain a legal description of the subject property, which description must be identical with the description of the subject property included in the survey mentioned below.

c. Include such endorsements (available in Texas) as may be requested by Bank which may include the following:

- comprehensive (extended coverage) endorsement
- contiguity endorsement
- gap endorsement
- mechanics lien endorsement
- variable rate endorsement
- environmental protection lien endorsement
- creditors’ rights endorsement (if available)
- survey endorsement
- improvement endorsement
- access endorsement
- zoning endorsement
- patent endorsement
- water rights endorsement
- endorsements relating to affirmative coverage for any encroachments, protrusions or other title defects
- multiple indebtedness mortgage endorsement

d. Show as an exception only ad valorem taxes and assessments by any taxing authority for the year in which the Construction Loan is closed and subsequent years; and

e. List and identify by reference to the volume and page where recorded all easements, rights-of-way and other instruments or matters affecting title to the subject property.
NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER’S LICENSE NUMBER.

CONSTRUCTION DEED OF TRUST, ABSOLUTE ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT

THE STATE OF TEXAS §

COUNTY OF TARRANT §

THIS CONSTRUCTION DEED OF TRUST, ABSOLUTE ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT (this “Deed of Trust”) is made by MISTLETOE STATION, LLC, a Texas limited liability company, organized under the laws of the State of Texas, file number 802794224 (“Mortgagor”), to Randall Durant, of Tarrant County, Texas, as Trustee (“Trustee”), for the benefit of JPMORGAN CHASE BANK, N.A., a national banking association (“Mortgagee”).

For $10 and other consideration, the receipt and sufficiency of which are hereby acknowledged, subject to the Permitted Encumbrances, Mortgagor grants to Trustee the Mortgaged Property (defined below) in trust, to secure the payment of the Debt (defined below), and grants a security interest in, pledges and assigns to Mortgagee, all Collateral (defined below) owned by Mortgagor or in which Mortgagor has rights or the power to transfer rights and all Collateral in which Mortgagor later acquires ownership, other rights or the power to transfer rights, to secure payment of the Debt. As additional consideration, Mortgagor collaterally assigns to Mortgagee the Rents (defined below) as security for the Debt. The conveyance of the Mortgaged Property is subject to the Permitted Encumbrances (defined below). Mortgagor agrees as follows:

1. Definitions. In addition to the terms defined elsewhere in this Deed of Trust, the following terms should have the meanings assigned to each of them:

   (a) “Collateral” means all property described in the definition of Mortgaged Property, to the extent it is personal property under applicable law, and all proceeds thereof and of any other Mortgaged Property, including but not limited to all interest, dividends, cash, instruments and other personal property now or hereafter received, receivable or otherwise distributed in connection with the sale, lease, license, exchange or other disposition of any of the Mortgaged Property, together with all books and other records of Mortgagor relating thereto.

   (b) “Debt” means all obligations under and with respect to the Credit Support and Funding Agreement dated of even date herewith (as
may be modified, amended, restated, and supplemented, the "Loan Agreement") between Mortgago and Mortgagee, including, without limitation (1) the indebtedness evidenced by that certain Advance Promissory Note dated of even date herewith in the maximum principal amount of Twenty-Two Million Two Hundred Eighty-Two Thousand and No/100 Dollars ($22,282,000.00) (the "Note") to evidence a future advance loan in the maximum principal amount of $22,282,000.00; (2) all amounts for which Mortgago may become obligated to Mortgagee pursuant to this Deed of Trust; (3) any and all obligations, contingent or otherwise, whether now existing or hereafter arising, under or in connection with a Swap Agreement (as defined in the Loan Agreement); (4) all reimbursement obligations of Mortgago to Mortgagee under and with respect to the Bank Letter of Credit (as that term is defined in the Loan Agreement); and (5) all obligations of Mortgago under any other documents from time to time evidencing, securing or relating to the debt evidenced by the Loan Agreement and the Note (collectively, including the Loan Agreement and the Note, the "Loan Documents"). Debt includes all extensions, renewals and modifications of the Note, whether or not evidenced by a new promissory note or other instrument or other record.

(c) "Mortgaged Property"

(1) A tract or parcel of land located in Fort Worth, Tarrant County, Texas described in Exhibit "A" (the "Land"), and including (i) all of Mortgago's interest in the bed of any stream, creek, or waterway or any street, road, right-of-way or easement, open or proposed, on or adjacent to the Land; (ii) all of Mortgago's interest in any strips and gores between the Land and any abutting properties; and (iii) all rights of ingress and egress, and all other present or future easements and rights appurtenant to, serving or benefiting the Land;

(2) All improvements of every type now or later located on the Land (the "Improvements");

(3) All equipment and all materials and other goods of every type now or later situated upon the Land and (i) intended to be incorporated into the Improvements or (ii) that are or become fixtures related to the Land or the Improvements;

(4) All other goods of every type, including inventory, equipment, farm equipment and farm products now owned or later acquired by Mortgago and now or later situated on the Land or in
the Improvements and that facilitate the use or occupancy of the Improvements; and

(5) All of Mortgagor’s rights in the following:

(i) All present and future contracts between Mortgagor and any original contractor (as defined in Texas Property Code Chapter 53) or any other person relating to construction or improvement (including furnishing materials or supplies for construction or improvement) of any Mortgaged Property;

(ii) All present and future plans, specifications and drawings prepared by any architect or engineer relating to the Mortgaged Property, and all present and future agreements between Mortgagor and any person relating to the provision of architectural, engineering or other design services relating to the Mortgaged Property;

(iii) Any commitment of any lender or investor other than Mortgagee to finance or invest in Mortgagor’s interest in any of the Mortgaged Property;

(iv) Any completion, performance, payment or other bond relating to any of the Mortgaged Property or any contract for construction on the Mortgaged Property;

(v) All existing and future subleases entered into by Mortgagor as lessor (whether written or oral) of any of the Mortgaged Property (the “Leases”), maintenance and other contracts relating to the Land or the Improvements, all tenant deposits under any Leases, all licenses, permits, certificates, accounts, instruments, documents, letter of credit rights, letters of credit, moneys, investment property, deposit accounts, general intangibles (including trade names and symbols used in connection with the Land or the Improvements), supporting obligations, wastewater, fresh water and other utility capacity and facilities available to or allocated to the Land or the Improvements, and all other present or future rights and privileges relating to the Land or the Improvements;

(vi) To the extent Mortgagor has rights therein, all water and water rights, timber, crops, and mineral interests pertaining to the Land;
(vii) All rights (but not obligations) under any contracts relating to Mortgagor’s interest in the Land and the Improvements (including, without limitation, sales contracts and purchase options and all management agreements, development agreements, cable television agreements, laundry contracts, maintenance contracts, and other service contracts);

(viii) All letter of credit rights, investment property, environmental site assessments and soils tests, and general intangibles (including, without limitation, trademarks, tradenames and symbols) arising from or by virtue of any transactions related to Mortgagor’s interest in the Land and the Improvements or personal property;

(ix) All permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Land and the Improvements (including, without limitation, any form of reservation for utility capacity that may be granted by any governmental subdivision);

(x) All proceeds arising from or by virtue of the sale, lease or other disposition of the fee interest in the Land, the Improvements, or the Personal Property;

(xi) All proceeds (including premium refunds) of each policy of insurance relating to Mortgagor’s interest in the Land or the Improvements; and

(xii) All proceeds from the taking of any of the Land, the Improvements, or any rights appurtenant thereto by right of eminent domain or by private or other purchase in lieu thereof, including change of grade of streets, curb cuts or other rights of access, for any public or quasi-public use under any law;

(6) If and to the extent permitted and enforceable by applicable law, all right, title, and interest of Mortgagor in and to any Low-Income Housing Tax Credit (as that term is used in Section 42 of the Internal Revenue Code of 1986, as amended) relating to the Mortgaged Property and the use thereof;

(7) All right, title and interest in all development fees due on or with respect to the Mortgaged Property;
(8) All supporting obligations relating to any of the Mortgaged Property;

(9) All Mortgagor's rights (but not its obligations) under any documents, contract rights, accounts, permanent loan and other commitments, construction contracts, engineering contracts, and architectural and design agreements, environmental site assessments and soils tests, and general intangibles (including, without limitation, trademarks, trade names and symbols) arising from or by virtue of any transactions related to the Land, the Improvements or Personal Property;

(10) Other interests of every kind and character that Mortgagor now has or at any time hereafter acquires in and to the Land, Improvements, and Personal Property described herein, including rights of ingress and egress and all reversionary rights or interests of Mortgagor with respect to such property.; and

(11) All of Mortgagor's right, title, and interest in and to the Community Facilities Agreement entered into by Mortgagor with the City of Fort Worth, and all of Mortgagor's right to escrowed funds in connection therewith, to the extent assignable.

(d) "Permitted Encumbrances" means the liens, easements and encumbrances to title described on Exhibit "B", to the extent each is valid, subsisting and affects title to the Mortgaged Property.

(e) "Rents" means all rent, royalties, bonuses, issues, profits, and other revenue, benefits, or income from the Mortgaged Property, including all rent and other income under all existing or future Leases.

(f) All terms used herein shall have the same definitions herein as specified in the Uniform Commercial Code as enacted in the State of Texas and as the same may be amended from time to time (the "UCC") unless otherwise defined herein.

2. Mortgagor's Representations and Agreements.

(a) Taxes and Other Impositions. Mortgagor will pay all taxes, assessments, standby fees, homeowners' or condominium association assessments and other impositions (collectively, "Impositions") levied or
assessed against any of the Mortgaged Property by any governmental authority or any other person, before the Impositions become delinquent, and Mortgagor will provide receipts of all Impositions payments to Mortgagee promptly upon request. If Mortgagor fails to do so, Mortgagee may pay them, together with all costs and penalties thereon, at Mortgagor's expense; provided, however, that Mortgagor may contest in good faith in accordance with the terms and conditions of the Loan Agreement, in lieu of paying such taxes and assessments as they become due and payable, by appropriate proceedings, the validity thereof (to the extent and as provided for in the Loan Agreement). Pending such contest, Mortgagor shall not be deemed in default hereunder because of such nonpayment if, prior to delinquency of the asserted tax or assessment, Mortgagor furnishes Mortgagee an indemnity bond secured by a deposit in cash or other security acceptable to Mortgagee, or with a surety acceptable to Mortgagee, in the amount of the tax or assessment being contested by Mortgagor plus a reasonable additional sum to pay all costs, interest and penalties that may be imposed or incurred in connection therewith, conditioned that such tax or assessment, with interest, cost and penalties, be paid as herein stipulated, and if Mortgagor promptly pays any amount adjudged by a court of competent jurisdiction to be due, with all costs, penalties and interest thereon, on or before the date such judgment becomes final; provided that in any event the tax, assessment, penalties, interest and costs shall be paid prior to the date on which any writ or order is issued under which the Mortgaged Property may be sold in satisfaction thereof. Any irreconcilable inconsistency between this Section 2(a) and the Loan Agreement shall be governed by the Loan Agreement.

(b) Insurance. Mortgagor shall, at its sole cost and expense, obtain and maintain (a) title insurance (in the form of a commitment, binder or policy as Mortgagee may require), and (b) insurance required by the terms of the Loan Agreement. Mortgagor shall deliver the policies of insurance to Mortgagee promptly as issued; and, if Mortgagor fails to do so, Mortgagee, at its option, may procure such insurance at Mortgagor's expense. All renewal and substitute policies of insurance shall be delivered at the office of the Mortgagee, premiums paid, at least thirty (30) days before termination of policies theretofore delivered to Mortgagee. In case of loss, the proceeds of the insurance policies shall be collected and applied as set forth in Section 2(o) below. If any loss shall occur at any time when an Event of Default is then continuing, Mortgagee shall be entitled to the benefit of all insurance held by or for any Mortgagor, to the same extent as if it had been made payable to Mortgagee, and upon foreclosure hereunder, Mortgagee shall become the owner thereof.

(c) Deposits. Mortgagor will, if requested by Mortgagee (which request shall only be made during the continuance of an Event of Default), deposit with Mortgagee each month an amount equal to (i) 1/12 of the annual premiums for all insurance required under this Deed of Trust, and (ii) 1/12 of the annual Impositions to become due in connection with the
Mortgaged Property, as estimated by Mortgagee. At least 15 days before any impositions would become delinquent or any insurance premium is due, Mortgagor will deliver to Mortgagee a statement showing the amount of impositions or premium due and the party or governmental authority to which the amount is payable. If funds on deposit with Mortgagee are insufficient to make all payments due, Mortgagor will deposit with Mortgagee the amount of any deficiency. Mortgagee will hold deposited funds on behalf of Mortgagor for payment of impositions and insurance, but if an "Event of Default" then exists, Mortgagee may apply deposited funds to payment of the Debt.

(d) **Maintenance of Property.** Mortgagor will maintain the Mortgaged Property in good condition, subject to ordinary wear and tear. If the Mortgaged Property is damaged by any cause, Mortgagor will promptly restore the Mortgaged Property to substantially its condition prior to such damage. Mortgagor will not allow any material part of the Mortgaged Property to be torn down, removed or materially altered after completion of construction without Mortgagee's prior written consent, not to be unreasonably withheld, conditioned or delayed. All insurance proceeds will be paid to Mortgagor and Mortgagor may use any available insurance or condemnation proceeds for the restoration to the extent permitted by this Deed of Trust and the Loan Agreement (provided, if an Event of Default is continuing, Mortgagee shall have the option as it determines, in its sole discretion, to apply the proceeds to the Debt instead of using for restoration).

(e) **Title to Property.** Subject to the Permitted Encumbrances, Mortgagor will warrant and defend Trustee's title to and Mortgagee's security interest in the Mortgaged Property against any person who claims any of it. No person owns any lien or other interest in the Mortgaged Property except the lien and security interest created by this Deed of Trust, other liens and security interests for the benefit of Mortgagee, Permitted Encumbrances, tenant leases which are Approved Leases under and as defined in the Loan Agreement, and the statutory lien for taxes not yet due. No person other than Mortgagee owns any interest in the Rents. No lien document or financing statement affecting any Mortgaged Property or the Rents, other than lien documents and financing statements in favor of Mortgagee and the Permitted Encumbrances, is on file in any public office. If any person claims any interest or encumbrance, except for Permitted Encumbrances and tenant leases which are Approved Leases under the Loan Agreement, Mortgagor will promptly remove any such adverse claim, lien or encumbrance from the Mortgaged Property or the Rents. Mortgagor will give Mortgagee prompt notice of an assertion by any person of any interest or encumbrance affecting, or any legal proceeding affecting, any part of the Mortgaged Property or the Rents. Mortgagor will take any action Mortgagee reasonably requires to protect, assure or enforce the lien and security interest of
this Deed of Trust and the assignment of the Rents. This paragraph will survive termination or foreclosure of this Deed of Trust.

(f) **Books and Records.** Mortgagor will maintain accurate and complete books and other records regarding the Mortgaged Property, including finances, leases and the physical condition of the Mortgaged Property. All financial accounting records will be maintained consistent with generally accepted accounting principles, consistently applied.

(g) **Inspection.** Subject to the terms of the Approved Leases under and as defined in the Loan Agreement, in addition to and without limiting the terms of the Loan Agreement, upon three days prior written notice to Mortgagor (no notice will be required during the continuance of an Event of Default), Mortgagor will (i) permit Mortgagee at all reasonable times to go upon, examine and inspect the Mortgaged Property, including making appraisals and environmental assessments, (ii) furnish all information Mortgagee reasonably requests relating to the development and operation of the Mortgaged Property, (iii) permit Mortgagee to make copies of such information, and (iv) if Mortgagee reasonably believes Hazardous Materials to be present on the Mortgaged Property, permit Mortgagee to perform environmental assessments of the Mortgaged Property and in connection therewith to take away samples of air, building materials, soil and water.

(h) **Homestead.** Mortgagor represents that at the time of execution and delivery of this Deed of Trust, no part of the Mortgaged Property is any part of Mortgagor’s homestead.

(i) **INDEMNITY.** IN ADDITION TO AND WITHOUT IN ANY WAY LIMITING THE TERMS AND PROVISIONS OF THE LOAN AGREEMENT, MORTGAGOR SHALL, AT ITS SOLE COST AND EXPENSE, PROTECT, DEFEND, INDEMNIFY, RELEASE AND HOLD HARMLESS THE INDEMNIFIED PARTIES (AS DEFINED BELOW) FROM AND AGAINST ANY AND ALL REASONABLE CLAIMS, SUITS, LIABILITIES (EXCLUDING STRICT LIABILITIES), ACTIONS, PROCEEDINGS, OBLIGATIONS, DEBTS, DAMAGES (EXCLUDING CONSEQUENTIAL DAMAGES), LOSSES, COSTS, EXPENSES, FINES, PENALTIES, CHARGES, FEES, JUDGMENTS, AWARDS, AMOUNTS PAID IN SETTLEMENT, PUNITIVE DAMAGES, OF WHATSOEVER KIND OR NATURE (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS’ FEES AND OTHER COSTS OF DEFENSE) (THE “LOSSES”) IMPOSED UPON OR INCURRED BY OR ASSERTED AGAINST ANY INDEMNIFIED PARTIES AND DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN ANY WAY RELATING TO ANY ONE OR MORE OF THE FOLLOWING: (I) OWNERSHIP OF THIS DEED OF TRUST, THE MORTGAGED PROPERTY OR ANY INTEREST THEREIN OR RECEIPT OF ANY RENTS; (II) ANY AMENDMENT TO, OR RESTRUCTURING OF, THE DEBT, THIS DEED OF TRUST OR ANY OTHER LOAN DOCUMENT; (III) ANY AND ALL LAWFUL
ACTION THAT MAY BE TAKEN BY MORTGAGEE IN CONNECTION WITH THE ENFORCEMENT OF THE PROVISIONS OF THIS DEED OF TRUST, THE NOTE OR ANY OF THE OTHER LOAN DOCUMENTS, WHETHER OR NOT SUIT IS FILED IN CONNECTION WITH SAME, OR IN CONNECTION WITH MORTGAGOR, ANY GUARANTOR AND/OR ANY MEMBER, PARTNER, JOINT VENTURER OR SHAREHOLDER THEREOF BECOMING A PARTY TO A VOLUNTARY OR INVOLUNTARY FEDERAL OR STATE BANKRUPTCY, INSOLVENCY OR SIMILAR PROCEEDING; (IV) ANY ACCIDENT, INJURY TO OR DEATH OF PERSONS OR LOSS OF OR DAMAGE TO PROPERTY OCCURRING IN, ON OR ABOUT THE MORTGAGED PROPERTY OR ANY PART THEREOF OR ON THE ADJOINING SIDEWALKS, CURBS, ADJACENT PROPERTY OR ADJACENT PARKING AREAS, STREETS OR WAYS; (V) ANY USE, NONUSE OR CONDITION IN, ON OR ABOUT THE MORTGAGED PROPERTY OR ANY PART THEREOF OR ON THE ADJOINING SIDEWALKS, CURBS, ADJACENT PROPERTY OR ADJACENT PARKING AREAS, STREETS OR WAYS; (VI) ANY FAILURE ON THE PART OF MORTGAGOR TO PERFORM OR BE IN COMPLIANCE WITH ANY OF THE TERMS OF THIS DEED OF TRUST; (VII) PERFORMANCE OF ANY LABOR OR SERVICES OR THE FURNISHING OF ANY MATERIALS OR OTHER PROPERTY IN RESPECT OF THE MORTGAGED PROPERTY OR ANY PART THEREOF; (VIII) THE FAILURE OF ANY PERSON TO FILE TIMELY WITH THE INTERNAL REVENUE SERVICE AN ACCURATE FORM 1099-B, STATEMENT FOR RECIPIENTS OF PROCEEDS FROM REAL ESTATE, BROKER AND BARTER EXCHANGE TRANSACTIONS, WHICH MAY BE REQUIRED IN CONNECTION WITH THIS DEED OF TRUST, OR TO SUPPLY A COPY THEREOF IN A TIMELY FASHION TO THE RECIPIENT OF THE PROCEEDS OF THE TRANSACTION IN CONNECTION WITH WHICH THIS DEED OF TRUST IS MADE; (IX) ANY FAILURE OF THE MORTGAGED PROPERTY OR ANY USE THEREOF TO BE IN COMPLIANCE WITH ANY APPLICABLE LAWS (AS DEFINED IN SECTION 4 HEREOF); (X) THE ENFORCEMENT BY ANY INDEMNIFIED PARTY OF THE PROVISIONS OF THIS SECTION 2(I); (XI) ANY AND ALL CLAIMS AND DEMANDS WHATSOEVER WHICH MAY BE ASSERTED AGAINST MORTGAGEE (OTHER THAN BY ANY INDEMNIFIED PARTY) BY REASON OF ANY ALLEGED OBLIGATIONS OR UNDERTAKINGS ON ITS PART TO PERFORM OR DISCHARGE ANY OF THE TERMS, COVENANTS, OR AGREEMENTS CONTAINED IN ANY LEASE; (XII) THE PAYMENT OF ANY COMMISSION, CHARGE OR BROKERAGE FEE TO ANYONE WHICH MAY BE PAYABLE IN CONNECTION WITH THE FUNDING OF THE DEBT EVIDENCED BY THE NOTE AND SECURED BY THIS DEED OF TRUST OR ANY OTHER DEBT; OR (XIII) ANY MISREPRESENTATION MADE BY MORTGAGOR IN THIS DEED OF TRUST OR ANY OTHER LOAN DOCUMENT. NOTWITHSTANDING THE FOREGOING, MORTGAGOR SHALL NOT BE LIABLE TO ANY INDEMNIFIED PARTY FOR THAT PORTION OF ANY LOSS ARISING SOLELY AS THE RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN
INDEMNIFIED PARTY (OR ANY PARTY ACTING ON BEHALF OF AN INDEMNIFIED PARTY) OR ARISES IN CONNECTION WITH AN ACTION OR INACTION THAT OCCURS AFTER MORTGAGOR NO LONGER OWNS THE LAND AND THE IMPROVEMENTS. ANY AMOUNTS PAYABLE TO MORTGAGEE BY REASON OF THE APPLICATION OF THIS SECTION 2(i) SHALL BECOME IMMEDIATELY DUE AND PAYABLE UPON DEMAND AND SHALL BEAR INTEREST AT THE RATE PROVIDED IN THE NOTE FOR PAST DUE AMOUNTS FROM THE DATE OF DEMAND TO THE DATE OF PAYMENT. FOR PURPOSES OF THIS SECTION 2(i), THE TERM "INDEMNIFIED PARTIES" MEANS MORTGAGEE AND ANY PERSON OR ENTITY WHO IS OR WILL HAVE BEEN INVOLVED IN THE ORIGINATION OF THE DEBT, ANY PERSON OR ENTITY WHO IS OR WILL HAVE BEEN INVOLVED IN THE SERVICING OF THE DEBT, ANY PERSON OR ENTITY IN WHOM THE ENCUMBRANCES AND SECURITY INTERESTS CREATED BY THIS DEED OF TRUST IS OR WILL HAVE BEEN RECORDED, PERSONS AND ENTITIES WHO MAY HOLD OR ACQUIRE OR WILL HAVE HELD A FULL OR PARTIAL INTEREST IN THE DEBT AS WELL AS THE RESPECTIVE DIRECTORS, OFFICERS, SHAREHOLDERS, PARTNERS, MEMBERS, EMPLOYEES, AGENTS, SERVANTS, REPRESENTATIVES, AFFILIATES, SUBSIDIARIES, PARTICIPANTS, SUCCESSORS AND ASSIGNS OF ANY AND ALL OF THE FOREGOING (INCLUDING BUT NOT LIMITED TO ANY OTHER PERSON OR ENTITY WHO HOLDS OR ACQUIRES OR WILL HAVE HELD A PARTICIPATION OR OTHER FULL OR PARTIAL INTEREST IN THE DEBT OR THE MORTGAGED PROPERTY, WHETHER DURING THE TERM OF THE LOAN EVIDENCED BY THE NOTE OR AS A PART OF OR FOLLOWING A FORECLOSURE OF THIS DEED OF TRUST AND INCLUDING, BUT NOT LIMITED TO, ANY SUCCESSORS BY MERGER, CONSOLIDATION OR ACQUISITION OF ALL OR A SUBSTANTIAL PORTION OF MORTGAGEE'S ASSETS AND BUSINESS). THIS SECTION WILL SURVIVE THE TERMINATION OR FORECLOSURE OF THIS DEED OF TRUST.

(j) Additional Representations and Agreements Relating to Leases and Rents.

(i) (A) All existing Leases are valid, unmodified and in full force and effect, (B) no Rents have been discounted, set off or compromised, and Mortgagor is not aware of any facts which might result in discount, set off or compromise of any Rents (except as may be part of Mortgagor's initial leasing-up of the Improvements, but in no event in a manner which would impair Mortgagor achieving stabilization requirements of its permanent lender), (C) Mortgagor has not received from any tenant any funds or deposits that are not reflected in the current books and records of Mortgagor reviewed by Mortgagee, and (D) to Mortgagor's knowledge, no
lessee is in default under any Lease. To Mortgagor’s knowledge, no lessor default exists under any Lease.

(ii) Mortgagor will not execute any Lease except in accordance with the Loan Agreement. Mortgagor will enforce the obligations of all lessees under all Leases. Except as provided for in the Loan Agreement, Mortgagor will not amend, renew, terminate, or surrender, or waive or release the obligations of any lessee under, any Lease without the prior written approval of Mortgagee, except in connection with Mortgagor’s customary business practice as contemplated on the date of this Deed of Trust.

(iii) Mortgagor will not collect any Rents more than one month in advance of the time earned other than Rent collected and held as a security deposit in the normal course of business and pursuant to the form of Lease approved by Mortgagee (“Early Rent Payments”). Mortgagee’s collateral assignment under Section 7 does not extend to Early Rent Payments, and if Mortgagor receives any Early Rent Payments, unless Mortgagee shall otherwise request that the Early Rent Payments be paid to Mortgagee to be applied against the Debt, Mortgagor shall hold such Early Rent Payments as security for the Debt.

(iv) Mortgagor will perform all of its obligations under the Leases in accordance with accepted industry standards in McAllen, Texas. Mortgagor will promptly execute and, if requested, record any additional assignment documents requested by Mortgagee in connection with any Leases in effect at the time of such request (including Leases in effect on the date of this Deed of Trust). Mortgagor will give Mortgagee prompt notice of any default by any party to a Lease alleged by any lessee or sublessee (except for in connection residential leases).

(v) Any property manager of the Mortgaged Property is the agent of Mortgagor for purposes of this Deed of Trust, and therefore any property manager must comply with all requirements imposed on Mortgagor by this Deed of Trust.

(k) Mortgagee’s Rights. If Mortgagor fails to perform any obligation under this Deed of Trust beyond any applicable notice and cure period, Mortgagee may perform, but Mortgagee’s performance will not waive Mortgagor’s default. Without limiting the generality of the foregoing, if at any time Mortgagor has not made available to Mortgagee written evidence that all insurance required hereunder is in full force and effect, Mortgagee shall have the right, without notice to Mortgagor or any other party to take such action as
Mortgagee deems necessary to protect its interest in the Mortgaged Property, including without limitation, the obtaining of such insurance coverage as Mortgagee in its sole discretion deems appropriate. If Mortgagee secures required insurance, Mortgagee may secure the insurance only in its own name and may insure only its interest in the Mortgaged Property.

(I) Mortgagor's Location and Name. The address set forth in Section 17 of this Deed of Trust is Mortgagor’s place of business. Mortgagor’s name as set forth above in this Deed of Trust is its correct name as indicated on the public record of Mortgagor’s jurisdiction of organization which shows Mortgagor to have been organized. Mortgagor has properly filed of record in the appropriate filing offices all those trade names and has delivered to Mortgagee a list of all of Mortgagor’s assumed or trade names. Mortgagor will promptly notify Mortgagee of any change in Mortgagor’s location, name, identity, organizational structure as a limited liability company or jurisdiction of organization.

(m) Utility Capacity. Mortgagor shall not transfer, sell, assign or convey, either in whole or in part, other than to Mortgagee, any capacity for utilities which may be available to the Mortgaged Property. Mortgagor acknowledges that without the availability of utilities to the Mortgaged Property the value of the collateral would be significantly diminished and that the credit being extended under the Debt is based upon such availability.

(n) Flood Plain. Except as disclosed to Mortgagee in writing prior to the date of this Deed of Trust, neither the Mortgaged Property nor any part thereof is located within an area that has been designated or identified as an area having special flood hazards or flood prone characteristics by the Secretary of Housing and Urban Development, the Federal Emergency Management Agency, or by such other official or agency as shall from time to time be authorized by federal or state law to make such designation pursuant to the National Flood Insurance Act of 1968 or the Flood Disaster Protection Act of 1973, as such Acts may, from time to time, be amended and in effect, or pursuant to any other national or state program of flood insurance (the "Flood Plain"), or in the alternative, if any of the Improvements are situated on any portion of the Land that does lie within the Flood Plain, (a) Mortgagor will immediately notify Mortgagee in writing and (b) Mortgagor will maintain at all times during the existence of the Debt flood insurance with respect to the Mortgaged Property in amounts not less than the maximum limit of insurance coverage then available with respect to the Mortgaged Property pursuant to any and all national and state flood insurance programs then in effect or the amount of the Debt, whichever is less, and cause all insurance so carried to be made payable to Mortgagee pursuant to a standard mortgagee clause, without contribution, and cause all such policies to be delivered to Mortgagee as required by Section 2(b) hereof.
(o) Collection and Application of Insurance and Condemnation Proceeds. Mortgagor assigns to Mortgagee, all amounts received by Mortgagor or Mortgagee as proceeds of insurance and proceeds of condemnation proceedings as additional security for the Debt. Mortgagor will promptly give Mortgagee notice of any material damage to or condemnation proceeding affecting the Mortgaged Property. After prior notice to Mortgagor (which notice will only be provided if no Event of Default is then continuing), Mortgagee may file or prosecute (or both) any insurance or condemnation claim. After prior notice to Mortgagor (which notice will only be provided if no Event of Default is then continuing), Mortgagee may collect and give receipts for any money payable under any insurance policy by reason of loss of or damage to the Improvements. After prior notice to Mortgagor (which notice will only be provided if no Event of Default is then continuing), Mortgagee may settle or compromise, on any terms and for any reasonable amount it selects, the liability of any insurance company or companies on any policy, and execute and deliver releases and discharges of liability binding Mortgagor and Mortgagee. After prior notice to Mortgagor (which notice will only be provided if no Event of Default is then continuing), Mortgagee may collect and give receipts for any money payable to Mortgagor because of condemnation proceedings affecting any Mortgaged Property. Mortgagor RELEASES Mortgagee from any liability in connection with any settlement or compromise of any insurance or condemnation claim, except that portion of liability resulting solely and exclusively from Mortgagee's (or any Indemnified Party's) own gross negligence or intentional misconduct, and in accordance with the foregoing, Mortgagee shall apply all insurance or condemnation proceeds, first to Mortgagee's expenses in connection with the insurance or condemnation claim, and second, if an Event of Default is continuing or if the conditions of clause (ii) are not otherwise satisfied, (i) to the Debt in any order Mortgagee selects, or (ii) to the repair or improvement of the Mortgaged Property in any manner Mortgagee selects, applying the remaining money, if any, after completion of repairs or improvement required for restoration of damage to the Mortgaged Property, to the Debt in any order Mortgagee selects; provided that if no Event of Default is then continuing and the proceeds of the policies and any additional sums provided by Mortgagor (including deferral of development fees) are enough to rebuild and restore the Improvements in a manner and time frame acceptable to Mortgagee, Mortgagor may request from Mortgagee and Mortgagee shall make to Mortgagor (subject to all requirements set forth in this Deed of Trust and otherwise in the same manner as payments are made on the Note under the Loan Agreement), payments of the proceeds of the policies, net of all retainage requirements of applicable laws, to rebuild and restore the Improvements on a lien free basis. If any loss shall occur at any time during the occurrence of an Event of Default, Mortgagee shall be entitled to the benefit of all insurance held by or for Mortgagor, to the same extent as if it had been made payable to Mortgagee. Notwithstanding any contrary provision of this Deed of Trust or any other Loan Document, Mortgagee shall apply insurance or condemnation proceeds only to restoration, reconstruction, or repair of the
Mortgaged Property to substantially the condition preceding the casualty or condemnation, or to a lesser condition approved by Mortgagee in its reasonable discretion (any of them, "Restoration") but only if that Restoration is feasible as hereinafter provided. Restoration shall be deemed feasible if all of the following conditions are met: (i) Mortgagor is not in breach or default of any provisions of this Deed of Trust or any other Loan Document; (ii) Mortgagee reasonably determines that there will be sufficient funds for Restoration (whether from insurance proceeds, a condemnation award or settlement, or other funds that may be provided by Mortgagor or other lenders); (iii) Mortgagor determines that Restoration will be completed prior to the maturity date of the Loan and the restoration will put the Mortgaged Property in the condition preceding the applicable casualty or condemnation; and (iv) Mortgagee determines that the operating income of the Mortgaged Property following Restoration will be sufficient to meet all obligations to the Mortgagee under this Deed of Trust and other Loan Documents. If the Restoration is not feasible, the proceeds of the casualty or condemnation shall be applied to the Debt. Mortgagee shall pay to Mortgagor payments of the proceeds of the policies (net of all retainage requirements of applicable laws) to so rebuild and restore the Improvements on a lien free basis. If any loss shall occur at any time during the occurrence of an Event of Default, Mortgagee shall be entitled to the benefit of all insurance held by or for any Mortgagor, to the same extent as if it had been made payable to Mortgagee.

3. [RESERVED].

4. **Compliance with Laws.** Mortgagor shall promptly comply in all material respects with all existing and future federal, state and local laws, orders, ordinances, governmental rules and regulations or court orders affecting or which may be interpreted to affect the Mortgaged Property, or the use thereof ("Applicable Laws"). Mortgagor shall from time to time, upon Mortgagee’s request, provide Mortgagee with evidence satisfactory to Mortgagee that the Mortgaged Property and the use thereof comply in all material respects with all Applicable Laws or are exempt from compliance with Applicable Laws. Mortgagor shall give prompt notice to Mortgagee of the receipt by Mortgagor of any notice related to a violation of any Applicable Laws and of the commencement of any proceedings or investigations which relate to compliance with Applicable Laws.

5. **Advances and Attorneys’ Fees.** Mortgagor will pay, or reimburse Mortgagee for, all reasonable costs and expenses of every character incurred from time to time in connection with this Deed of Trust and the Debt, including costs and expenses incurred (a) for mortgage or recording taxes, (b) to satisfy any obligation of Mortgagor under this Deed of Trust or to protect the Mortgaged Property, (c) in connection with the evaluation, monitoring or administration of the Debt or the Mortgaged Property (whether or not an Event of Default has occurred), and (d) in connection with the exercise of Mortgagee’s rights and remedies. Costs and expenses
include reasonable fees and expenses of outside counsel and other outside professionals and charges imposed for the services of attorneys and other professionals employed by Mortgagee or its affiliates. Any amount owing under this Section will be due and payable on demand and will bear interest from the date of expenditure by Mortgagee until paid at the rate provided in the applicable Note for past due principal.

6. **Events of Default; Acceleration; Appointment of Receiver.** Each of the following events is called an "**Event of Default**":

(a) Any "**Event of Default**," under and as defined in the Loan Agreement occurs;

(b) At any time that Mortgagee's security interests and liens granted hereunder are not prior to all other security interests, liens or other interests in the Mortgaged Property except Permitted Encumbrances, items permitted by the terms of the Loan Agreement, and junior service contracts related to the operation of the Improvements to the extent such service contracts may be terminated with no more than 30 days notice;

(c) Mortgagor fails to comply with or becomes subject to any administrative or judicial proceeding under any federal, state or local hazardous waste or environmental law, asset forfeiture or similar law which may result in the forfeiture of property, or other law where non-compliance may have a significant effect on the Mortgaged Property or on Mortgagor's ability to pay any Debt and such proceeding is not dismissed within 60 days after its commencement;

(d) Mortgagee determines, based on information available to it, that there is a defect in Mortgagor's title to any of the Mortgaged Property which is not a Permitted Encumbrance, or any person (including Mortgagor) alleges that (i) a lien or encumbrance exists on any Mortgaged Property equal or superior to the lien of this Deed of Trust, other than Permitted Encumbrances and other liens expressly permitted under the terms of the Loan Documents, or (ii) the lien of this Deed of Trust is subject to a homestead claim or other claim, and in any such case Mortgagor fails, within 30 days after written demand by Mortgagee, to correct such title defect or to remove or bond around it in a manner satisfactory to Mortgagee, said lien, encumbrance, homestead claim or other claim, or a writ of execution is levied against the interest of Mortgagor in the Mortgaged Property; and

(e) Mortgagor sells, transfers, pledges, encumbers, grants a security interest in, or otherwise disposes of all or any part of or interest in the Land or the Improvements (including the granting of any easement) other than Permitted Encumbrances or a Permitted Transfer or as otherwise approved in writing by Mortgagee or expressly authorized under the Loan Agreement, or if the title to all or any of the Mortgaged Property (other than items of personalty that have become obsolete or worn beyond practical use and that have been replaced by
adequate substitutes owned by Mortgagor and having a value equal to or greater
than the replaced items when new and other than Approved Leases under and
as defined in the Loan Agreement) becomes vested in any party other than
Mortgagor, whether by operation of law or otherwise. Mortgagee may consent to
any action under this paragraph in its reasonable discretion, and if it consents it
may impose any reasonable requirements for consent that it wishes (provided
that in the case of consenting to the granting of easements, the Mortgagee may
not unreasonably withhold its consent). Notwithstanding the foregoing, it is
agreed that a taking that arises pursuant to a condemnation, to the extent that
such condemnation occurs in accordance with this Deed of Trust, shall not
require the consent of Mortgagee as that in such case, without limiting the other
provisions of this Deed of Trust, Mortgagee's consent shall be deemed to have
been given. Notwithstanding the foregoing or anything to the contrary in this
Deed of Trust, Mortgagor and its members or beneficial owners may transfer its
or their ownership interest and other interests to the extent permitted by the Loan
Agreement and the Operating Agreement (under and as defined in the Loan
Agreement).

If any Event of Default occurs and is continuing, Mortgagee may, without
demand, presentment or notice of any kind (including notice of default, notice of intent
to accelerate the maturity of the Debt, or notice of actual acceleration, all of which
Mortgagor waives, except as specifically required by the terms of this Deed of Trust
and the Loan Agreement, all of which Mortgagor waives), declare all of the Debt
immediately due and payable, and may request that Trustee exercise any of Trustee's
remedies under this Deed of Trust. In addition, if an Event of Default occurs and is
continuing, Trustee will be entitled as a matter of right to the appointment of a receiver
or receivers of the Mortgaged Property, and of all its rent and other income.
Notwithstanding the appointment of any receiver, Trustee will be entitled to the
possession and control of any cash or instruments that this Deed of Trust requires
Mortgagor to deliver or pay to Trustee. If an Event of Default occurs and is continuing,
Mortgagee may demand that Mortgagor surrender possession of the Mortgaged
Property to Mortgagee. If Mortgagee takes possession of the Mortgaged Property,
Mortgagee will not be liable to Mortgagor for any rental of the Mortgaged Property, nor
for any failure to rent or inadequacy of rental of the Mortgaged Property, nor for any
damage to or waste of the Mortgaged Property, WHETHER OR NOT DUE TO
MORTGAGEE'S NEGLIGENCE, except as a result of the gross negligence or willful
misconduct of Mortgagee and/or any other Indemnified Party. Mortgagee shall,
notwithstanding anything to the contrary herein or in any of the other Loan Documents,
have no right or claim to the low income housing tax credits allocated to the Land and
Improvements unless and until Mortgagee shall foreclose on the Mortgaged Property or
accept a deed in lieu of foreclosure.

7. **Terms of Assignment of Rents; Collection and Application of Rents.** The
transfer and assignment of the Rents provided for in this Deed of Trust is irrevocable.
Mortgagee grants to Mortgagor a limited license (the "License") to possess and use the
Leases and the Rents. If an Event of Default occurs, the License will automatically
terminate. Thereafter, Mortgagee will have the absolute and continuing right (but not the obligation) to collect, demand, sue for, recover, receive and give receipts for any Rent. Mortgagee has no responsibility to exercise diligence in collecting Rents. After deducting the expenses of collection, Mortgagee will apply the net proceeds of collection as a credit upon any portion of the Debt selected by Mortgagor, whether or not that portion of the Debt is due and payable. If an Event of Default occurs and is continuing, Mortgagor authorizes and directs any lessee of the Mortgaged Property to deliver any such payment to Mortgagee, and any lessee's obligation to Mortgagor will be absolutely discharged to the extent of its payment to Mortgagee. If Mortgagor receives any Rents after the termination of Mortgagor's license, Mortgagor will hold the Rents in trust for Mortgagee and promptly pay them to Mortgagee. After the termination of Mortgagor's license, Mortgagor will keep Rents segregated from all other funds. Mortgagee is not required to give any credit against the Debt for the assignment of Rents until Rents are actually paid to Mortgagee. Mortgagor's obligations to Mortgagee will be discharged only to the extent that net Rents are received by Mortgagee and not disbursed to Mortgagor or paid by Mortgagee for expenses relating to the Land and Improvements. The assignment of rents will not cause Mortgagee to be a mortgagee-in-possession. If the License is terminated, Mortgagee's possession of the Rents will not act as a waiver of any default by Mortgagor or as an affirmanice of any Lease by Mortgagee if Mortgagee later becomes the purchaser of the Mortgaged Property at any foreclosure sale. Mortgagee may at its option subordinate the lien of this Deed of Trust to any Lease. The assignment of rents will terminate upon termination of this Deed of Trust. If the Mortgaged Property is sold pursuant to the terms of this Deed of Trust, the assignment of rents will terminate and the purchaser of the Mortgaged Property will have the right to all Rents free of the assignment. Notwithstanding anything in the foregoing to the contrary or any other provision hereof or in any of the Loan Documents to the contrary, all provisions related to the assignment of rents are subject to the terms, provisions, and conditions of the Texas Assignment of Rents Act ("TARA"), as codified in Tex. Prop. Code, Chapter 64, as the same may be amended, modified or supplemented from time to time. To the extent that specific terms and requirements of this Deed of Trust or any other Loan Document, including the Loan Agreement, conflict with the specific terms and requirements of TARA, (i) to the extent such terms and requirements of TARA may be superseded by an agreement between the parties, the specific terms and requirements of this Deed of Trust or the other Loan Documents hereby supersedes such specific terms and requirements of TARA; and (ii) to the extent that such terms and requirements of TARA cannot be superseded by an agreement between the parties, the specific terms and requirements of TARA shall control, and the parties further agree that all other terms and requirements of this Deed of Trust or the other Loan Documents shall not otherwise be impaired or superseded thereby and shall remain in full force and effect.

8. **Trustee's Sale.**

(a) If an Event of Default occurs and is continuing, Trustee will, at the request of Mortgagee, sell all or any part of the Mortgaged Property as an entirety or in parcels, by one sale or by several sales held at one time or at different times, all as
Trustee in Trustee’s discretion elects. The sale will be made in accordance with Texas Property Code Section 51.002 or any successor statute. If the Land is situated in more than one county, then required notices will be given in both or all of such counties, the Mortgaged Property may be sold in either or any such county, and such notices shall designate the county where the Mortgaged Property will be sold. The affidavit of any person having knowledge of the facts to the effect that required notices were posted, filed or mailed will be prima facie evidence of the facts recited in the affidavit. The Trustee’s deed at any such sale will be with general warranty, and Mortgagor will warrant and forever defend the title of the purchaser or purchasers, subject to the Permitted Encumbrances (if then applicable). Mortgagee may be the purchaser at any sale made hereunder, and credit the sale price against the Debt. Any deed so executed by Trustee will be prima facie proof of all factual matters stated in it. The purchaser or purchasers named in any such deed, and all persons subsequently dealing with the property purported to be thereby conveyed, will be fully protected in relying upon the truthfulness of factual matters stated in the deed. After any Trustee’s sale, Mortgagor will surrender immediate possession and control of the property purchased to the purchaser. If Mortgagor fails to surrender possession, Mortgagor will be a tenant at will.

(b) Mortgagee may at any time before the sale direct Trustee to abandon the sale, and may at any time thereafter direct Trustee to again commence foreclosure. Whether or not foreclosure is commenced by Trustee, Mortgagee may at any time after an Event of Default occurs and is continuing, institute suit for collection of all or any part of the Debt or foreclosure of the lien of this Deed of Trust or both. If Mortgagee institutes suit for collection of the Debt and foreclosure of the lien of this Deed of Trust, Mortgagee may at any time before the entry of final judgment dismiss the same, and require Trustee to sell the Mortgaged Property in accordance with the provisions of this Deed of Trust. No single sale or series of sales under this Deed of Trust or by judicial foreclosure will extinguish the lien or exhaust the power of sale under this Deed of Trust except with respect to the items of property sold.

(c) Trustee will apply the proceeds of sale, first to the payment of all expenses of the sale, second to the payment of the Debt in any order Mortgagee chooses and third the balance, if any, to any person who is entitled to it. This paragraph does not give any right, remedy or claim to any holder of any obligation or lien, other than Mortgagee.

(d) If at any foreclosure sale of the Mortgaged Property, the Mortgagee bids on the Mortgaged Property and the bid is credited by Mortgagee to the applicable Note, the bid will be applied to the balance of the applicable Note.

9. Alternative Procedures under UCC. In addition to all other rights and remedies granted in this Deed of Trust, after an Event of Default occurs and is continuing, Mortgagee will have all rights and remedies of a secured party after default under the UCC and other applicable law, including without limitation, the right to take possession of the Collateral, and for that purpose Mortgagee may enter upon the Mortgaged Property and lawfully remove any Collateral. Mortgagee may require
Mortgagor to assemble the Collateral and make it available to Mortgagee at a reasonably convenient place Mortgagee designates. Mortgagee may provide a copy of this Deed of Trust to any account debtor or other person liable on or having any interest in any Collateral. Except for the reasonable safe custody of any Collateral in its possession and accounting for moneys actually received by it and except as expressly provided in the UCC, Mortgagee will have no duty as to any Collateral, including any duty to preserve rights against prior parties. Mortgagee is not required to take possession of any Collateral prior to any sale, or to have any Collateral present at any sale. Mortgagee may sell part of the Collateral without waiving its right to proceed against the remaining Collateral. If any sale is not completed or is defective in the opinion of Mortgagee, Mortgagee may make a subsequent sale of the same Collateral. Any bill of sale or other record evidencing any foreclosure sale will be prima facie evidence of the factual matters recorded therein. If a sale of Collateral is conducted in conformity with customary practices of banks disposing of similar property, the sale will be deemed commercially reasonable, but Mortgagee will have no obligation to advertise or to sell Collateral on credit. However, if Mortgagee sells any of the Collateral upon credit, Mortgagor will be credited only with payments actually made by the purchaser, received by Mortgagee and applied to the indebtedness of the purchaser with respect to the sale. In the event the purchaser fails to pay for the Collateral, Mortgagee may resell the Collateral and Mortgagor shall be credited with the proceeds of the sale. In addition, Mortgagor waives any and all rights that Mortgagor may have to a judicial hearing in advance of the enforcement of any of Mortgagee's rights hereunder, including without limitation, its rights following an Event of Default to take immediate possession of the Collateral and to exercise its rights with respect thereto. By exercising its rights, Mortgagee will not become liable for, and Mortgagor will not be released from, any of Mortgagor's duties or obligations under any accounts, general intangibles or Leases included in the Collateral. All remedies in this Deed of Trust are cumulative of any and all other legal, equitable or contractual remedies available to Mortgagee and any such remedies may be exercised simultaneously or in any order as determined by Mortgagee. Mortgagor irrevocably appoints Mortgagee as its attorney-in-fact to do all things Mortgagor is required to do under this Deed of Trust. This appointment is coupled with an interest and shall survive the death or disability of Mortgagor; provided however, this appointment shall not be effective until the occurrence and during the continuance of any Event of Default.

10. Standards for Exercising Remedies. To the extent that applicable law imposes duties on Mortgagor to exercise remedies in a commercially reasonable manner, Mortgagor acknowledges and agrees that it is not commercially unreasonable for Mortgagee (a) to fail to incur expenses reasonably deemed significant by Mortgagee to prepare any Collateral for disposition or otherwise to complete raw material for work-in-process into finished goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of the Collateral to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Collateral or to remove liens on or any adverse claims against the Collateral, (d) to
exercise collection remedies against account debtors and other persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other persons, whether or not in the same business as Mortgagor, for expressions of interest in acquiring all or any portion of the Collateral, (g) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (h) to dispose of Collateral by utilizing Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, (k) to purchase insurance or credit enhancements to insure Mortgagee against risks of loss, collection or disposition of Collateral or to provide Mortgagee a guaranteed return from the collection or disposition of Collateral, (l) to the extent deemed appropriate by Mortgagee, to obtain the services of brokers, investment bankers, consultants and other professionals (including Mortgagee and its affiliates) to assist Mortgagee in the collection or disposition of any of the Collateral or (m) to comply with any applicable state or federal law requirement in connection with the disposition or collection of the Collateral. Mortgagor acknowledges that this Section is intended to provide non-exhaustive indications of what actions or omissions by Mortgagee would not be commercially unreasonable in Mortgagee’s exercise of remedies against the Collateral and that other actions or omissions by Mortgagee shall not be deemed commercially unreasonable solely by not being included in this Section. Without limitation upon the foregoing, nothing contained in this Section shall be construed to grant any rights to Mortgagor or to impose any duties upon Mortgagee that would not have been granted or imposed by this Deed of Trust or by applicable law in the absence of this Section.

11. Change of Trustee. Trustee may be removed at any time with or without cause, at the option of Mortgagee, by written declaration of removal executed by Mortgagee; without any notice to or demand upon Trustee, Mortgagor or any other person. If at any time Trustee is removed, dies or refuses, fails or is unable to act as Trustee, Mortgagee may appoint any person as successor Trustee hereunder, without any formality other than a written declaration of appointment executed by Mortgagee. Immediately upon appointment, the successor Trustee so appointed automatically will be vested with all the estate and title in the Mortgaged Property, and with all of the rights, powers, privileges, authority, options and discretions, and charged with all of the duties and liabilities, vested in or imposed upon Trustee by this instrument, and any conveyance executed by any successor Trustee will have the same effect and validity as if executed by the Trustee named in this Deed of Trust.

12. INDEMNIFICATION OF TRUSTEE. EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, TRUSTEE SHALL NOT BE LIABLE FOR ANY ACT OR OMISSION OR ERROR OF JUDGMENT. TRUSTEE MAY RELY ON ANY DOCUMENT BELIEVED BY HIM IN GOOD FAITH TO BE GENUINE. ALL MONEY RECEIVED BY TRUSTEE SHALL, UNTIL USED OR APPLIED AS HEREOF.
PROVIDED, BE HELD IN TRUST, BUT NEED NOT BE SEGREGATED (EXCEPT TO THE EXTENT REQUIRED BY LAW), AND TRUSTEE SHALL NOT BE LIABLE FOR INTEREST THEREON. MORTGAGOR HEREBY INDEMNIFIES TRUSTEE AGAINST ALL LIABILITY AND REASONABLE EXPENSES THAT HE MAY INCUR IN THE PERFORMANCE OF HIS DUTIES HEREUNDER, EXCEPT TO THE EXTENT THE SAME RESULTS FROM TRUSTEE’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

13. Fair Market Value for Calculating Deficiencies. If Mortgagee sues Mortgagor or any other party obligated on the Debt or any guarantor of any Debt to collect any deficiency owing after foreclosure of the Mortgaged Property, “fair market value” of the Mortgaged Property under Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as amended from time to time) (the "Deficiency Statutes") will be determined as follows:

   (a) Any valuation of the Mortgaged Property will be based on “as is” condition on the foreclosure date, without any assumption or expectation that the Mortgaged Property will be repaired or improved in any manner before a resale of the Mortgaged Property after foreclosure.

   (b) Any valuation will assume that the foreclosure purchaser desires resale of the Mortgaged Property for cash promptly (but no later than twelve months) following the foreclosure sale.

   (c) All reasonable closing costs customarily borne by the seller in a commercial real estate transaction, including brokerage commissions, title insurance, a survey of the Mortgaged Property, tax prorations, attorney’s fees, and marketing costs, will be deducted from the gross fair market value of the Mortgaged Property.

   (d) Any valuation will further discount the gross fair market value of the Mortgaged Property to account for any estimated holding costs associated with maintaining the Mortgaged Property pending sale, including utilities expenses, property management fees, taxes and assessments, and other maintenance expenses.

   (e) Any expert opinion testimony given or considered in connection with a determination of the fair market value of the Mortgaged Property must be given by persons who have at least five years experience in appraising property similar to the Mortgaged Property and who have conducted and prepared a complete written appraisal of the Mortgaged Property taking into consideration the factors set forth above.

14. All Security Cumulative; Subrogation; Waiver of Marshaling. The execution of this Deed of Trust does not impair any other security for the payment of any Debt. Mortgagee may take additional security for any Debt in the future without
altering or impairing the lien of this Deed of Trust. Mortgagee may release any Mortgaged Property or any other security for the Debt without altering or impairing the lien of this Deed of Trust as to the Mortgaged Property not released. All present and future security will be cumulative. Mortgagee is subrogated to all rights, liens or interests in any of the Mortgaged Property securing the payment of any obligation satisfied or paid off out of the proceeds of the loans evidenced by the Note. Mortgagor waives any right of marshaling of assets or sale in inverse order of alienation, and all present or future appraisal rights and equity of redemption rights.

15. Limitations on Amount of Interest. Mortgagor and Mortgagee intend to conform strictly to applicable usury laws. Therefore, the total amount of interest (as defined under applicable law) contracted for, charged or collected under the Debt or this Deed of Trust will never exceed the highest amount permitted by applicable law. If Mortgagee contracts for, charges or receives any excess interest, it will be deemed a mistake. Any unlawful contract or charge will be automatically reformed to conform to applicable law, and if Mortgagee has received excess interest, Mortgagee will either refund the excess to Mortgagor or credit the excess on the unpaid amounts owing under the Debt or this Deed of Trust. All amounts constituting interest will be spread throughout the full term of the Debt in determining whether interest exceeds lawful amounts.

16. Financing Statement; Mortgagor's Covenants; Further Assurances. This Deed of Trust covers, among other Collateral, goods that are or are to become fixtures related to the Land and the Improvements. This Deed of Trust is to be filed in the real property records as a fixture filing, and may be filed as an initial financing statement in any other place which is necessary or desirable to perfect the security interests granted herein. The secured party is Mortgagee and the mailing address of the secured party is set forth in Section 17. The debtor is Mortgagor and the mailing address of the debtor is set forth in Section 17. The first paragraph of this Deed of Trust indicates whether Mortgagor is an individual or an organization and if Mortgagor is an organization, its jurisdiction of organization and organizational identification number, if any. Mortgagor is the record owner of the Mortgaged Property. Mortgagee may file this Deed of Trust, or any financing statements or amendments thereto or other record wherever Mortgagee believes necessary or appropriate to perfect the security interests granted herein, including but not limited to any official filing office, or in any other recording or registration system. The financing statement or other record may (a) indicate the Collateral as being of an equal or lesser scope or with greater detail than set forth in this Deed of Trust and (b) contain any other information required by the UCC or other law regarding the notification of a security interest, lien, assignment or other right to direct disposition, for the sufficiency of the filing office's or other registrar's acceptance of any financing statement or amendments thereto or other record including (i) if Mortgagor is an organization, the type of organization and any organization identification number issued to Mortgagor and (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Collateral relates. Mortgagor ratifies its authorization for Mortgagee's filing of any financing statements covering the Collateral in any jurisdiction on or after the date hereof. A photographic or other reproduction of this Deed of Trust or any financing
statement relating to this Deed of Trust will be sufficient as a financing statement. Mortgagor will take any reasonable action requested by Mortgagee to establish and maintain control by Mortgagee of any Collateral consisting of deposit accounts, letter of credit rights and investment property and to create, attach, perfect, protect, assure the first priority of and to enforce the liens and security interests granted hereunder.

17. Notices. Except as otherwise provided, any notice, request or demand under this Deed of Trust must be in writing and will be sufficient if either delivered personally or deposited in the United States mail in a postpaid envelope addressed to the mailing address set forth below. A party may designate a different address by notice given in compliance with this Section. Any notice to Mortgagee must be sent or delivered to the officer named below or to another officer designated for receipt of such notices by Mortgagee. The names and mailing addresses of Mortgagor and Mortgagee are as follows:

Mortgagor:
Mistletoe Station, LLC
5501-A Balcones Drive, #302
Austin, TX 78731

With a copy to:

Investor Limited Partner:
c/o Hunt Capital Partners, LLC
15910 Ventura Blvd., Suite 1100
Encino, California 91436
Attention: Jeffrey N. Weiss

And to:

Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
Attention: Jere Thompson

Mortgagee:
JPMorgan Chase Bank, N.A.
2200 Ross Avenue, Floor 9
Dallas, Texas 75201
Attention: Olivio Ochoa
(TX1-2951)

18. Additional Agreements. This Deed of Trust benefits the successors, assigns and legal representatives of Trustee and Mortgagee and binds any successors or transferees of Mortgagor (however, this provision does not permit Mortgagor to transfer the Mortgaged Property). Each reference to Mortgagor, Trustee or Mortgagee includes their respective successors, assigns and legal representatives. No modification or waiver of this Deed of Trust will be effective unless in writing and signed by Mortgagee. Mortgagee may waive any default without waiving any other prior or subsequent default. Mortgagee’s failure to exercise or delay in exercising any rights
under this Deed of Trust will not operate as a waiver of those rights. If any provision of this Deed of Trust is unenforceable or invalid, that provision will not affect the enforceability or validity of any other provision. If the application of any provision of this Deed of Trust to any person or circumstance is illegal or unenforceable, that application will not affect the legality or enforceability of the provision as to any other person or circumstance. If more than one person executes this Deed of Trust as Mortgagor, their obligations under this Deed of Trust are joint and several.

19. Rules of Construction. The section headings or captions in this instrument are for convenience and are not a part of this Deed of Trust for any purpose. Any action permitted to Mortgagee may be taken by any authorized officer, employee or agent of Mortgagee, or any attorney, accountant, environmental consultant or other advisor or professional retained by Mortgagee. Use of the term “including” does not imply any limitation on (but may expand) the antecedent reference. Unless the context clearly requires otherwise, the term “may” does not imply any obligation to act. Any reference to exhibits or schedules means the exhibits or schedules to this Deed of Trust, which are fully incorporated by reference into this Deed of Trust. Any reference to a particular document includes all modifications, supplements, replacements, renewals or extensions of that document, but this rule of construction does not authorize amendment of any document without Mortgagee’s consent.

20. Waivers. Mortgagor waives all suretyship defenses that may lawfully be waived, including but not limited to notice of acceptance of this Deed of Trust, notice of the incurrence, acquisition or subordination of any Debt, credit extended, collateral received or delivered or other action taken in reliance on this Deed of Trust, notices and all other demands and notices of any description. With respect to both Debt and the Mortgaged Property, Mortgagor assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect Mortgagee’s security interest or lien in any of the Mortgaged Property, to the addition or release of any person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as Mortgagee may deem advisable. To the extent not prohibited by applicable law, Mortgagor further waives (i) diligence and promptness in preserving liability of any person on the Debt, and in collecting or bringing suit to collect the Debt; (ii) all rights, if any, of Mortgagor under Rule 31, Texas Rules of Civil Procedure, or Chapter 43 of the Texas Civil Practices and Remedies Code, or Section 17.001 of the Texas Civil Practice and Remedies Code; (iii) to the extent Mortgagor is subject to the Texas Business Organizations Code ("TBOC"), compliance by Mortgagee with Section 152.306(b) of TBOC; (iv) notice of extensions, renewals, modifications, rearrangements and substitutions of the Debt; and (v) failure to pay any of the Debt as it matures, any other default, Event of Default, and adverse change in any obligor’s or any Mortgagor’s financial condition, release or substitution of collateral, subordination of Mortgagee’s rights in any collateral, and every other notice of every kind. Nothing in this Deed of Trust is intended to waive or vary the rights and duties of Mortgagee or the rights and duties of Mortgagor or any obligor in violation of Section 9.602 of the UCC.
21. **Construction Mortgage.** This Deed of Trust is a "construction mortgage" under Section 9.334(h) of the UCC and Section 2A.309 of the Texas Business and Commerce Code to the extent that it secures an obligation incurred for the construction of the Improvements.

22. **Governing Law.** This Deed of Trust shall be governed by Texas law, without giving effect to choice of law provisions. Jurisdiction and venue shall be Tarrant County, Texas.

23. **No Oral Agreements.** THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

24. **Limitation of Pledge.** Notwithstanding anything herein to the contrary, Mortgagee agrees that the conveyance, pledge, assignment and security interest in and to the low income housing tax credit associated with the Land and Improvements (as set forth in subsection 6 of the definition of Mortgaged Property) shall not be effective or enforceable unless and until Mortgagee (or its successor or assigns, including without limitation any purchaser at foreclosure) acquires title to the Land and Improvements by foreclosure or deed in lieu of foreclosure, or otherwise.

25. **WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS DEED OF TRUST OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS DEED OF TRUST BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

26. **WAIVER OF SPECIAL DAMAGES.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE MORTGAGOR AND MORTGAGEE SHALL NOT ASSERT, AND HEREBY WAIVE, ANY CLAIM AGAINST THE OTHER, ON ANY THEORY OF LIABILITY, FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS DEED OF TRUST OR ANY DEED OF TRUST OR INSTRUMENT CONTEMPLATED HEREBY, THE TRANSACTIONS,
THE LOAN EVIDENCED BY THE NOTE OR THE USE OF THE PROCEEDS THEREOF.

27. EXTENDED USE AGREEMENT. Mortgagee agrees that the lien of this Instrument shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "Extended Use Agreement") recorded against the Mortgaged Property; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Instrument or upon a transfer of the Mortgaged Property by instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(e) of the Internal Revenue Code.

Mortgagor has executed this Deed of Trust on the date set forth in the acknowledgment below to be effective as of August 30, 2018.
Mortgagor certification for all Non-individuals: Mortgagor certifies that it is organized under the laws of the State of Texas.

MISTLETOE STATION, LLC, a Texas limited liability company

By: Saigebrook Mistletoe, LLC, a Texas limited liability company, its managing member

By: Lisa M. Stephens, 
President

STATE OF TEXAS 
COUNTY OF Harris

This instrument was acknowledged before me on the 21st day of August, 2018, by Lisa M. Stephens, President of Saigebrook Mistletoe, LLC, a Texas limited liability company, on behalf of said limited liability company, managing member of MISTLETOE STATION, LLC, a Texas limited liability company.

Notary Public, State of Texas

Exhibit A - Description of Land
Exhibit B - Permitted Encumbrances

SIGNATURE PAGE TO DEED OF TRUST

HOUSTON 408832219
Mortgagee is executing this Deed of Trust solely to acknowledge its agreement to the Jury Waiver above, the notice given under Section 26.02 of the Texas Business and Commerce Code and to comply with the waiver requirement of TBOC. Mortgagee's failure to execute or authenticate this Deed of Trust will not invalidate this Deed of Trust.

JPMORGAN CHASE BANK, N.A.

By: [Signature]

Olivio C. Ochoa, Authorized Officer

THE STATE OF TEXAS

COUNTY OF Dallas

This instrument was acknowledged before me on the 20th day of August, 2018, by Olivio C. Ochoa, as Authorized Officer of JPMORGAN CHASE BANK, N.A., a national banking association, on behalf of said banking association.

CHRIS MASCORRO
NOTARY PUBLIC, State of Texas

Return to:

JPMorgan Chase Bank, N.A.
712 Main Street
Floor: 06
Houston, TX 77002
EXHIBIT “A”

TRACT I:

LOT 1-R1, BLOCK 3R, OF FRISCO ADDITION, TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER COUNTY CLERK’S FILE NO. D212125731, REAL PROPERTY RECORDS, TARRANT COUNTY, TEXAS.

ALSO KNOWN AS

TRACT I:

BEING a tract of land in the E.S. Harris Survey, Abstract No. 688 in the City of Fort Worth, Tarrant County, Texas, being a part of that tract of land described as Tract 1 in Special Warranty Deed to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk’s Document No. D207136848 in the Official Records of Tarrant County, Texas (O.R.T.C.T.), being all of Lot 1-R1 of Lots 1-R1 and 1-R2, Block 3R, Frisco Addition, an addition to the City of Fort Worth, Tarrant County, Texas, as recorded in County Clerk’s Document No. D212125731 O.R.T.C.T., being a part of Beckham Place (variable width right-of-way) and being more particularly described as follows:

BEGINNING at the northeast corner of said Lot 1-R1, from which a 1/2-inch found iron rod with plastic cap stamped “AREA SURVEYING” bears North 48 degrees 50 minutes 32 seconds East, a distance of 0.25 feet, and being on the south right-of-way line of Beckham Place (a variable width right-of-way);

THENCE South 00 degrees 42 minutes 24 seconds East, a distance of 203.93 feet to a 5/8-inch found iron rod for the southeast corner of said Lot 1-R1, being on the north right-of-way line of Mistletoe Boulevard (a variable width right-of-way);

THENCE North 89 degrees 22 minutes 55 seconds West, passing a 1/2-inch found iron rod with plastic cap stamped “GRANT ENG RPLS 4151” for the south end of a corner clip of said Lot 1-R-1 at a distance of 212.37 feet, and continuing for a total a distance of 222.37 feet to a 3/4-inch found iron rod for corner at the intersection of the projected said north right-of-way line and the projected east right-of-way line of said Beckham Place;

THENCE North 06 degrees 51 minutes 00 seconds West, passing a 1/2-inch found iron rod with plastic cap stamped “GRANT ENG RPLS 4151” for the north end of a corner clip of said Lot 1-R-1 at a distance of 10.00 feet, passing a 1/2-inch found iron rod with plastic cap stamped “GRANT ENG RPLS 4151” for the south end of a corner clip of said Lot 1-R-1 at a distance of 48.06 feet, and continuing for a total distance of 58.06 feet to a point for corner;

THENCE North 57 degrees 36 minutes 24 seconds East, passing a 1/2-inch found iron rod with plastic cap stamped “GRANT ENG RPLS 4151” for the north end of a corner clip of said Lot 1-R-1 at a distance of 10.00 feet, and continuing for a total distance of 268.55 feet to the POINT OF BEGINNING AND CONTAINING 29,702 square feet or 0.6819 acres of land, more or less.
TRACT II:

DESCRIPTION FOR A PART OF BLOCK B OF MISTLETOE HEIGHTS, AN ADDITION IN THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, AS SAID BLOCK APPEARS UPON THE MAP RECORDED IN VOLUME 388, PAGE 5 OF THE TARRANT COUNTY DEED RECORDS AND EMBRACING A PORTION OF THE TRACT DESCRIBED IN THE DEED TO L. E. TREZEVANTRecorded in Volume 1929, Page 240 OF SAID DEED RECORDS, AND BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT AN AXLE FOUND FOR THE SOUTHEAST CORNER OF SAID BLOCK B IN THE NORTH LINE OF BECKHAM PLACE AND BEING THE SOUTHWEST CORNER OF LOT 6 OF TREZEVANT SUBDIVISION, SAID AXLE BEING THE SOUTHEAST CORNER OF SAID TREZEVANT TRACT;

THENCE SOUTH 59 DEGREES 33 MINUTES 00 SECONDS WEST, ALONG THE SOUTH LINE OF SAID TREZEVANT TRACT AND THE SAID NORTH LINE OF BECKHAM PLACE, 129.99 FEET TO A ¼" IRON PIN FOUND FOR THE SOUTHERLY SOUTHEAST CORNER OF THE TRACT DESCRIBED IN THE DEED TO HELEN J. WILLIAMS, RECORDED IN VOLUME 5619, PAGE 93 OF THE SAID DEED RECORDS;

THENCE NORTH 11 DEGREES 22 MINUTES 00 SECONDS WEST, ALONG THE SOUTHERLY EAST LINE OF SAID WILLIAMS TRACT 164.10 FEET TO A ½" IRON PIN SET WITH CAP MARKED, "AREA SURVEYING" FOR CORNER;

THENCE NORTH 83 DEGREES 52 MINUTES 00 SECONDS EAST, ALONG A NORTHERLY SOUTH LINE OF SAID WILLIAMS TRACT, 82.64 FEET TO A ½" IRON PIN SET WITH CAP MARKED, "AREA SURVEYING" FOR THE NORTHERLY SOUTHEAST CORNER OF SAID WILLIAMS TRACT;

THENCE NORTH 03 DEGREES 57 MINUTES 00 SECONDS WEST, ALONG AN EAST LINE OF SAID WILLIAMS TRACT, 16.77 FEET TO A ½" IRON PIN SET WITH CAP MARKED, "AREA SURVEYING" FOR THE MOST SOUTHERLY SOUTHWEST CORNER OF LOT 1, BLOCK B-R, MISTLETOE HEIGHTS, ACCORDING TO PLAT RECORDED IN VOLUME 388-160, PAGE 1, PLAT RECORDS, TARRANT COUNTY, TEXAS;

THENCE NORTH 86 DEGREES 05 MINUTES 23 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 1, 54.56 FEET TO A ¾ INCH IRON PIN FOUND FOR THE NORTHWEST CORNER OF LOT 7 OF TREZEVANT SUBDIVISION;

THENCE SOUTH 04 DEGREES 07 MINUTES 19 SECONDS EAST, ALONG THE EAST LINE SAID TREZEVANT TRACT AND THE WEST LINE OF TREZEVANT SUBDIVISION, 124.61 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.424 OF AN ACRE OF LAND.
ALSO Known as:

TRACT II:

BEING a tract of land in the E.S. Harris Survey, Abstract No. 688 in the City of Fort Worth, Tarrant County, Texas, being all of that called 0.424 acre tract of land described in General Warranty Deed With Mineral Reservations to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk's Document No. D207307960 in the Official Records of Tarrant County, Texas (O.R.T.C.T.), and being more particularly described as follows:

BEGINNING at a found axle for the southeast corner of said 0.424 acre tract, being on the north right-of-way line of Beckham Place (a variable width right-of-way);

THENCE South 59 degrees 40 minutes 50 seconds West, along said north right-of-way line, a distance of 129.99 feet to a 3/4-inch found iron rod for the common southeast corner of that tract of land described in Warranty Deed to All Saints Episcopal Hospital of Fort Worth, Inc., as recorded in Volume 10876, Page 1719 O.R.T.C.T. and the southwest corner of said 0.424 acre tract;

THENCE North 11 degrees 14 minutes 10 seconds West, departing said north right-of-way line, a distance of 164.21 feet to the common northwest corner of said 0.424 acre tract of land and an ell corner of said All Saints tract;

THENCE North 83 degrees 59 minutes 50 seconds East, a distance of 82.91 feet to a common ell corner of said All Saints tract and said called 0.424 acre tract of land;

THENCE North 03 degrees 50 minutes 10 seconds West, a distance of 16.58 feet to a 5/8-Inch found iron rod for an ell corner of said 0.424 acre tract of land, the most southerly southwest corner of Lot 1 in Block B-R of Mistletoe Heights as recorded in Volume 388-160, Page 1 in the Plat Records of Tarrant County, Texas, and being on the east line of said All Saints tract;

THENCE North 86 degrees 13 minutes 12 seconds East, a distance of 54.54 feet to a 5/8-inch found iron rod for the northeast corner of said called 0.424 acre tract of land, and being on the south line of said Lot 1;

THENCE South 03 degrees 53 minutes 11 seconds East, a distance of 124.54 feet to the POINT OF BEGINNING AND CONTAINING 18,495 square feet or 0.4246 acres of land, more or less.

TRACT III:

BEING A PART OF BLOCK "B" OF MISTLETOE HEIGHTS ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOLUME 388, PAGE 5, DEED RECORDS
OF TARRANT COUNTY, TEXAS, SAID PART OF BLOCK "B" BEING DESCRIBED BY METES AND BOUNDS' AS FOLLOWS:


THENCE NORTH 6 DEGREES 08 MINUTES WEST, ALONG SAID BLOCK LINE AND RIGHT-OF-WAY LINE, 402.2 FEET TO AN IRON;

THENCE NORTH 83 DEGREES 52 MINUTES EAST 98 FEET TO AN IRON;

THENCE SOUTH 6 DEGREES 08 MINUTES EAST 45 FEET TO AN IRON;

THENCE NORTH 83 DEGREES 52 MINUTES EAST 110-7/10 FEET TO AN IRON;

THENCE SOUTH 3 DEGREES 57 MINUTES EAST 132-1/10 FEET TO AN IRON;

THENCE SOUTH 83 DEGREES 52 MINUTES WEST 82-6/10 FEET TO AN IRON;

THENCE SOUTH 11 DEGREES 22 MINUTES EAST 164-4/10 FEET TO AN IRON IN THE SOUTH LINE OF SAID BLOCK B;

THENCE SOUTH 59 DEGREES 33 MINUTES WEST, ALONG SAID SOUTH LINE OF BLOCK B, 149-3/10 FEET TO THE PLACE OF BEGINNING.

ALSO KNOWN AS:

TRACT III:

BEING a tract of land in the E.S. Harris Survey, Abstract No. 688 in the City of Fort Worth, Tarrant County, Texas, being all of that tract of land described in Warranty Deed to All Saints Episcopal Hospital of Fort Worth, Inc., as recorded in Volume 10876, Page 1719 in the Official Records of Tarrant County, Texas (O.R.T.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch found iron rod with plastic cap stamped "FULTON SURVEYING" for the common northwest corner of said All Saints tract, the most westerly southwest corner of Lot 1 in Block B-R of Mistletoe Heights as recorded in Volume 388-160, Page 1 in the Plat Records of Tarrant County, Texas, and being on the east line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way);
THENCE North 84 degrees 06 minutes 47 seconds East, along the common line between said All Saints tract and said Lot 1, a distance of 98.08 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for a common ell corner of said All Saints tract and said Lot 1;

THENCE South 06 degrees 21 minutes 44 seconds East, continuing along said common line, a distance of 44.82 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for a common ell corner of said All Saints tract and said Lot 1;

THENCE North 84 degrees 04 minutes 15 seconds East, continuing along said common line, a distance of 110.60 feet to a 5/8-inch found iron rod for the northeast corner of said All Saints tract and an ell corner of said Lot 1;

THENCE South 03 degrees 50 minutes 10 seconds East, along the east line of said All Saints tract, passing a 5/8-inch found iron rod for the most southerly southwest corner of said Lot 1, and an ell corner of that called 0.424 acre tract of land described in General Warranty Deed With Mineral Reservations to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk’s Document No. D207307960 O.R.T.C.T. at a distance of 115.35 feet and continuing for a total distance of 131.94 feet to a point for a common ell corner of said All Saints tract and said called 0.424 acre tract of land;

THENCE South 83 degrees 59 minutes 50 seconds West, departing said east line, a distance of 82.91 feet to the common northwest corner of said 0.424 acre tract of land and an ell corner of said All Saints tract;

THENCE South 11 degrees 14 minutes 10 seconds East, a distance of 164.21 feet to a 3/4-inch found iron rod for the common southeast corner of said All Saints tract, the southwest corner of said 0.424 acre tract, and being on the north right-of-way line of Beckham Place (a variable width right-of-way);

THENCE South 59 degrees 40 minutes 50 seconds West, departing said east line and along said north right-of-way line, a distance of 149.29 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for corner on said east right-of-way line;

THENCE North 06 degrees 00 minutes 10 seconds West, departing said north right-of-way line and along said east right-of-way line, a distance of 402.00 feet to the POINT OF BEGINNING AND CONTAINING 56,858 square feet or 1.3053 acres of land, more or less.

TRACT IV:

Being a tract or parcel of land situated in the E.S. Harris Survey Abstract No. 688, City of Fort Worth, Tarrant County, Texas and being a portion of Beckham Place (a 60 foot right of way) as recorded in the Fort Worth Original Town, an addition to the City of Fort Worth (no recording information found) also shown on plat of Lots 1&2, Block 3-A Frisco Addition, as recorded in 388-173, Page 11 Plat Records Tarrant County Texas and being all of that tract of land described in deed to the City of Fort Worth as recorded in Volume 3418, Page 632 D.R.T.C.T. and the south right of way line being described in Residue of Beckham Place vacated by Ordinance No. 9104, being all of that called 0.4304 acre tract of land
described in City of Fort Worth Ordinance No. 23278-06-2018 Vacating and Extinguishing a portion of Beckham Place, and being more particularly described below:

BEGINNING at a 1/2-inch found iron with cap stamped GRANT ENG RPLS 4151 being at the intersection of the north right of way line of Beckham Place (variable width right-of-way) and the east right of way line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way), and being the southwest corner of that tract of land described in Warranty Deed to All Saints Episcopal Hospital of Fort Worth Inc., recorded in Volume 10876, Page 1719 Official Records Tarrant County Texas (O.R.T.C.T.);

THENCE North 59 degrees 40 minutes 50 seconds East, along the north right of way line of said Beckham Place, passing at a distance of 149.29 feet, a 3/4-inch iron rod for the southeast corner of said All Saints tract and being the southwest corner of 1700 Mistletoe Partners, Ltd., recorded in Document No. D207307960 O.R.T.C.T., and continuing for a total distance of 255.74 feet to a point for corner;

THENCE South 00 degrees 42 minutes 24 seconds East, over and across said Beckham Place, a distance of 70.58 feet to a point for corner being on the south right of way line of said Beckham Place;

THENCE South 57 degrees 36 minutes 24 seconds West, along said south right of way line, a distance of 198.04 feet to a point for corner at the point of intersection of said south right of way line and the east right of way line of said Beckham Place same being the east line of said City of Fort Worth tract;

THENCE South 06 degrees 51 minutes 00 seconds East, along said east right of way line, a distance of 58.06 feet to a point for corner being at the intersection of said east right of way line and the north right of way line of Mistletoe Boulevard (a variable width right of way);

THENCE North 89 degrees 22 minutes 55 seconds West, over and across said Beckham Place, a distance of 50.32 feet to a point for corner being on the east right of way line of said Burlington Northern Santa Fe Railroad;

THENCE North 06 degrees 00 minutes 10 seconds West, along said east right of way line, passing at a distance of 27.87 feet, the northwest corner of said City of Fort Worth tract, and continuing for a total distance of 105.25 feet to the POINT OF BEGINNING AND CONTAINING 18,744 square feet or 0.4303 acres of land, more or less.

LESS AND EXCEPT:

Being a tract or parcel of land situated in the E.S. Harris Survey Abstract No. 688, City of Fort Worth, Tarrant County, Texas and being all of that tract of land described in deed to the City of Fort Worth as recorded in Volume 3418, Page 632 D.R.T.C.T. and being more particularly described below:

BEGINNING at a 3/4-inch found iron rod for the southeast corner of said City of Fort Worth tract, being on the north right of way line of Mistletoe Boulevard (a variable width right of way);
THENCE North 89 degrees 22 minutes 55 seconds West, along said north right of way line, a distance of 50.32 feet to a point for corner at the intersection of said north right of way line with the east right of way line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way); THENCE North 06 degrees 00 minutes 10 seconds West, departing said north right of way line and along said east right of way line, a distance of 27.87 feet to a point for corner;

THENCE North 57 degrees 36 minutes 24 seconds East, departing said east right of way line, a distance of 54.84 feet to a point for corner; THENCE South 06 degrees 51 minutes 00 seconds East, a distance of 58.06 feet to the POINT OF BEGINNING AND CONTAINING 2,133 square feet or 0.0490 acres of land, more or less.

TRACT V:

Being a tract or parcel of land situated in the E.S. Harris Survey Abstract No. 688, City of Fort Worth, Tarrant County, Texas and being all of that tract of land described in deed to the City of Fort Worth as recorded in Volume 3418, Page 632 D.R.T.C.T. and being part of that called 0.4304 acre tract of land described in City of Fort Worth Ordinance No. 23278-06-2018 Vacating and Extinguishing a portion of Beckham Place and being more particularly described below:

BEGINNING at a 3/4-inch found iron rod for the southeast corner of said City of Fort Worth tract, being on the north right of way line of Mistletoe Boulevard (a variable width right of way);

THENCE North 89 degrees 22 minutes 55 seconds West, along said north right of way line, a distance of 50.32 feet to a point for corner at the intersection of said north right of way line with the east right of way line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way); THENCE North 06 degrees 00 minutes 10 seconds West, departing said north right of way line and along said east right of way line, a distance of 27.87 feet to a point for corner;

THENCE North 57 degrees 36 minutes 24 seconds East, departing said east right of way line, a distance of 54.84 feet to a point for corner; THENCE South 06 degrees 51 minutes 00 seconds East, a distance of 58.06 feet to the POINT OF BEGINNING AND CONTAINING 2,133 square feet or 0.0490 acres of land, more or less.

TRACTS I, II, III, IV AND V ALSO KNOWN AS:

PLAT DESCRIPTION:

BEING a tract of land in the E.S. Harris Survey, Abstract No. 688 in the City of Fort Worth, Tarrant County, Texas, being all of that tract of land described as Tract 1 in Special Warranty Deed to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk's Document No. D207136848 in the Official Records of Tarrant County, Texas (O.R.T.C.T.), and being all of Lot 1-R1 of Lots 1-R1 and 1-R2, Block 3R, Frisco Addition, an addition to the City of Fort Worth, Tarrant County, Texas, as recorded in County Clerk's Document No. D212125731 O.R.T.C.T., and being all of that tract of land described in Warranty Deed to All Saints Episcopal Hospital of Fort Worth, Inc., as recorded in Volume 10876, Page 1719 O.R.T.C.T.,
and being all of that called 0.424 acre tract of land described in General Warranty Deed With Mineral Reservations to 1700 Mistletoe Partners, Ltd., as recorded in County Clerk's Document No. D207307960 O.R.T.C.T., and being more particularly described as follows:

BEGINNING at a 5/8-inch found iron rod for the southeast corner of said Lot 1-R1, being on the north right-of-way line of Mistletoe Boulevard (a variable width right-of-way);

THENCE North 89 degrees 22 minutes 55 seconds West, along said north line, a distance of 272.69 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner on the east line of Burlington Northern Santa Fe Railroad (100 foot wide right-of-way);

THENCE North 06 degrees 00 minutes 10 seconds West, departing said north line and along said east line, a distance of 507.25 feet to a 1/2-inch found iron rod with plastic cap stamped "FULTON SURVEYING" for the northwest corner of said All Saints tract;

THENCE North 84 degrees 06 minutes 47 seconds East, departing said east line and along the north line of said All Saints tract, a distance of 98.88 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for corner;

THENCE South 06 degrees 21 minutes 44 seconds East, continuing along said north line, a distance of 44.82 feet to a 1/2-inch found iron rod with plastic cap stamped "GRANT ENG RPLS 4151" for corner;

THENCE North 84 degrees 04 minutes 15 seconds East, continuing along said north line, a distance of 110.60 feet to a 5/8-inch found iron rod for the northeast corner of said All Saints tract;

THENCE South 03 degrees 50 minutes 10 seconds East, departing said north line and along the east line of said All Saints tract, a distance of 115.35 feet to a 5/8-inch found iron rod for all corner on the north line of said 0.424 acre tract;

THENCE North 86 degrees 13 minutes 12 seconds East, departing said east line and along said north line, a distance of 54.54 feet to a 5/8-inch found iron rod for the northeast corner of said 0.424 acre tract;

THENCE South 03 degrees 53 minutes 11 seconds East, departing said north line and along the east line of said 0.424 acre tract, a distance of 124.54 feet to a found axle for the southeast corner of said 0.424 acre tract, being on the north right-of-way line of Beckham Place (a variable width right-of-way);

THENCE South 59 degrees 40 minutes 50 seconds West, departing said east line and along said north line, a distance of 23.54 feet to a 1/2-inch set iron rod with cap for corner;

THENCE South 00 degrees 42 minutes 24 seconds East, departing said north line, a distance of 70.58 feet to a 1/2-inch set iron rod with cap for corner on the south right-of-way line of said Beckham Place;
THENCE North 57 degrees 36 minutes 24 seconds East, along said south line, a distance of 70.51 feet to a point for the northeast corner of said Lot 1-R1, from which a 1/2-inch found iron rod with plastic cap stamped "AREA SURVEYING" bears North 48 degrees 50 minutes 32 seconds East, a distance of 0.25 feet;

THENCE South 00 degrees 42 minutes 24 seconds East, departing said south line and along the east line of said Lot 1-R1, a distance of 203.93 feet to the POINT OF BEGINNING AND CONTAINING 123,799 square feet or 2.842 acres of land, more or less.
EXHIBIT "B"

(PERMITTED EXCEPTIONS)

This conveyance is made and accepted subject to the following Permitted Encumbrances:

1. Shortages in area.

2. Standby fees, taxes and assessments by any taxing authority for the year 2018, and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code.

3. The following matters and all terms of the documents creating or offering evidence of the matters:

a. Any covenants, conditions or restrictions indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin are hereby deleted to the extent such covenants, conditions or restrictions violate 42 USC 3604 (c). Recorded in Volume 388-173, Page 11 and Cabinet B, Slide 2241, of the Deed Records, and County Clerk's File No. D212125731.

b. Easement as shown on the recorded plat and dedication:
   Purpose: Utility Easement
   Location: 5 feet in width along the Northerly and westerly property lines

   (Affects Tract 1)

c. Easement as shown on the recorded plat and dedication:
   Purpose: Utility Easement
   Location: 10 feet in width along the Southerly property line

   (Affects Tract 1)
d.
Easement as shown on the recorded plat and dedication:
Purpose: Sanitary Sewer Easement
Location: 35 feet in width running North and South through the Westerly portion of the property

(Affects Tract 1)

e.
Easement as shown on the recorded plat and dedication:
Purpose: Drainage Easements
Location: 27 feet 6 inches and 34 feet in width through the Northwesterly and Westerly portions of the property

(Affects Tract 1)

f.
Easement as shown on the recorded plat and dedication:
Purpose: Public Open Space Easement/Restriction
Location: 10 feet in width along the Northwesterly and Southwesterly cut back corners

(Affects Tract 1)

g.
Easement as shown on the recorded plat and dedication:
Purpose: ROW Dedication
Location: Northwesterly and Southwesterly corners

(Affects Tract 1)

h.
Easement:
To: Texas Electric Service Company
Purpose: Distribution Easement and Right-of-Way

(Affects Tract II)

i.
Terms, Conditions, and Stipulations in the Agreement by and between:
Parties: R. Price Huyse and City of Fort Worth
Recorded: October 11, 1984 in Volume 7977, Page 806, of the Deed records, of Tarrant County, Texas.
Type: Covenant and Agreement regarding Storm Drain

(Affects Tract 1)
j. Easement: City of Fort Worth
   To: April 16, 1992 in Volume 10612, Page 1477, of the Deed records, of Tarrant County, Texas.
   Purpose: Sanitary Sewer Easement
   Location: along the Westerly Northwest portion of the property
   (Affects Tract II)

   (Affects Tract II)

l. Mineral and/or royalty interest:
   Recorded: April 20, 2007 in County Clerk's File No. D207136848, of the Official records, of Tarrant County, Texas.
   Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.
   Waiver of Surface Rights contained therein.
   (Affects Tract I)

m. Mineral and/or royalty interest with waiver of surface rights:
   Recorded: August 29, 2007 in County Clerk's File No. D2073179601, of the Official records, of Tarrant County, Texas.
   Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.
   (Affects Tract II)

n. Oil, Gas and Mineral Lease, and all terms, conditions and stipulations therein:
   Recorded: October 14, 2017 in County Clerk's File No. D207354966, and as affected by County
             Clerk's File No. D211187357, of the Official records, of Tarrant County, Texas.
   Lessor: R. Price Hulsey aka Price Hulsey
   Lessee: Four Sevens Energy Co., LLC
   Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.
   (Affects Tract I)
o.

Oil, Gas and Mineral Lease, and all terms, conditions and stipulations therein:
Recorded: December 03, 2009 in County Clerk's File No. D2009315968, and as affected by County
Clerk's File No. D2011187357, of the Official records, of Tarrant County, Texas.
Lessor: Fort Worth C & R, Inc.
Lessee: XTO Energy Inc.
Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.

(Affects Tract II)

p.

Oil, Gas and Mineral Lease, and all terms, conditions and stipulations therein:
Recorded: June 01, 2011 in County Clerk's File No. D210128178, of the Official records, of Tarrant
County, Texas.
Lessor: Fort Worth C and R, Inc.
Lessee: XTO Energy Inc.
Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.

(Affects Tract II)

q.

Easement:
To: Texas Electric Service Company
Recorded: February 03, 1959 in Volume 3288, Page 619, of the Deed Records, of Tarrant County, Texas.
Purpose: Distribution Easement and Right-of-Way

(Affects Tract III)

r.

Easement:
To: City of Fort Worth
Recorded: April 20, 1992 in Volume 10737, Page 1243, of the Official records, of Tarrant County, Texas.
Purpose: Sanitary Sewer Easement
Location: as depicted therein

(Affects Tract III)

s.

Sewer Lines referenced in Volume 5619, Page 93, of the Deed Records and Volume 10876, Page
1719, of the Official Records, Tarrant County, Texas.

(Affects Tract III)
t. Easement:
To: City of Fort Worth
Recorded: December 04, 1998 in County Clerk's File No. D199046006, of the Official records, of Tarrant County, Texas.
Purpose: Permanent Utility Easement
Location: as depicted therein

(Affects Tract III)

U. Memorandum of Oil, Gas and Mineral Lease, and all terms, conditions and stipulations therein:
Recorded: January 06, 2010 in County Clerk's File No. 2110012010 and affected by County Clerk's File No. D21100187357, of the Official Public Records, Tarrant County, Texas.
Lessor: Baylor All Saints Medical Center
Lessee: XTO Energy Inc.

Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.

(Affects Tract III)

V. Rights, if any, of third parties with respect to any and all utilities in place within Beckham Place (abandoned roadway and easement), including but not limited to those set forth in Fort Worth City Ordinance No. 23278-06-2018.

(Affects Tract IV and V)


Section 811 Project Rental Assistance ("PRA") Program Supplement Packet
Documentation of Request for Consent Cover Page §11.9(c)(6)(A)(ii)

2019 Uniform Multifamily Application #19285 & 19277

Existing Development Name Mistletoe Station

ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program)

Describe and attach the request made by the Applicant or Affiliate to the Third Party asking for consent:
Request letter to JP Morgan Chase submitted Feb. 18, 2018

ATTACH PDF OF THE REQUEST FROM THE APPLICANT OR AFFILIATE TO THE THIRD PARTY BEHIND THIS PAGE.
February 18, 2019

Mr. Olivio Ochoa
JP Morgan Chase Bank
Community Development Real Estate
2200 Ross Avenue, Floor 9
Dallas, TX 75201

Re: 811 Units – Mistletoe Station

Dear Olivio:

Per the 2019 TDHCA Qualified Allocation Plan, we are hereby submitting a request for your consideration to add an additional ten 811 program units at Mistletoe Station, in Fort Worth, Texas.

Under the Credit Support and Funding Agreement for Mistletoe Station, the Borrower has an obligation to not allow any new liens or encumbrances other than the Permitted Encumbrances. The addition of 811 units would require a new Extended Use Agreement be recorded and as such, this requires the lender’s consent. Mistletoe Station already has ten 811 units as was contemplated during underwriting in addition to 5% supportive housing units as required by the City of Fort Worth. An additional ten units would result in more than 20% of the property being 811 and/or supportive housing tenants.

A written response is required by TDHCA for submission in our 2019 applications. If you have any questions about this request, you may reach me at 352-213-8700.

Sincerely,

Lisa M. Stephens
President
Saigebrook Development, LLC
Existing Development Name: Mistletoe Station

iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party that they are denying an Existing Development from participation).

Describe and attach the response from the Third Party that was received by the Applicant or Owner that reflects their decision not to provide the requested consent:
Letter from JP Morgan Chase denying the request to add 811 units.

ATTACH PDF OF THE RESPONSE FROM THE THIRD PARTY THAT REFLECTS THEIR DECISION TO DENY THE REQUESTED CONSENT BEHIND THIS PAGE.
February 21, 2019

Texas Department of Community Affairs (TDHCA)
Attn: Spencer Duran, Section 811 PRAC Program Manager
221 E. 11th Street
Austin, Texas 78701

RE:     #17259 Mistletoe Station – additional 811 units

Dear Mr. Duran:

As the construction debt provider in Mistletoe Station, LLC, we have reviewed your request to enter into a Section 811 contract to provide additional Section 811 units in the Mistletoe Station project in Fort Worth. **Chase cannot approve the addition of Section 811 units for this property at this time due to the original underwriting and legal documentation did not take into account the addition of Section 811 units for this apartment complex.**

Should you need any further assistance, please feel free to contact me with any questions at (214) 965-2678 or via e-mail at olivio.c.ochoa@chase.com

Sincerely,

JPMORGAN CHASE BANK, N.A.

Olivio C. Ochoa
Authorized Officer
Introduction

The purpose of this Packet is to formalize the process by which an Applicant establishes its lack of legal authority to commit Section 811 PRA Program Units in a Development as described pursuant to 10 TAC §11.9(c)(6)(A) of the Qualified Allocation Plan (“QAP”).

This Packet is required only if all of the following conditions are true:

1) An Applicant is selecting points under Tenant Populations with Special Housing Needs pursuant to 10 TAC §11.9(c)(6) AND

2) An Applicant is seeking to establish its lack of legal authority where an Applicant or Affiliate Owns or Controls an Existing Development that otherwise meets the criteria established by 10 TAC §11.9(c)(6)(B) of the QAP.

One Packet must be submitted for each Existing Development for which the Applicant or Affiliate is seeking a determination that the needed legal authority is lacking and that the Development can be excluded from consideration.

Instructions: Complete the Questionnaire on page 2 of this packet, then complete the fields on each of the subsequent form cover pages, and attach the denoted documentation for each item behind each included cover pages. Submit each Packet, including Attachments in PDF format and include bookmarks for each item. The Packet must be saved and uploaded as one standalone file to the Serv-U folder associated with each 2019 Multifamily Application.

This Packet and all supporting documentation must be uploaded to the Department’s Serv-U system at the same time as, but as a separate document from, the Application. Refer to the Multifamily Programs Procedures Manual posted at http://www.tdhca.state.tx.us/multifamily/apply forfunds.htm for an explanation of the process to set-up a Serv-U Account if needed.

Questions about this Packet may be submitted to Spencer Duran: spencer.duran@tdhca.state.tx.us
Section 811 Project Rental Assistance (“PRA”) Program Supplement Packet
Questionnaire

2019 Uniform Multifamily Application #19276 & 19295 & 19288

1) Selecting Points under 10 TAC §11.9(c)(6)?
   ☐ No – STOP. PACKET SUBMISSION NOT NEEDED
   ☑ Yes – CONTINUE TO QUESTION 2

2) To obtain Points under 10 TAC §11.9(c)(6), Applicants must first attempt to meet the requirements in §11.9(c)(6)(B).
   Does the Applicant Own or Control and Existing Development that appears on the List of Qualified Existing Developments?
   ☐ No – STOP. PACKET SUBMISSION NOT NEEDED
   ☑ Yes – CONTINUE TO QUESTION 3

3) Is the Applicant seeking to establish its lack of legal authority where an Applicant Owns or Controls an Existing Development that appears on the List of Qualified Existing Developments?
   ☐ No - STOP. PACKET SUBMISSION NOT NEEDED
   ☑ Yes – CONTINUE TO QUESTION 4

4) Can the Applicant provide all three of the following items listed under §11.9(c)(6)(A)(i)-(iii)?
   ☐ No - STOP. PACKET SUBMISSION NOT NEEDED
   ☑ Yes – CONTINUE TO COVER PAGES
   (i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement);

   (ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program); AND

   (iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party identified in (ii) that they are denying an Existing Development from participation).
Section 811 Project Rental Assistance ("PRA") Program Supplement Packet

Legal Right to Withhold Cover Page §11.9(c)(6)(A)(i)

2019 Uniform Multifamily Application #19276 & 19295 & 19288

Existing Development Name Canova Palms

(i) Evidence that a Third Party has a legal right to withhold approval for a Property to commit voluntarily to the Section 811 PRA Program. The specific legally enforceable agreement or other instrument that gives the Third Party, such as a lender, the unambiguous legal right to withhold consent must be provided (Examples: Limited Partnership Agreement or Loan Agreement)

Describe the specific legally enforceable agreement being attached: First Amended & Restated Operating Agreement

Provide the name of the Third Party: Hunt Capital Partners

List the specific citation in the agreement that clearly denotes the Third Party has a legal right to withhold consent: Section 5.3 - Restrictions on Authority, para (a)(xix) & (a)(xviii)

List the page number in the agreement that clearly denotes the Third Party has a legal right to withhold consent: 43-45

ATTACH PDF OF THE LEGALLY ENFORCEABLE AGREEMENT BEHIND THIS PAGE.
THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED BY THIS FIRST AMENDED AND RESTATED OPERATING AGREEMENT HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933 (“1933 ACT”) OR PURSUANT TO APPLICABLE STATE SECURITIES LAWS (“BLUE SKY LAWS”). ACCORDINGLY, THE LIMITED LIABILITY COMPANY INTERESTS CANNOT BE RESOLD OR TRANSFERRED BY ANY PURCHASER THEREOF WITHOUT REGISTRATION OF THE SAME UNDER THE 1933 ACT AND THE BLUE SKY LAWS OF SUCH STATE(S) AS MAY BE APPLICABLE, EXCEPT IN A TRANSACTION WHICH IS EXEMPT FROM THE REGISTRATION REQUIREMENTS OF THE 1933 ACT AND THE BLUE SKY LAWS OR WHICH IS OTHERWISE IN COMPLIANCE THEREWITH. IN ADDITION, THE SALE OR TRANSFER OF SUCH LIMITED LIABILITY COMPANY INTERESTS IS SUBJECT TO CERTAIN RESTRICTIONS SET FORTH IN THIS AGREEMENT.
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CANOVA PALMS, LLC
A TEXAS LIMITED LIABILITY COMPANY
FIRST AMENDED AND RESTATED
OPERATING AGREEMENT

Preliminary Statement

Canova Palms, LLC (the “Company”) was formed as a Texas limited liability company as evidenced by a certificate of formation filed with the Office of the Secretary of the State of Texas (the “Filing Office”) on August 9, 2018 by and between Saigebrook Canova, LLC, a Texas limited liability company, as a managing member (the “Co-Managing Member”) and Lisa M. Stephens, as an investor member (the “Withdrawing Investor Member”).

A Company Agreement was entered into with respect to the Company as of August 9, 2018 (the “Original Agreement”) by and between the Co-Managing Member and the Withdrawing Investor Member.

THIS FIRST AMENDED AND RESTATED OPERATING AGREEMENT (this “Agreement”) is made and entered into as of February 1, 2019 (the “Closing Date” or “Closing”) by and among the Co-Managing Member, O-SDA Canova, LLC, a Texas limited liability company (the “Administrative Member”) HCP-ILP, LLC, a Nevada limited liability company (“Investor Member”), and the Withdrawing Investor Member.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties hereto agree that the Original Agreement is hereby amended and restated in its entirety to read as follows:

ARTICLE 1
DEFINED TERMS

In addition to the terms defined above, the following terms used in this Agreement shall have the meanings specified below:

Access Laws has the meaning set forth in Section 5.2(u).

Access Laws Certification means a certification to the Company concluding that the Apartment Complex is in compliance with applicable Access Laws, with such certification being prepared by the Architect.

Accountants means Tidwell Group of Birmingham, Alabama or such other firm of independent certified public accountants as may be engaged by the Managing Member at the expense of the Company with the Consent of the Investor Member, which Consent shall not be unreasonably withheld, conditioned or delayed, to prepare the Company income tax returns.

Actual Housing Tax Credits means, with respect to any period of time, the total amount of the Housing Tax Credits allocated by the Company to the Investor Member, representing ninety-nine and ninety-nine hundredths percent (99.99%) of the Housing Tax Credits reported
and claimed by the Company and its Members on their respective federal information and income tax returns, and not disallowed by any taxing authority.

**Additional Managing Member** has the meaning set forth in Section 9.2(a).

**Adjusted Capital Account** means, with respect to each Member, the Capital Account balance of such Member after giving effect to the following adjustments: (i) credit to such Capital Account the sum of (A) any amounts which such Member is obligated to restore pursuant to any provision of this Agreement, plus (B) an amount equal to such Member’s share of Company Minimum Gain as determined under Regulation Section 1.704-2(g)(1) and such Member’s share of Member Nonrecourse Debt Minimum Gain as determined under Regulation Section 1.704-2(i)(5), plus (C) any amounts which such Member is deemed to be obligated to restore pursuant to Regulation Section 1.704-1(b)(2)(ii)(c); and (ii) debit to such Capital Account the items described in Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition is intended to comply with the provisions of Regulation Section 1.704-1(b)(2)(ii)(d), and shall be interpreted consistently therewith.

**Administrative Member** means O-SDA Canova, LLC, a Texas limited liability company, and any other Person admitted as an administrative member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including a Replacement Managing Member.

**Administrative Member Pledge** means the Pledge and Security Agreement dated as of the date hereof by the Administrative Member for the benefit of the Investor Member in the form of Exhibit G-2, wherein the Administrative Member pledges and grants a first priority security interest in the Administrative Member’s Interest in the Company to secure the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement.

**Affiliate** means, as to any named Person or Persons (or as to any Member if no Person is specifically named): (i) such Person; (ii) each member of the Immediate Family of such Person; (iii) each legal representative, successor or assignee of any Person referred to in the preceding clauses (i) or (ii); (iv) each trustee of a trust for the benefit of any Person referred to in the preceding clauses (i) or (ii); or (v) any other Person (a) who directly or indirectly controls, is controlled by, or is under common control with such Person, (b) who owns or controls ten percent (10%) or more of the outstanding voting securities of such Person, (c) of which ten percent (10%) or more of the outstanding voting securities is owned by such Person or any of the Persons referred to in the foregoing clauses (i) through (iii), (d) who is an officer, director, partner or trustee of such Person, or (e) for which such Person acts in the capacity of officer, director, partner or trustee.

**Affiliated Entity** means (a) a limited partnership in which the Managing Member, the Developer, any Guarantor or an Affiliate of the Managing Member, the Developer or the Guarantor is a general partner, and in which an Affiliate of Hunt is a limited partner, or (b) a limited liability company in which the Managing Member, the Developer, any Guarantor or an Affiliate of the Managing Member, the Developer or the Guarantor is a managing member, and in which an Affiliate of Hunt is a member.
AFR means the “applicable federal rate” as defined in Section 1274(d) of the Code.

Agency means Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, or any successor in its capacity as the housing credit agency of the State.

Agreement means this First Amended and Restated Operating Agreement, including all Exhibits hereto, as amended from time to time.

AIA means the American Institute of Architects.

ALTA As-Built Survey means a current recertification of the plat of survey for the Apartment Complex, which shall (i) be prepared by a land surveyor licensed in the state in which the Apartment Complex is located, (ii) be certified for the benefit of the Company, Investor Member and their successors and assigns, and Title Company as having been made in compliance with ALTA minimum detail requirements, and with such certification being otherwise in form and substance satisfactory to the Title Company and Investor Member, (iii) show the location of all improvements located within the boundaries of the Apartment Complex, and (iv) certifying at least: (a) the legal description and boundaries of the Apartment Complex; (b) that the location of each improvement located on the Apartment Complex does not encroach upon any setback lines or violate any building or other restriction of record; (c) the location of all easements appurtenant to or affecting the Apartment Complex, whether visible or of record; (d) the location of all encroachments onto the Apartment Complex from buildings or other improvements on adjacent property; (e) all lot, set-back and building lines on the Apartment Complex; (f) all encroachments by the improvements located on the Apartment Complex over or onto any such easements or over any such lot, set-back or building lines created since the date of the prior survey; and (g) indicate whether the Apartment Complex is in a flood plain and other such items as may apply detailed in Exhibit Q.

ALTA Survey means a survey for the Apartment Complex prepared by a land surveyor licensed in the state in which the Apartment Complex is located and certified for the benefit of the Company, Investor Member and Title Company as having been made in compliance with ALTA minimum detail requirements, and with such certification being otherwise in form and substance satisfactory to the Title Company and Investor Member. The survey shall indicate whether the Apartment Complex is in a flood plain and other such items as may apply detailed in Exhibit Q.

Amendment has the meaning set forth in Section 4.16.

Annual Budget means a pro forma budget of the Company’s expected Cash Receipts and Cash Expenditures for any particular year, which is to be prepared in a sufficiently detailed format reasonably acceptable to the Investor Member, and is to be submitted to the Investor Member as set forth in Section 18.7(a).

Anti-Corruption Laws means all laws, rules, statutes, codes and regulations of any governmental entity applicable to the Managing Member, its Affiliates or the Company concerning or relating to corruption or bribery, including laws prohibiting an offer, payment, promise to pay, or authorization of the payment or giving of money or anything else of value, to
anyone, while knowing or believing that all or some portion of the money or thing of value will be offered, given, promised to, or retained by a Government Official or any other person for the purposes of obtaining or retaining business, securing any improper advantage or the improper performance of that person’s or Government Official’s function, or misuse of that person’s or Government Official’s position.

**Apartment Complex** means the Land and the 58-unit multifamily rental housing development and other improvements to be constructed, owned and operated thereon by the Company and to be known as Canova Palms, 1717 W. Irving Blvd., Irving, Dallas County, Texas.

**Applicable Fraction** has the meaning set forth in Section 42(c)(1)(B) of the Code.

**Applicable Percentage** means the percentage by which the Qualified Basis of a building in the Apartment Complex is multiplied in order to determine the amount of Housing Tax Credits available to such building in the Apartment Complex, as more particularly defined in Code Section 42(b).

**Application** means the Company’s Low Income Housing Tax Credit Application for Credit Reservation submitted to and approved by the Agency for any undertaking with respect to the development and operation of the Apartment Complex, including any amendments thereto approved by the Agency.

**Architect** means Miller Slayton, a Texas corporation, as the architect for the Apartment Complex pursuant to the Architect’s Contract, or such other Architect as Consented to by the Investor Member.

**Architect’s Contract** means the AIA Standard Form of Agreement Between Owner and Architect dated September 17, 2018 by and between the Company and the Architect.

**Asset Management Fee** has the meaning set forth in Section 10.5.

**Assignment** means a valid sale, exchange, pledge, transfer or other disposition of all or any portion of an Interest made in accordance with the terms of this Agreement.

**Bankruptcy Code** has the meaning set forth in Section 7.2(b)(v).

**BBVA Lender** means BVA Compass Bancshares, Inc.

**BBVA Loan** means that certain construction and permanent loan from the BBVA Lender to the Partnership in the amount of up to $[8,787,679] at the Closing Date, which is to be evidenced by the promissory note given by the Company to the BBVA Lender at the Closing Date, and which is to be secured by the BBVA Loan Mortgage and other related security documents and financing statements, the terms of which will be subject to the Consent of the Investor Member, and which will be nonrecourse to the Partnership and the Partners from and after Conversion.
**BBVA Loan Mortgage** means the mortgage or deed of trust to be given by the Partnership at the Closing in favor of the BBVA Lender, as holder of the BBVA Loan Mortgage, securing the BBVA Loan.

**Business Day** means a day (other than a Saturday or Sunday) on which banks generally are open in New York, New York for the conduct of substantially all of their commercial lending activities.

**Capital Account** means the capital account of a Member as described in Section 13.6.

**Capital Contribution** means, with respect to each Member, the total value of cash or property contributed and agreed to be contributed to the Company by each Member pursuant to Article 4. Any reference in this Agreement to the Capital Contribution of a then Member shall include a Capital Contribution previously made by any prior Member for the Interest of such then Member.

**Capital Contribution Account** has the meaning set forth in Section 4.2(b)(ix).

**Capital Transaction** means any transaction the proceeds of which are attributable to the sale, refinance, exchange, transfer, assignment or other disposition (including a condemnation, to the extent proceeds are not used to rebuild the Apartment Complex, or foreclosure) of all or any portion of the Apartment Complex or a casualty (to the extent proceeds are not used to rebuild the Apartment Complex) affecting the Apartment Complex, but excluding the payment of Capital Contributions.

**Carryover Allocation** means the carryover allocation of Housing Tax Credits issued to the Company by the Agency on December 20, 2018 in an annual amount of not less than $890,850 made pursuant to Code Section 42(h)(1)(E) which requires the Apartment Complex be Placed in Service by the end of the second year after the date of the Carryover Allocation.

**Carryover Certification** means the written certification of the Accountants that the Company had incurred capitalizable costs with respect to the Apartment Complex within one (1) year after the date of the Carryover Allocation of at least ten percent (10%) of the Company’s reasonably expected basis in the Apartment Complex.

**Cash Expenditures** means all disbursements of cash during the applicable period, including, without limitation, cash expenditures for Operating Expenses, Debt Service Expense, including, but not limited to, the monthly funding of the Replacement Reserve and any other reserves required under this Agreement or by any Lender. Cash Expenditures shall not include payments and distributions to be made pursuant to Article 14 of this Agreement, refunds to tenants of security deposits, and expenditures from the Replacement Reserve and other reserves required to be maintained under this Agreement or by any Lender. For purposes of this definition, Cash Expenditures without a specific maturity date shall be paid on a sixty (60) day current basis.

**Cash Flow** means, for any period of time, the excess, if any, of Cash Receipts for such period over Cash Expenditures for such period.
**Cash From Capital Transaction** means the proceeds of a Capital Transaction after (i) payment of all reasonable and customary expenses associated with the Capital Transaction, (ii) repayment of all secured Company debts required by any Lender to be paid with respect to such Capital Transaction, and (iii) application of such proceeds to the repair and restoration of the Apartment Complex as provided under the terms of this Agreement. Cash from Capital Transaction shall not include Cash Flow or proceeds of any Loan.

**Cash Receipts** means all cash receipts of the Company from whatever source, including, without limitation, operating income, subsidy payments, interest or investment earnings on the Replacement Reserve or other reserves required by any Lender and assets of the Company, cash from the forfeiture or application of tenant security deposits and the cash from the release of reserves held by any Lender to the Company other than for application to the expense for which they were set aside. Cash Receipts shall not include Cash From Capital Transaction, cash from Capital Contributions, proceeds from a loan to the Company (including, without limitation, Operating Deficit Loans, IM Loans and MM Loans) and the deposit by tenants of security deposits and any interest payable to tenants thereon.


**Certificate** means the Certificate of Formation of the Company filed with the Filing Office on August 9, 2018, as such certificate may be amended from time to time.

**Closing Date** or **Closing** has the meaning set forth in the Preliminary Statement.

**Co-Managing Member** means Saigebrook Canova, LLC, a Texas limited liability company, and any other Person admitted as a co-managing member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including a Replacement Managing Member.

**Co-Managing Member Pledge** means the Pledge and Security Agreement dated as of the date hereof by the Co-Managing Member for the benefit of the Investor Member in the form of Exhibit G-1, wherein the Co-Managing Member pledges and grants a first priority security interest in the Co-Managing Member’s Interest in the Company to secure the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement.

**Code** means the Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of succeeding law.

**Company** means Canova Palms, LLC, a Texas limited liability company.

**Completion** means the date on which all of the following have occurred, in the reasonable judgment of the Investor Member; (i) Substantial Completion has been achieved; (ii) the lien-free and defect-free completion of Construction of the Apartment Complex in a good and workmanlike manner, in compliance with the Plans and Specifications with only such immaterial variations as to which Consent is not required under this Agreement and other changes approved by the Investor Member in accordance with the terms and provisions of this Agreement and the terms and provisions of the Project Documents; (iii) the issuance of all
necessary permanent certificates of occupancy (with no outstanding issues relating to improvements of the Apartment Complex) from the applicable governmental jurisdictions and authorities for the Apartment Complex, allowing for immediate occupancy of one hundred percent (100%) of the Units, and any other written acknowledgement required by the Project Documents that the Apartment Complex has been completed satisfactorily and Placed in Service; (iv) delivery and installation in the Apartment Complex of all necessary and appropriate fixtures, equipment and personal property, including, without limitation, installation of all required appliances in the residential units in the Apartment Complex has occurred; (v) all amounts owing to the Contractor for the construction or rehabilitation of the Apartment Complex have been or will be with the Fourth Installment paid-in-full, as evidenced by a final application for payment (as evidenced by the Architect’s Certificate for Payment AIA Forms G702 and G703); (vi) the payment and release of all liens of subcontractors, materialmen, and other providers of labor, equipment, material and/or services to the Land and the Apartment Complex as evidenced by the receipt of all unconditional lien releases from all such subcontractors, materialmen and all other providers of labor, equipment, material and/or services to the Land and the Apartment Complex and (vii) the Completion Documentation has been provided to, and approved by, the Investor Member, with such approval not to be unreasonably withheld.

**Completion Date** means the date on which Completion is achieved.

**Completion Documentation** means any documentation that the Investor Member may reasonably require to demonstrate that the criteria for Completion have been satisfied, including but not limited to: (i) fully-executed AIA documents G704, G706, G706A, and (if a payment and performance bond had been issued) G707; (ii) a letter from the Contractor to the Company stating that the Contractor’s warranty has commenced; (iii) a letter from the Architect to the Company stating that all “work” described in the Construction Contract, including completion of all “punch work,” has been completed; (iv) the ALTA As-Built Survey; (v) electronic copies of the “as-built” plans and specifications; (vi) if applicable, chain-of-custody and disposal records for any Hazardous Material disposal; (vii) engineer certification pertaining to soil compaction and concrete stress testing; (viii) if applicable, written approval by appropriate professionals pertaining to the fulfillment of any “green building” or EnergyStar requirements; (ix) if requested by the Investor Member, or otherwise if required by the municipality, written approvals of completed work from the mechanical, electrical, plumbing, and/or landscape design professionals; (x) if applicable in the State, a copy of the filed public notice of completion; and (xi) if requested by the Investor Member due to reasonable concerns about the as-completed Apartment Complex’s compliance with Access Laws, an Access Laws Certification.

**Compliance Period** means with respect to each building in the Apartment Complex, the period of fifteen (15) taxable years beginning with the first taxable year of the Credit Period, as more particularly defined in Code Section 42(i).

**Consent** means the prior written consent or approval of the Investor Member at its sole discretion (except where otherwise stated) and/or any other Member, as the context may require, to do the act or thing for which the consent is solicited.

**Construction** means construction, renovation or rehabilitation, as applicable, of the Apartment Complex.
**Construction Contract** means the [Partnership’s Construction Contract] with the General Contractor’s.

**Construction Loan Draw** has the meaning set forth in Section 4.4.

**Construction Loan Closing** means the date upon which the Construction Loan is closed and the initial disbursement is made thereunder. The Construction Loan Closing is anticipated to occur on or before the Closing Date.

**Construction Period** means the period commencing on Construction Loan Closing and ending on the Completion Date.

**Continued Compliance Sale** has the meaning set forth in Section 5.5.

**Contractor** means, collectively, General Contractor and such other contractor subject to the Consent of the Investor Member.

**Contribution Date** has the meaning set forth in Section 4.13.

**Controlling Interest** means the power to direct the management and policies of any Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

**Controlling Person** has the meaning given to it in the context of Section 15 of the Securities Act of 1933, as amended.

**Conversion** means the first date upon which each of the following shall have occurred as reasonably determined and approved in writing by the Investor Member: (a) the Completion Date, (b) the BBVA Loan shall have been converted to its permanent phase in accordance with Section 8.4(a), (c) amortization of the BBVA Loan shall commence within thirty (30) days of Conversion, (d) the full disbursement of the HOME Loan, and (e) such other conditions as the Investor Member may require.

**Cost Certification** means the written certification of the Accountants, in form and substance satisfactory to the Investor Member, as to the itemized amounts of the acquisition, construction and development costs of the Apartment Complex and the Eligible Basis and Applicable Percentage pertaining to each building in the Apartment Complex, together with evidence of submission thereof to the Agency.

**Cost Savings** means the amount, if any, by which Permitted Sources exceed Development Costs.

**Counsel for the Company** means Shutts & Bowen LLP or such other firms as may be engaged by the Managing Member with Consent of the Investor Member.

**Credit Period** means the “credit period” with respect to each of the buildings in the Apartment Complex, as defined in Code Section 42(f).
**DDF Election** has the meaning set forth in Section 8.1(b).

**Debt Service Coverage Ratio** means, for the applicable period, the Net Operating Income divided by the Debt Service Expense. The calculation of the Debt Service Coverage Ratio shall be prepared by the Managing Member and approved in good faith by the Investor Member in its sole discretion, notwithstanding any other provision herein to the contrary.

**Debt Service Expense** means, with respect to any period, the debt service expense incurred by the Company on an accrual basis, including interest expense and required principal payments, late charges and any other fees and expenses incurred during such period and solely relating to the BBVA Loan; provided that where the Debt Service Expense is being calculated for purposes of Rental Achievement and Loan sizing pursuant to Section 8.4(a) for the period prior to Rental Achievement (other than in connection with calculation of Development Costs), it shall equal the Debt Service Expense that would have been incurred by the Company if Rental Achievement (assuming the anticipated BBVA Loan terms at the time of the calculation) had occurred prior to such period.

**Default IM Loans** means IM Loans (or portions thereof) made pursuant to Section 4.12 that arise from a default by the Managing Member in its obligations to the Company under this Agreement. For example, an IM Loan made to fund Operating Deficits that the Managing Member failed to fund in breach of the Operating Deficit Guaranty shall constitute a Default IM Loan.

**Deferred Development Fee** means the deferred portion, if any, of the Development Fee payable by the Company to the Developer pursuant to the Development Agreement and Article 14. The amount of the Deferred Development Fee is expected to be $245,024.

**Deficit Restoration Contribution** has the meaning set forth in Section 4.2(c)(ii).

**Deficit Restoration Obligation** has the meaning set forth in Section 4.2(c)(ii).

**Developer** means, collectively, Saigebrook Development, LLC, a Florida limited liability company and O-SDA Industries, LLC, a Texas limited liability company.

**Developer Pledge** means the Pledge and Security Agreement dated as of the date hereof by the Developer for the benefit of the Investor Member in the form of Exhibit H.

**Development Agreement** means the Development Agreement dated as of February 1, 2019 between the Developer and the Company, in the form set forth in Exhibit E.

**Development Budget** means the construction, development and financing budget for the Apartment Complex, including, without limitation, the construction of the Apartment Complex, the furnishing of all personalty in connection therewith, and the operation of the Apartment Complex prior to Rental Achievement, which is attached hereto as Exhibit B, and any amendments thereto made with the Consent of the Investor Member.

**Development Costs** means all direct or indirect costs paid or accrued by the Company related to the acquisition of the Land and the development and Completion of the Apartment
Complex through and including Rental Achievement, including, without limitation, all amounts due under and pursuant to the Construction Contract, all costs of completing punchlist items regardless of when incurred and all direct or indirect costs paid or accrued by the Company related to the operation of the Apartment Complex prior to and including Rental Achievement, including, without limitation, the following: (i) costs of acquiring, financing, developing and constructing the Apartment Complex, as described in and as contemplated by the Plans and Specifications and the Project Documents, including, without limitation, any construction cost overruns, the cost of any change orders and all costs necessary to achieve Completion and Rental Achievement; (ii) all Debt Service Expense which is due and payable or accrues at any time prior to Rental Achievement; (iii) all costs, payments and deposits needed to avoid a default under the BBVA Loan, including, without limitation, all required deposits to satisfy any requirements of the BBVA Lender and the Investor Member to keep the BBVA Loan “in balance” prior to Rental Achievement; (iv) all monthly payments required to be made to the Replacement Reserve upon and prior to Rental Achievement; (v) all costs and expenses relating to remedying any environmental problem or condition of Hazardous Materials that existed on or prior to Rental Achievement; (vi) all costs, expenses and other charges incurred in connection with the operation of the Apartment Complex on or prior to Rental Achievement, including, without limitation, local taxes, utilities, mortgage insurance premiums and casualty and liability insurance premiums and other amounts which are required pursuant to the BBVA Loan; (vii) all other costs and expenses of the Company accrued on or prior to Rental Achievement, including, without limitation, legal fees, and fees of other professionals; (viii) any fees paid or due to the Managing Member and its Affiliates, including the Development Fee; (ix) all costs to achieve Construction Loan Closing, Conversion and Rental Achievement, including costs to date down Owner’s Title Policy; and (x) funding of the Operating Reserve, Rental Achievement Reserve (if applicable) and any other reserve in accordance with Section 5.10 hereof.

**Development Deficit** means, as of any date, the amount, if any, by which the Development Costs which the Company has an obligation to pay as of such date exceed the sum of Permitted Sources as of such date.

**Development Fee** means the fee payable by the Company to the Developer pursuant to the Development Agreement and as set forth in Section 5.9(a).

**Due Diligence Documents** means the documents requested and provided to the Investor Member in connection with its review of the transaction reflected herein.

**Economic Risk of Loss** has the meaning set forth in Regulation Section 1.752-2.

**Eligible Basis** has the meaning set forth in Code Section 42(d) and the Regulations and rulings thereunder.

**Entity** means any general partnership, limited partnership, corporation, limited liability company, joint venture, trust, business trust, cooperative, association, the State or any agency or political subdivision thereof.
**Environmental Documents** means that certain Phase I Environmental Site Assessment prepared by Terracon Consultants, Inc., of Dallas, Texas, [dated January 12, 2018 and updated on February 1, 2019.]

**Environmental Laws** means any law, regulation, code, license, permit, order, judgment, decree or injunction from any governmental authority relating to the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substance Control Act, the Safe Drinking Water Control Act, CERCLA, the Occupational Safety and Health Act and any other federal, state or local laws, regulations, ordinances or decrees governing Hazardous Material or hazardous substances or the protection or preservation of public and/or human health or the environment (including air, water, soil and natural resources) or the presence, transportation, recycling, storage, treatment, use, handling, disposal, release or threat of release, or exposure to Hazardous Material, in each such case which has the force of law and is in force at the date of this Agreement.

**Equity Lender** means the financial institution which advances funds to the Investor Member to pay its Capital Contribution obligations under this Agreement.

**Event of Bankruptcy** means, with respect to the Company, a Managing Member, the Management Agent, a Guarantor or a Person with a Controlling Interest in any of them (i) the voluntary or involuntary filing of a petition in bankruptcy by or against such person under the federal Bankruptcy Code (11 U.S.C. §§1101 et seq.), as amended, or any successor statute thereto, or the commission of an act of bankruptcy (except if the filing of the petition in bankruptcy or act of bankruptcy is susceptible to cure or dismissal and is so cured or dismissed within ninety (90) days), (ii) the voluntary or involuntary commencement of an assignment for the benefit of creditors, a receivership or other insolvency proceeding pursuant to state law or as determined by court proceedings; or (iii) with respect to a Managing Member, any of the following:

(a) The making of an assignment for the benefit of creditors or the filing of a voluntary petition in bankruptcy by the Managing Member;

(b) The filing of an involuntary petition in bankruptcy against the Managing Member which is not dismissed within ninety (90) days after filing or the adjudication of the Managing Member as a bankrupt or insolvent;

(c) The filing by the Managing Member of a petition or answer seeking for the Managing Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule;

(d) The filing by the Managing Member of an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Managing Member in any proceeding of a nature described under sub-paragraph (c) above;

(e) The seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator by any Person with a Controlling Interest in the Managing Member or of all or a substantial part of the Managing Member’s properties;
(f) The commencement of a proceeding against the Managing Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or rule not dismissed within ninety (90) days after commencement of the proceeding;

(g) The appointment, without the Managing Member’s Consent, of a trustee, receiver or liquidator, either of the Managing Member or of all or a substantial part of the Managing Member’s properties, which is not vacated or stayed on or before the ninetieth (90th) day after such appointment and, if stayed, is not vacated on or before the ninetieth (90th) day after expiration of the stay;

(h) The inability of the Managing Member to pay its debts as they become due;

(i) The Managing Member becoming “insolvent” by the taking of any action or the making of any transfer or otherwise, as insolvency is or may be defined pursuant to the Federal Bankruptcy Code, the Uniform Fraudulent Transfers Act, any similar state or federal act or law, or the ruling of any court, or

(j) If either (I) any one or more judgments or orders against the Managing Member with respect to a claim or claims involving in the aggregate liabilities exceeding $50,000.00, which judgment or order is not covered in full by insurance or is not stayed, bonded, paid or discharged within thirty (30) days after such judgment or order, or (II) any writ of attachment or execution or any similar process is (A) issued or levied against such Person’s property and (B) is not discharged or stayed within thirty (30) days thereof.

**Event of Default** means an event of default listed in Section 7.1.

**Excess IM Loan Amount** means the amount, if any, by which the outstanding balance of all IM Loans, including principal and accrued interest, exceeds the outstanding balance of all MM Loans, including principal and accrued interest.

**Excess MM Loan Amount** means the amount, if any, by which the outstanding balance of all MM Loans, including principal and accrued interest, exceeds the outstanding balance of all IM Loans, including principal and accrued interest.

**Extended Use Agreement** means the extended low-income housing commitment executed by the Company and the Agency related to the Apartment Complex, which commitment satisfies the requirements of Code Section 42(h)(6)(B) which is required to be recorded prior to the end of the first year in which Housing Tax Credits are claimed.

**Facility** has the meaning given to it in CERCLA, and shall also include any meaning given to it in any similar state or local statutes, ordinances or regulations.

**Fifth Installment** has the meaning set forth in Section 4.2(b)(v).

**Filing Office** has the meaning set forth in the Preliminary Statement.
FinCen has the meaning set forth in Section 6.1(ggg).

First Installment has the meaning set forth in Section 4.2(b)(i).

Forms 8609 means the IRS Forms 8609 issued by the Agency for each residential building of the Apartment Complex which allocates Housing Tax Credits to such residential building.

Fourth Installment has the meaning set forth in Section 4.2(b)(iv).

Funding Conditions means the conditions to funding of the Investor Member’s Capital Contributions as set forth on Exhibit C hereto.

General Contractor means Maker Bros., LLC of [Addison, Texas], pursuant to the General Contractor’s Construction Contract.

General Contractor’s Construction Contract means the AIA Standard Form of Agreement Between Owner and Contractor dated [______________], by and between the Company and the General Contractor relating to the construction of the Apartment Complex, and subject to the Consent of the Investor Member.

Government Official means an officer, employee or official of a government, government owned or controlled entity, political party or public international organization, or a candidate for political office.

Gross Operating Revenues means, with respect to any given period of time, actual monthly collections from the customary operations of the Apartment Complex, including, without limitation, any and all of the following: (i) rent paid by tenants; (ii) rental assistance subsidy payments that are actually paid during such period or up to 90 days accrual; (iii) late charges and interest paid by tenants; (iv) rents, receipts and fees from cellular towers, laundry facilities and similar items; (v) fees from Apartment Complex amenities, including parking, cable television and telephone revenues; and (vi) earnings on the Replacement Reserve, Operating Reserve, Rental Achievement Reserve (if applicable) or other reserves, accounts and investments of the Company; (vii) tenant security deposits forfeited by tenants or applied against amounts due from tenants; and (viii) any rental assistance subsidy payments received by the Company in excess of maximum rents allowed under Section 42 of the Code. Gross Operating Revenues shall not include any revenues from condemnation or casualty proceeds (other than rental interruption insurance), any cash advances from the Company, refunds or rebates from suppliers or vendors, revenue from the sale of any personal or real property of the Company. Gross Operating Revenues shall not include prepaid rent until such time the rent is due. For purposes of determining whether Rental Achievement has occurred, and the applicable Debt Service Coverage Ratio at any time, Gross Operating Revenues shall not exceed the amount of Gross Operating Revenues that could have been achieved by applying a 7% vacancy rate to potential gross income and shall specifically exclude (1) any non-project based rental assistance subsidy payments received by the Company in excess of maximum rents allowed under Section 42 of the Code, (2) fees from parking in excess of the amount underwritten by the Investor Member to be included in Gross Operating Revenues, (3) non-recurring or unpredictable sources of income such as late fees, penalties, security deposits, interest income on security deposits,
prepaid rent and rental receipts prior to the month to which they relate, tenant application fees, interest or other income earned on investment of Company funds, and (4) rents paid by (a) any commercial space tenant, and (b) any tenant in a Housing Tax Credit Unit who does not qualify as low income under the requirements of Section 42 of the Code and the Project Documents.

**Groundbreaking Activities** has the meaning set forth in Section 6.1(eee).

**Guarantors** means, jointly and severally, the Co-Managing Member, the Administrative Member, the Developer, Lisa M. Stephens, individually and Megan D. Lasch, individually.

**Guaranty** means the guaranty of the performance of certain of the obligations of the Managing Member under this Agreement and the Developer under the Development Agreement for the benefit of the Investor Member given by the Guarantors, which Guaranty is in the form of Exhibit F.

**Hazardous Material** has the collective meanings given to the terms “hazardous material”, “hazardous substances” and “hazardous wastes” in CERCLA, and to the term “radioactive materials” (including, without limitation, any source and special nuclear by-product material) as defined by or in the context of the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., as amended or hereafter amended, and also includes any hazardous, toxic or polluting contaminant, substance or waste, including without limitation any solid waste, toxic substance, hazardous substance, hazardous material, hazardous chemical, pollutant or hazardous or acutely hazardous waste defined or qualifying as such in (or for purposes of) any Environmental Law. In addition, the term “Hazardous Material” also includes, but is not limited to, petroleum (including, without limitation, crude oil and any fraction thereof), petroleum products, asbestos containing materials, microbial contaminants, polychlorinated biphenyls or lead-based paint, radon and any other substance known to be hazardous.

**HOME Act** has the meaning set forth in Section 6.1(q).

**HOME Lender** means the City of Irving, Texas, in its capacity as holder of the HOME Loan, or its successors or assigns in such capacity, or such other HOME Lender subject to the Consent of the Investor Member.

**HOME Loan** means the construction and permanent loan in the anticipated principal amount of $1,000,000 to be made to the Company by the HOME Lender in part at the Construction Loan Closing, which is to be evidenced by the promissory note given by the Company to the HOME Lender at the Construction Loan Closing, and which is to be secured by the HOME Mortgage and other related security documents and financing statements, the terms of which are subject to the Consent of the Investor Member.

**HOME Minimum Set-Aside Test** means the HOME Program set aside test required to be met by the Apartment Complex as set forth in the [HOME Regulatory Agreement] entered or to be entered into between the Company and the HOME Lender in connection with the HOME Loan.
**HOME Mortgage** means the mortgage or deed of trust to be given by the Company at the Construction Loan Closing in favor of the HOME Lender, as holder of the HOME Loan, securing the HOME Loan.

**HOME Program** means the HOME Investment Partnerships Program established under the Cranston Gonzalez National Affordable Housing Act of 1990.

**Housing Tax Credit Compliance Guaranty** means the guaranty of the Managing Member to make payments described in Section 8.3.

**Housing Tax Credit Disallowance Event** means (a) the filing of a tax return by the Company or an amendment by the Company to a tax return evidencing a reduction in the Qualified Basis of the Apartment Complex causing a recapture or disallowance of Housing Tax Credits previously allocated to the Investor Member, (b) a reduction in the Qualified Basis or a change in the Applicable Percentage of the Apartment Complex following an assessment or audit by the Service which results in the assessment of a deficiency by the Service against the Company with respect to any Housing Tax Credits previously claimed in connection with the Apartment Complex, unless the Company shall timely file a petition with respect to such deficiency with the United States Tax Court or any other federal court of competent jurisdiction and the collection of such assessment shall be stayed pending the disposition of such petition, (c) a decision by the United States Tax Court or any other federal court of competent jurisdiction upholding the assessment of a deficiency against the Company associated with a reduction in Qualified Basis of the Apartment Complex or change in the Applicable Percentage with respect to any Housing Tax Credits previously claimed in connection with the Apartment Complex, unless the Company shall timely appeal such decision and the collection of such assessment shall be stayed pending the disposition of such appeal, or (d) the decision of a federal court of competent jurisdiction affirming such decision.

**Housing Tax Credit Excess** has the meaning set forth in Section 4.2(d).

**Housing Tax Credit Price** means $0.94.

**Housing Tax Credit Shortfall** means any reduction in Housing Tax Credits of which 99.99% are allocable to the Investor Member as a result of (a) Actual Housing Tax Credits being less than the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits), or (b) as a result of a Housing Tax Credit Disallowance Event.

**Housing Tax Credit Shortfall Payment** means any amounts payable by reason of the provisions of Section 4.2(d) or Section 8.3 as a result of a Housing Tax Credit Shortfall.

**Housing Tax Credit Units** has the meaning set forth in Section 6.1(p).

**Housing Tax Credits** means the low-income housing tax credits allowable to the Company pursuant to Code Section 42.

**Hunt** means Hunt Capital Partners, LLC, a Delaware limited liability company, or its successor in interest.
**Hunt Entity** means an Affiliate of Hunt or the Investor Member.

**Hunt Indemnified Parties** means the Investor Member, and its Affiliates, and all past and present officers, directors, managers, employees, partners, agents, shareholders, members, trustees, predecessors, successors, subrogees, attorneys, insurance carriers and assigns of the Investor Member and its Affiliates. For the avoidance of doubt, any Person holding more than 10% of the investor member interests in the Investor Member is an Affiliate of the Investor Member and shall constitute one of the Hunt Indemnified Parties.

**IM Loans** has the meaning set forth in Section 4.12.

**Immediate Family** means with respect to any Person, such Person’s spouse, parents, parents-in-law, descendants, nephews, nieces, brothers, sisters, brothers-in-law, sisters-in-law, children-in-law and grandchildren-in-law.

**Imputed Underpayment** means that amount of tax finally determined to be due under Section 6225 of the Code with respect to adjustments to the Company’s items of income, gain, loss, deduction, or credit for any Company taxable year.

**Initial 100% Occupancy** means that Construction has been completed and one hundred percent (100%) of all units (excluding the Market Rate Units) in the Apartment Complex including the Housing Tax Credit Units shall have been leased to and shall have been physically occupied by Qualified Tenants.

**Initial Operating Reserve Amount** has the meaning set forth in Section 5.10(b).

**Initiating Member** has the meaning set forth in Section 4.13.

**Installment or Installments** has the meaning set forth in Section 4.2(b).

**Interest** means the entire interest of a Member in the Company at any particular time, including the right of such Member to any and all benefits to which a Member may be entitled hereunder and the obligation of such Member to comply with the terms of this Agreement.

**Investor Member** means HCP-ILP, LLC, a Nevada limited liability company, its successors and/or assigns and any Person or Persons who replaces it as a Substitute Investor Member.

**Involuntary Withdrawal** has the meaning set forth in Section 7.2(b)(i).

**Land** means the tract of land currently owned or leased or to be purchased or leased by the Company upon which the Apartment Complex will be located, as more particularly described in Exhibit A hereto.

**Lender** means any Person who makes a loan to the Company for so long as such loan remains outstanding, or its successors and assigns in such capacity.

**Lending Member** has the meaning set forth in Section 4.16.
**Limited Recourse Liability** has the meaning set forth in Section 8.3(d).

**Liquid Assets** means cash or cash equivalents that can be converted to cash within forty-eight (48) hours.

**Liquidator** means the Managing Member or, if there is none at the time in question, such other Person who may be appointed in accordance with applicable law and who shall be responsible for taking all action necessary or appropriate to wind up the affairs of, and distribute the assets of, the Company upon its dissolution.

**Loans** means, collectively, the BBVA Loan and the HOME Loan.

**Management Agent** means Accolade Property Management, Inc., a Texas corporation, and/or any successor or assign who is selected by the Managing Member with the Consent of the Investor Member to provide management services with respect to the Apartment Complex in accordance with Article 16.

**Management Agreement** means the agreement between the Company and the Management Agent substantially in the form attached hereto as Exhibit I, providing for the marketing and property management of the Apartment Complex by the Management Agent.

**Management Fee** means the fee payable by the Company to the Management Agent pursuant to the Management Agreement.

**Managing Member** means the Co-Managing Member and the Administrative Member and any other Person admitted as a managing member pursuant to this Agreement, and their respective successors pursuant to this Agreement, including the Replacement Managing Member.

**Managing Member Pledge** means the Co-Managing Member Pledge and the Administrative Member Pledge.

**Managing Member’s Special Capital Contribution** has the meaning set forth in Section 4.1(c).

**Market Rate Units** has the meaning set forth in Section 6.1(p)(ii).

**Member** means the Co-Managing Member, the Administrative Member, and the Investor Member.

**Member Loans** means collectively the IM Loans and the MM Loans.

**Minimum Set-Aside Test** means the set aside test selected by the Company pursuant to Code Section 42(g) whereby at least forty percent (40%) of the Housing Tax Credit Units in the Apartment Complex must be occupied by individuals with incomes equal to sixty percent (60%) or less of area median income; provided, that five (5) of the Housing Tax Credit Units must be occupied by persons whose incomes are at or below 30% of the established median gross income, twenty (20) of the Housing Tax Credit Units must be occupied by persons whose
incomes are at or below 50% of the established median gross income and twenty-five (25) of the Housing Tax Credit Units must be occupied by persons whose incomes are at or below 60% of the established median gross income, as set forth in the Application and in all cases as adjusted for family size. There will be eight (8) Market Rate Units.

**MM Incentive Management Fee** means the fee payable by the Company to the Managing Member pursuant to the provisions of Sections 5.9(b) and 14.1(a).

**MM Loans** have the meaning set forth in Section 4.11.

**Net Operating Income** means, with respect to any given period of time, the aggregate Gross Operating Revenues for such period of time minus the aggregate Operating Expenses for such period of time.

**New Allocation** has the meaning set forth in Section 13.5(b).

**No Cure Sections** has the meaning set forth in Section 7.2(c)(i).

**Non-Initiating Members** has the meaning set forth in Section 4.13.

**Notice, Notification and Notify** each have the meaning set forth in Section 19.1.

**Notice of Default** has the meaning set forth in Section 7.2(a).

**O&M** has the meaning set forth in Section 6.2.

**Occupancy Commencement Date** means the first date a Unit is leased and occupied.

**Operating Deficit** means, for any specified period of time, the amount by which Cash Expenditures for such period exceeds Cash Receipts for such period.

**Operating Deficit Guaranty** means the guaranty of the Managing Member to fund Operating Deficits during the Operating Deficit Guaranty Period.

**Operating Deficit Loan** means a loan from a Managing Member to the Company to fund Operating Deficits pursuant to Section 8.2.

**Operating Deficit Loan Cap** has the meaning set forth in Section 8.2.

**Operating Deficit Guaranty Period** means the period commencing on Rental Achievement and terminating sixty (60) months after Rental Achievement, provided that such sixty (60) month period shall be extended for additional periods of twelve (12) consecutive months unless and until (i) the Company achieves an average Debt Service Coverage Ratio of at least 1.15 to 1.0 during the last twelve (12) calendar months of the Operating Deficit Guaranty Period and (ii) the balance of the Operating Reserve is at least the $236,000.

**Operating Expenses** means, with respect to any given period of time, all expenses of the Company in connection with the ownership, operation, leasing and occupancy of buildings in the Apartment Complex attributable to such period as determined on an accrual basis, except that...
seasonal expenses shall be averaged over the entire year), excluding Debt Service Expense and all expenses and payments set forth in Section 14.1(a), but including, without limitation, any and all of the following: (i) general real estate taxes; (ii) special assessments or similar charges; (iii) personal property taxes, if any; (iv) sales and use taxes applicable to such operating expenses; (v) cost of utilities for the Apartment Complex; (vi) maintenance and repair costs of the Apartment Complex (to the extent not funded from the Replacement Reserve); (vii) operating and management expenses and fees; (viii) premiums of insurance carried on or with respect to the Apartment Complex; (ix) marketing costs, leasing commissions and advertisement and promotional costs, to obtain leases and the cost of work performed to ready space in the Apartment Complex for occupancy under leases; (x) accounting and auditing fees and costs, attorneys’ fees and other administrative and general expenses and disbursements of the Company (excluding the Asset Management Fee and the MM Incentive Management Fee) in connection with the ownership, operation, leasing and management of the Apartment Complex and the Company; (xi) amounts required to fund the Replacement Reserve and any other reserve required pursuant hereto or under the Project Documents; and (xii) any capital expenditures not funded from reserves. For purposes of calculating the Debt Service Coverage Ratio at any time, Operating Expenses (excluding annual deposits for Replacement Reserves) means the greater of (1) actual Operating Expenses, as calculated in the preceding sentence, inclusive of fully assessed real estate taxes, or (2) $[4,276] [Drafter’s Note: Subject to final underwriting] per unit times 58 per year plus actual real estate taxes if available, otherwise $[5,345] [Drafter’s Note: Subject to final underwriting] per unit per year.

Operating Reserve has the meaning set forth in Section 5.10(b).

Opinion of Counsel means the opinion(s) of counsel to be rendered by Counsel for the Company and the Managing Member to the Investor Member and its counsel, as required herein, in form and substance satisfactory to the Investor Member.

Original Agreement has the meaning set forth in the Preliminary Statement.

Partnership Minimum Gain means the amount determined by computing, with respect to each Partnership Nonrecourse Liability, the amount of gain, if any, that would be realized by the Company if it disposed of (in a taxable transaction) the property subject to such liability in full satisfaction of such liability, and by then aggregating the amounts so computed. Such computations shall be made in a manner consistent with Regulation Sections 1.704-2(d) and (k).

Partnership Nonrecourse Debt means any Company liability (a) that is considered nonrecourse under Regulation Section 1.1001-2 or for which the creditor’s right to repayment is limited to one or more assets of the Company and (b) for which any Member or Related Person bears the Economic Risk of Loss.

Partnership Nonrecourse Debt Minimum Gain means the amount of partner nonrecourse debt minimum gain and the net increase or decrease, as the case may be, in partner nonrecourse debt minimum gain determined in a manner consistent with Regulation Sections 1.704-2(d), 1.704-2(g)(3), 1.704-2(i)(3) and 1.704-2(k).
**Partnership Nonrecourse Liability** means any Company liability (or portion thereof) for which no Member or Related Person bears the Economic Risk of Loss.

**Partnership Representative** has the meaning set forth in Section 15.2(a).

**Payment Date** means the date which is seventy-five (75) days after the end of the Company’s fiscal year with respect to the preceding fiscal year.

**Percentage Interest** means ninety-nine and ninety-nine hundredths percent (99.99%) as to the Investor Member, sixty one-thousandth percent (0.0060%) as to the Co-Managing Member and forty one-thousandth percent (0.0040%) as to the Administrative Member; provided, however, if a Replacement Managing Member replaces the Managing Member pursuant to Section 7.2(b)(i) and (ii), then the Replacement Managing Member shall have a Percentage Interest of eight one-thousandth percent (0.01%).

**Permanent Loan Shortfall** has the meaning set forth in Section 8.4(b).

**Permitted Sources** means (i) proceeds of the Loans; (ii) the right to defer the Development Fee pursuant to this Agreement and the Development Agreement; (iii) the Capital Contributions required by the Members under this Agreement (other than the Special Additional Capital Contribution, the Managing Member’s Special Capital Contribution); and (iv) Cash Receipts prior to Rental Achievement.

**Person** means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such individual or Entity as the context may require.

**Placed in Service** or **Placement in Service** means the placement in service of all dwelling units in the Apartment Complex for purposes of Section 42 of the Code.

**Placed in Service Date** means the date by which all dwelling units in the Apartment Complex have been Placed in Service.

**Plans and Specifications** means the plans and specifications for the Apartment Complex stamped with the seal of an architect and/or engineer, which have been approved in writing by the Investor Member, and any changes thereto made in accordance with the terms of this Agreement. The Plans and Specifications approved by the Investor Member, and the date thereof, are listed on Exhibit P.

**Pledged Payments** has the meaning set forth in Section 5.11.

**Predevelopment Loan** means the pre-development loan made to the Company by HCP-ILP, LLC, a Nevada limited liability company on January 30, 2019 in the principal amount of $400,000, evidenced by the promissory note given by the Company to the HCP-ILP, LLC, a Nevada limited liability company, and to be paid off with proceeds of the First Installment.

**Prime Rate** means the “prime rate” of interest as published in The Wall Street Journal from time to time.
**Project Documents** means and includes (i) all documentation related to the Loans; (ii) the Construction Contract, the Architect’s Agreement, the Development Agreement, the Guaranty, the Management Agreement and documentation relating thereto, (iii) the Plans and Specifications, (iv) the Application, (v) the reservation, Carryover Allocation, Carryover Certification and related documents pertaining to the Housing Tax Credits, (vi) the Extended Use Agreement, (vii) the Section 811 Subsidy Contract, (viii) [Reserved], (ix) all other instruments delivered to (or required by) any Lender and/or any Agency, (x) the Managing Member Pledge and the Developer Pledge, (xi) the Purchase Option Agreement, and (xii) all other documents relating to the Apartment Complex and by which the Company is bound, in each case as amended or supplemented from time to time.

**Projected Housing Tax Credits** means Housing Tax Credits that the Managing Member has projected to be the total amount of the Housing Tax Credits which will be allocated to the Investor Member by the Company, constituting 99.99% of the Housing Tax Credits which are projected to be available to the Company. The Projected Housing Tax Credits as of the date hereof are allocated to the following Fiscal Years in the following respective amounts (subject to adjustment if the Projected Housing Tax Credits are revised pursuant to Section 4.2(d)):

- **2020:** $578,995
- **2021-2029:** $890,761
- **2030:** $311,766

**Purchase Option Agreement** means the Purchase Option Agreement attached hereto as Exhibit O.

**Purposes** means the various reasons and purposes for which the Company has been formed as recited in Section 3.1.

**Qualified Basis** means that portion of the Eligible Basis of the Apartment Complex upon which the Company is able to receive Housing Tax Credits, as more particularly defined in Code Section 42(c).

**Qualified Income Offset Item** means (1) an allocation of loss or deduction that, as of the end of each year, reasonably is expected to be made (a) pursuant to Section 704(e)(2) of the Code to a donee of an interest in the Company, (b) pursuant to Section 706(d) of the Code as the result of a change in any Member’s Interest, or (c) pursuant to Regulation Section 1.751-1(b)(2)(ii) as the result of a distribution by the Company of unrealized receivables or inventory items and (2) a distribution that, as of the end of such year, reasonably is expected to be made to a Member to the extent it exceeds offsetting increases to such Member’s Capital Account which reasonably are expected to occur during or prior to the Company taxable year in which such distribution reasonably is expected to occur.

**Qualified Tenant** means a tenant (i) with income on the date of the initial occupancy of the tenant’s unit not exceeding that permitted by the Minimum Set-Aside Test or the HOME Minimum Set-Aside Test, as applicable, and any other additional set-asides applicable to the Apartment Complex, who leases a Unit in the Apartment Complex under a lease having an
original term of not less than twelve (12) months and at a rent which satisfies the Rent Restriction Test and (ii) complying with any other requirements imposed by the Project Documents.

**Recourse Obligations** has the meaning set forth in Section 13.4(a).

**Regulations** means the regulations promulgated under the Code.

**Related Person** means a Person related to a Member within the meaning of Regulation Section 1.752-4(b).

**Rent Restriction Test** means the test pursuant to Code Section 42(g) whereby the gross rent, including utility allowances, charged to tenants of Housing Tax Credit Units in the Apartment Complex is not allowed to exceed thirty percent (30%) of the imputed income limitation levels applicable to such Housing Tax Credit Units based on the applicable area median income levels under the Minimum Set-Aside Test or the HOME Minimum Set-Aside Test, as applicable.

**Rental Achievement** means the first date on which the Apartment Complex has attained, as reasonably determined and approved by the Investor Member in writing, all of the following: (a) either (i) a 1.15 to 1.00 Debt Service Coverage Ratio with respect to the BBVA Loan, each month for a period of three (3) consecutive calendar months of operations ending within 60 days immediately preceding the anticipated date of Rental Achievement, or (ii) full funding of the Rental Achievement Reserve, (b) physical occupancy of at least ninety percent (90%) of the units in the Apartment Complex each month over the same three (3) month period, including at least ninety percent (90%) physical occupancy of the Housing Tax Credit Units each month over the same three (3) month period by Qualified Tenants, (c) Conversion, (d) Initial 100% Occupancy, (e) no continuing Event of Default hereunder, and (f) continuing compliance with the Minimum Set Aside Test.

**Rental Achievement Reserve** has the means set forth in Section 5.10(d).

**Replacement Managing Member** has the meaning set forth in Section 7.2(b)(ii).

**Replacement Reserve** means (a) the Replacement Reserve to be established by the Company and administered in accordance with Section 5.10(a), and (b) any funds of the Company held by any Lender as a reserve for repairs and replacements.

**Revised Projected Housing Tax Credits** has the meaning set forth in Section 4.2(d)(vii).

**Second Installment** has the meaning set forth in Section 4.2(b)(ii).

**Section 4.16 Capital Contributions** has the meaning set forth in Section 4.16.

**Section 811 Subsidy Contract** means a Section 811 Project Rental Assistance Program Owner Participation Agreement entered to by the Managing Member, with the Consent of the Investor Member, to provide rental subsidy for 10 units restricted at 50% or 60% of the
established median gross income and occupied by Eligible Tenants (as defined in the Section 811 Subsidy Contract) for a term of 30 years.

**Service** means the Internal Revenue Service.

**Shortfall Year** has the meaning set forth in Section 4.2(d)(ii).

**Special Additional Capital Contribution** has the meaning set forth in Section 4.2(c).

**State** means the State of Texas.

**Substantial Completion** means the date on which all of the following have occurred to the reasonable satisfaction of the Investor Member: (i) the issuance of all necessary certificates of occupancy (which may be temporary or conditional) from the applicable governmental jurisdictions and authorities for the Apartment Complex, allowing for immediate occupancy of one hundred percent (100%) of the Units; (ii) completion of all “work” described in the Construction Contract, with the exception of “punch work” items; (iii) AIA document G704 containing a list of all “punch work” items and cost estimates provided by the Architect to the Company, with a copy to the Investor Member; and (iv) any necessary radon mitigation has occurred and all planned and required actions pertaining to Hazardous Materials have been properly completed.

**Substantial Completion Date** means the date on which Substantial Completion was achieved.

**Substitute Investor Member** means any Person admitted to the Company as an Investor Member pursuant to Section 11.2.

**Tax Law Change** means any change in the Code which occurs after the date of this Agreement. A Tax Law Change includes any changes in the Regulations.

**Ten Percent Test** means, with respect to the Carryover Allocation of Housing Tax Credits, that the Company’s basis in the Apartment Complex, which shall be determined by the Accountants, as of the date which is one year from the issuance date of the Carryover Allocation or such earlier date required by the Credit Agency, is greater than ten percent (10%) of the reasonably expected basis of the Apartment Complex as provided in Section 42(h)(1)(E) of the Code.

**Third Installment** has the meaning set forth in Section 4.2(b)(iii).

**Title Commitment** means the commitment for title insurance issued by the Title Company evidencing ownership of the Apartment Complex in a form and substance acceptable to the Investor Member.

**Title Company** means First American Title Insurance Company.

**Title Policy** means the owner’s title insurance policy conforming to the requirements set forth in Exhibit Q to be issued to the Company by the Title Company pursuant to the Title
Commitment, which policy will, among other things, update the title of the Apartment Complex through a date not earlier than the Construction Loan Closing, provide for insurance in an amount equal to not less than $[11,588,838] and evidence the Company’s ownership of the Apartment Complex. The Title Policy shall be amended and, if available, its effective date brought forward in the manner set forth in this Agreement.

Uniform Act means the Texas Business Organizations Code, Title 3, Chapter 101, as may be amended from time to time during the term of the Company.

Units has the meaning set forth in Section 5.2(b).

USA Patriot Act means Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 of the United States of America, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

Vessel has the meaning given to it in CERCLA, and shall also include any meaning given to it in any similar state or local statutes, ordinances or regulations.

Voluntary Withdrawal means, as to any Managing Member, a Withdrawal or the assignment, pledge or encumbrance of any part of its Interest in violation of Section 9.1.

Withdrawal (including the forms “Withdraw,” “Withdrawing” and “Withdrawn”) means, as to a Managing Member, dissolution, liquidation, voluntary withdrawal or removal of the Managing Member from the Company for any reason, including whenever a Managing Member may no longer continue as Managing Member by law or pursuant to any terms of this Agreement. “Withdrawal” shall also mean the sale, assignment or transfer by a Managing Member of its interest as Managing Member.

Withdrawal Investor Member means Lisa M. Stephens, who is hereby withdrawing as Investor Member from the Company simultaneously with the admission of the Investor Member.

ARTICLE 2
NAME AND BUSINESS

2.1 Name; Continuation. The name of the Company is Canova Palms, LLC. The Members agree to continue the Company, which was formed pursuant to the provisions of the Uniform Act.

2.2 Admission. The Investor Member and Administrative Member are hereby admitted to the Company.

2.3 Withdrawal. The Withdrawal Investor Member hereby withdraws as a Member of the Company, and represents and warrants that she has no direct interest in the Company and is not directly entitled to any fees, distributions, compensation or payments from the Company and that she has no direct interest in any property or assets of the Company.
2.4 **Office and Resident Agent.** The principal office of the Company is 689 FM 3028, Millsap, Texas 76066 at which office there shall be maintained those records required by the Uniform Act to be kept by the Company. The Company may have such other or additional offices as The Managing Member shall deem desirable. The Managing Member may at any time change the location of the Company offices and shall give Notice thereof to the Investor Member. The Managing Member shall at all times maintain the principal office in the State.

(a) The name and address of the resident agent in the State for the Company for service of process is Antoinette M. Jackson, 811 Main Street, Suite 2900, Houston, Texas 77002.

2.5 **Term and Dissolution.** The term of the Company commenced August 8, 2018, the date of filing of the Certificate with the Secretary of State of the State, and shall continue in perpetuity, unless the Company is sooner dissolved in accordance with the provisions of this Agreement.

2.6 **Filing of Certificate.** Upon the execution of this Agreement by the parties hereto, the Managing Member shall take all actions necessary to assure the prompt filing of an amendment to the Certificate if and as required by the Uniform Act, including filing with the Secretary of the State of the State. All fees for filing shall be paid out of the Company’s assets. The Managing Member shall take all other necessary action required by law to perfect and maintain the Company as a limited liability company under the laws of the State, and shall register the Company under any assumed or fictitious name statute or similar law in force and effect in the State.

ARTICLE 3
PURPOSE OF THE COMPANY

3.1 **Purpose of the Company.** The purposes for which the Company has been formed and which shall determine its activities shall be the following: (a) to acquire, hold, invest in, construct, develop, improve, maintain, operate, lease, sell, mortgage and otherwise deal with the Apartment Complex; (b) to operate the Apartment Complex in accordance with Code Section 42 and any applicable Lender and Agency regulations and requirements; (c) to secure for the Investor Member the economic and tax advantages afforded by Code Section 42 pertaining to low income housing tax credits, and any other Federal or state tax credit programs, as applicable, and allocated under this Agreement; and (d) to assure all Members the economic, tax, investment and operational advantages allocated to them under this Agreement. The Company shall not engage in any other business or activity.

ARTICLE 4
MEMBERS, PERCENTAGE INTERESTS,
CAPITAL CONTRIBUTIONS,
MEMBER LOANS

4.1 **Managing Member.**

(a) **Name, Address and Percentage Interest.** The Co-Managing Member’s name and address is Saigebrook Canova, LLC, 220 Adams Drive Ste. 280 #138, Weatherford,
Amended and Restated Operating Agreement
Canova Palms, LLC

Texas 76086. The Co-Managing Member’s Percentage Interest is sixty one-thousandth percent (0.0060%). The Administrative Member’s name and address is O-SDA Canova, LLC, 5714 Sam Houston Circle, Austin, Texas 78731. The Administrative Member’s Percentage Interest is forty one-thousandth percent (0.0040%).

(b) Capital Contributions. Concurrently with the execution of this Agreement, each Managing Member shall make a Capital Contribution to the Company in an amount equal to $100.00. Each Managing Member represents and warrants that as of the date of this Agreement the balance of its Capital Account is $100.00.

(c) Managing Member’s Special Capital Contributions. If the Company has not paid all or part of the Deferred Development Fee when the final payment is due pursuant to the terms of the Development Agreement (i.e. by the earlier of thirteen (13) years following the Placed in Service Date or the date of liquidation of the Company) or, solely with respect to the Managing Member’s Special Capital Contribution, if the Managing Member Withdraws pursuant to Article 9 (including Involuntary Withdrawal), the Managing Member shall contribute to the Company an amount equal to the remaining balance of the Deferred Development Fee (the “Managing Member’s Special Capital Contribution”) and the Company shall thereupon pay the Deferred Development Fee. If the Managing Member fails to make the Managing Member’s Special Capital Contribution, such payment shall be deemed to have been made as of the applicable date. Notwithstanding the foregoing, the amount of the Managing Member’s Special Capital Contribution shall be reduced to the extent the Investor Member reasonably determines on or before the end of the first year of the Credit Period that any portion of the remaining balance of the Deferred Development Fee is not necessary to be included in Eligible Basis in order to allocate Projected Housing Tax Credits to the Investor Member throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Payments of the Deferred Development Fee pursuant to Section 14.1(a) shall be deemed applied first to the portion of the Deferred Development Fee represented by the Managing Member’s Special Capital Contribution, as adjusted herein, and then to the remaining balance of the Deferred Development Fee, if any. Other than as set forth in this Section 4.1(c) or as may be required by this Agreement, in no event shall any Managing Member make any additional Capital Contributions to the Company without the Consent of the Investor Member.

4.2 Investor Member.

(a) Name, Address and Percentage Interest. The Investor Member’s name and address is HCP-ILP, LLC. The address of the Investor Member is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436. The Investor Member’s Percentage Interest is ninety-nine and ninety-nine hundredths percent (99.99%).

(b) Capital Contributions. The Investor Member will make Capital Contributions to the Company, subject to adjustment as provided in Section 4.2(d), of $8,373,153 representing the product of the Projected Housing Tax Credits and the Housing Tax Credit Price which will be paid to the Company in five (5) installments (the “Installments”) as follows:
(i) **First Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $837,315 (the “First Installment”) upon the latest of (i) the Closing Date and (ii) satisfaction of the Funding Conditions relating to the First Installment, with such funds to be used solely for site acquisition, development and construction costs, including an expense reimbursement of $65,000 to the Investor Member or an Affiliate of the Investor Member for its review and approval costs in connection with the Closing, and to pay a portion of the Development Fee.

(ii) **Second Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $837,315 (the “Second Installment”), subject to reduction as provided in Section 4.2(d), after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Second Installment have been fully satisfied, with such funds to be used to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member.

(iii) **Third Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $837,315 (the “Third Installment”), subject to reduction as provided in Section 4.2(d), after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Third Installment have been fully satisfied, with such funds to be used first to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member, second to repay a portion of the BBVA Loan and to pay a portion of the Development Fee.

(iv) **Fourth Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $5,811,208 (the “Fourth Installment”), subject to adjustment as provided in Section 4.2(d) after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Fourth Installment have been fully satisfied, with such funds to be used first to pay hard and soft costs of the Construction as reasonably acceptable to the Investor Member, second to pay-down the BBVA Loan to its permanent phase, third to fully fund the Operating Reserve and fourth to pay a portion of the Development Fee.

(v) **Fifth Installment.** The Investor Member shall make a Capital Contribution in an amount equal to $50,000 (the “Fifth Installment”), subject to adjustment as provided in Section 4.2(d) after the Investor Member has reasonably determined in its good faith discretion that all of the Funding Conditions relating to the Fifth Installment have been fully satisfied, with such funds to be used to pay a portion of the Development Fee.

(vi) **Source of Funding of Installments.** The Investor Member, in its sole discretion, may fund any Installment on or prior to satisfaction of the Funding Conditions by providing funds from one or more of the following: (A) itself or (B) funds arranged by Hunt to be provided from any Entity as equity or debt but without any security interest in or lien on the Apartment Complex.

(vii) **Withholding of Capital Contributions.** The Investor Member may withhold any Installment if at any time it determines, in its sole discretion, that a Development Deficit exists or is projected to exist prior to such Installment, and shall not fund such
Installment until such Development Deficit or projected Development Deficit is cured by the Managing Member.

(c) Special Additional Capital Contributions and Investor Member Deficit Restoration Obligation.

(i) If, in any fiscal year of the Company, the Investor Member’s Capital Account balance may be reduced to or below zero, the Investor Member may, in its sole and absolute discretion, make a special additional Capital Contribution to the Company in an amount reasonably required to avoid the reduction of the Investor Member’s Account balance to or below zero (a “Special Additional Capital Contribution”).

(ii) Notwithstanding any other provision herein to the contrary, the Investor Member hereby agrees, pursuant to this Section 4.2(c), that if there is a deficit balance in its Capital Account as of the last day of 2019 and/or 2020, determined after taking into account all Capital Account adjustments for 2019 and/or 2020, the Investor Member shall be unconditionally obligated to restore the amount of such deficit by contributing to the Company the dollar amount of such deficit (a “Deficit Restoration Contribution”), as so determined, not later than the last day of the year in which the liquidation of the Company or the Investor Member’s Interest in the Company occurs (or, if later, within 90 days after the date of such liquidation) (the “Deficit Restoration Obligation”); provided, however, that in no event shall the Deficit Restoration Obligation exceed the unpaid Capital Contribution Obligations of the Investor Member, as adjusted pursuant to Section 4.2(d). Any subsequent Capital Contributions of the Investor Member made in 2019 and/or 2020 or thereafter shall reduce the Deficit Restoration Obligation on a dollar-for-dollar basis. If the dollar amount of such subsequent Capital Contributions equals or exceeds the Deficit Restoration Obligation, then the Deficit Restoration Obligation shall be deemed satisfied in full.

(iii) If the Investor Member makes a Special Additional Capital Contribution or a Deficit Restoration Contribution to the Company pursuant to this Section 4.2(c), the Investor Member shall receive a guaranteed payment pursuant to Section 4.9 for the use of its Special Additional Capital Contribution or Deficit Restoration Contribution, as applicable.

(d) Adjustment to Capital Contributions of the Investor Member.

(i) If upon the issuance of Forms 8609 by the Agency for any or all of the buildings comprising the Apartment Complex, or if upon delivery of the Cost Certification, the Investor Member (in its reasonable discretion) or the Accountants determine that there is a Housing Tax Credit Shortfall for the Credit Period because the Actual Housing Tax Credits available to the Investor Member pursuant to Section 42(a) of the Code are less than the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits for such year), the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment equal to the Housing Tax Credit Shortfall multiplied by the Housing Tax Credit Price. If upon such issuance of Forms 8609 by the Agency, the Investor Member (in its reasonable discretion) or the Accountants determine that the Actual Housing Tax Credits available to the Investor Member pursuant to Section 42(a) of the Code are greater than the
Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits for such year), giving rise to a “Housing Tax Credit Excess,” then the Investor Member’s Capital Contribution shall be increased by an amount equal to the Housing Tax Credit Price multiplied by the Housing Tax Credit Excess; provided, however, that any such increase shall be subject to the limitation set forth in Section 4.2(d)(vi) hereof.

(ii) In the event that there is a Housing Tax Credit Shortfall because the Actual Housing Tax Credits for any of 2020 or 2021 (determined separately for each year) are less than the Projected Housing Tax Credits for such year (or, if applicable, the Revised Projected Housing Tax Credits for such year) solely by reason that the Applicable Fraction for such year with respect to any buildings in the Apartment Complex were, by reason of the application of Section 42(f)(2) of the Code, lower than the Applicable Fraction projected in the Projected Housing Tax Credits (or Revised Projected Housing Tax Credits, if applicable) (each, a “Shortfall Year”), as determined by the Investor Member, upon receipt of final Company tax returns for the subject year or in advance of receipt of such final Company tax returns, estimated on a monthly basis by the Investor Member, the Service or the Accountants, the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment in an aggregate amount equal to the product of (x) Projected Housing Tax Credits (or if applicable, Revised Projected Housing Tax Credits) less Actual Housing Tax Credits delivered to the Investor Member for such Shortfall Year (determined separately for each year) and (y) $0.60. Notwithstanding the foregoing, if any building in the Apartment Complex does not achieve Initial 100% Occupancy by the end of the first year of the Credit Period for such building and, as a result, any portion of the Housing Tax Credits with respect to such building will be available over 15 years, then the reduction to the Investor Member’s Capital Contribution shall be the sum of (1) the amount determined under the first sentence of this Section 4.2(d)(ii), plus (2) the amount, if any, that the Projected Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits) for years 2020 (year 1) through 2030 (year 11) exceed the Housing Tax Credits (or, if applicable, the Revised Projected Housing Tax Credits) projected to be available in years 2020 (year 1) through 2029 (year 10), as calculated by the Investor Member at the end of the first year of the Credit Period.

(iii) If at any time the Investor Member (in its reasonable discretion) or the Accountants determine that, for any Fiscal Year or portion thereof during the Company’s operation, by reason of any event other than an event described in Sections 4.2(d)(i) and/or 4.2(d)(ii) hereof (but not including a Tax Law Change or a transfer by the Investor Member of its Interests), there is (a) a Housing Tax Credit Shortfall because the Actual Housing Tax Credits for such Fiscal Year or portion thereof are less than the Projected Housing Tax Credits, or the Revised Projected Housing Tax Credits, if applicable, for such Fiscal Year or portion thereof, including, without limitation, the Apartment Complex not being Placed in Service by the end of the second calendar year after the year in which the Housing Tax Credits were allocated or the failure of the Company to operate the Apartment Complex so as to have 100% of the Housing Tax Credit Units therein eligible for the Housing Tax Credits, (b) a Housing Tax Credit Disallowance Event, or (c) a failure of the Company to allocate 99.99% of the Housing Tax Credits shown on the IRS Forms 8609 for each building comprising the Apartment Complex to the Investor Member over the Credit Period, the Investor Member’s Capital Contribution shall be reduced by a Housing Tax Credit Shortfall Payment equal to the Housing Tax Credit Shortfall and further reduced by all additions to the tax of the Investor Member, and all penalties and
interest assessed (including, without limitation, the “recapture amount” provided for in Section 42(j)(2) of the Code) against the Investor Member or any of its constituent partners as a result of the event giving rise to the Housing Tax Credit Shortfall.

(iv) Whenever in this Section 4.2(d) it is provided that the Investor Member’s Capital Contribution shall be reduced, each remaining installment of the Investor Member’s Capital Contribution then outstanding shall be reduced first, if such deferral is permitted pursuant to Section 8.1(b), for scheduled payments of Development Fees, which shall become Deferred Development Fees and second, pro rata so that the aggregate contributions, when made, will total the new reduced amount of the Investor Member’s Capital Contribution. If the outstanding balance of the Investor Member’s Capital Contribution has been reduced to zero by reason of the aforesaid adjustments to the Investor Member’s Capital Contribution and/or payments previously made thereon or offsets applied thereto, then either (1) the Managing Member shall within fifteen (15) days make a Capital Contribution to the Company in the amount owed to the Investor Member (including, without limitation, interest thereon at 12% per annum from the date that the Investor Member’s Capital Contribution(s) were made), from its own funds, and shall cause the Company immediately to distribute such amount to the Investor Member, or (2) if tax counsel to the Investor Member determines that such a Capital Contribution and distribution would cause Company profits, losses, and credits to be allocated other than in accordance with the Percentage Interests of the Members, the Managing Member shall pay the amount owed to the Investor Member (including, without limitation, any interest thereon at 12% per annum from the date that the Investor Member’s Capital Contribution(s) were made) plus any amount needed to cause the net amount of the payment received by the Investor Member to be the same, on an after-tax basis as the amount of payment that would have been received under clause (1) above), from their own funds, directly to the Investor Member; provided, however, to the extent that the Managing Member fails to pay any such amount owed to the Investor Member, such unpaid amounts shall be payable from Cash Flow and Sale or Refinancing Transaction Proceeds as provided in Sections 14.1(a) and 14.1(b), respectively, hereof, but the Managing Member shall remain in default hereunder.

(v) In the event that the Actual Housing Tax Credits 2020 exceeds the Projected Housing Tax Credits for such year (or, if applicable, the Revised Projected Housing Tax Credits for such year) (an “Excess Year”), as determined by the Investor Member, upon receipt of the Company’s final tax returns for the subject year, the Investor Member’s Fifth Installment with respect to 2020 shall be increased by the “Housing Tax Credit Surplus Payment”, which is an aggregate amount equal to the product of (x) Actual Housing Tax Credits delivered to the Investor Member, less the Projected Housing Tax Credits (or if applicable, Revised Projected Housing Tax Credits) for the Excess Year, and (y) $0.50. The Housing Tax Credit Surplus Payment shall be paid within 30 days of such determination or, if the Fifth Installment is not yet due, upon the payment of the Fifth Installment. In no event shall any Housing Tax Credit Surplus Payment exceed $90,000 and shall be subject to the limitations set forth in Section 4.2(d)(vi). The Company shall use the increase in the Fifth Installment to (i) pay any amounts then owed to the Investor Member and/or Hunt, (ii) then to pay any unpaid Development Fee or Deferred Development Fee, (iii) then to repay any Development Deficit Loans then outstanding, and (iv) then distributed in accordance with Section 14.1(a) of this Agreement.
(vi) With respect to any increase in the Investor Member’s Capital Contribution pursuant to this Section 4.2(d), in no event shall the amount of the Investor Member’s Capital Contribution increase exceed 10% of the Investor Member’s Capital Contribution as originally set forth herein. To the extent that an increase in the amount of Housing Tax Credits would have otherwise resulted in an increase in excess of 10% of the Investor Member’s Capital Contribution, the Investor Member shall have the option to either (1) increase the Investor Member’s Capital Contribution in excess of such 10%, provided that such additional increase over 10% shall be based on the lesser of the Housing Tax Credit Price or the Investor Member’s then-current pricing available generally for investments in Housing Tax Credits, or (2) reduce its Interest so that the Investor Member shall be in the same economic position (i.e., the allocations provided in this Agreement shall be adjusted accordingly by the Managing Member) as if the increase in Housing Tax Credits had not resulted in an increase in the Investor Member’s Capital Contribution in excess of 10% thereof. Any Investor Member’s Capital Contribution payable as a result of any such increase in the available Housing Tax Credits pursuant to Section 4.2(d)(i) shall be payable with the Fifth Installment of the Investor Member’s Capital Contribution set forth herein, provided that all IRS Forms 8609 have been received.

(vii) Whenever there is an adjustment pursuant to this Section 4.2(d) to the Investor Member’s Capital Contribution and/or the Interest of the Investor Member, then the amount of the Projected Housing Tax Credits shall be increased or reduced, as the case may be, and shall thereafter be referred to as the “Revised Projected Housing Tax Credits”.

4.3 Reserved.

4.4 Draws. Prior to Permanent Loan Closing, the Investor Member shall be entitled to conduct monthly inspections of the progress of construction of the Apartment Complex, and review and approve construction draw requests submitted to the BBVA Lender or HOME Lender (“Construction Loan Draw”). Each month prior to Permanent Loan Closing, the Managing Member shall provide proposed Construction Loan Draw requests to the Investor Member simultaneous with submission to the BBVA Lender and HOME Lender. The Investor Member shall Notify the Managing Member to the extent that it disapproves and requires changes in a Construction Loan Draw request within ten (10) Business Days after submission. The Managing Member will cause the BBVA Loan documents and HOME Loan documents to require that the Managing Member shall not accept and the BBVA Lender and HOME Lender, as applicable, shall not disburse on Construction Loan Draws until approved by the BBVA Lender or HOME Lender, as applicable, based on the finding of such Lender’s construction consultant, or the written approval of the Investor Member, the Managing Member shall not accept and the applicable lender shall not disburse on Construction Loan Draws until approved by the Investor Member.

4.5 Liability of the Investor Member. No Investor Member shall be liable for any debts, liabilities, contracts or obligations of the Company and each Investor Member shall only be liable to pay their respective Capital Contributions as and when the same are due hereunder and under the Uniform Act.
4.6 Interest on Capital Contributions. No interest shall be paid on any Capital Contribution. No Member shall have the right to withdraw its Capital Contribution or to demand and receive property of the Company in return for its Capital Contribution, except as may be specifically provided in this Agreement or required by law.

4.7 Deposit of Capital Contributions. The cash portion of the Capital Contributions of each Member shall be deposited at the Managing Member’s discretion in a checking, savings and/or money market or similar account to be established and maintained in the name of the Company or invested in government securities or certificates of deposit issued by any bank. Thereafter, such amounts shall be utilized for the conduct of the Company business pursuant to the terms of this Agreement and withdrawals can only be made upon the signatures as the Managing Member determines with the Consent of the Investor Member.

4.8 Payment of Third Party Costs. The Company shall pay the legal fees, costs and expenses incurred by the Investor Member in connection with this Agreement, the due diligence activities of the Investor Member, the Closing and costs incurred in making the Capital Contributions pursuant to Section 4.2(b) of this Agreement in an amount of $65,000. To the extent that third party costs exceed $65,000, the Investor Member’s Capital Contribution may be increased at the option of the Investor Member and used by the Company to pay such costs.

4.9 Guaranteed Payment. No later than ninety (90) days after the end of the Company’s fiscal year, if the Investor Member has made a Special Additional Capital Contribution pursuant to Section 4.2(c), it shall receive, as a guaranteed payment for the use of its capital, an amount equal to the annual interest earned by the Company, if any, on such Special Capital Contributions. The Company shall invest any amounts contributed pursuant to Section 4.2(c) in a federally insured interest-bearing account in such banking institutions as the Managing Member shall determine in accordance with Section 4.7. Any guaranteed payment due to a Member shall be deemed an expense of the Company for purposes of determining Cash Flow. Any guaranteed payment which is not paid when due shall remain a liability of the Company and shall bear interest at the rate of 15% per year.

4.10 Return of Capital Contributions. Except as provided in this Agreement, no Member shall be entitled to demand or receive the return of its Capital Contribution.

4.11 MM Loans. The Managing Member has the right, but not the obligation, after funding all other obligations under this Agreement, including, without limitation, its obligation to fund Development Deficits under its Construction Completion Guaranty in accordance with Section 8.1 hereof or to fund Operating Deficits under its Operating Deficit Guaranty in accordance with Section 8.2 hereof, to make loans pursuant to this Section 4.11 to fund Operating Deficits of the Company or to fund other reasonable and necessary obligations of the Company (together with interest thereon, “MM Loans”); provided, however, that the Managing Member shall not have such right to make such MM Loans at any time when it has an unsatisfied obligation to pay Development Deficits and to make Operating Deficit Loans or to make a Managing Member Capital Contribution as required under this Agreement. MM Loans shall be on the following terms: (i) interest shall accrue on the MM Loans at an annual interest rate not to exceed 5% per annum, compounded annually; (ii) MM Loans shall be repayable solely as set forth in Sections 14.1(a), 14.1(b) and 17.2 of this Agreement; and (iii) MM Loans shall be an
unsecured, nonrecourse obligation of the Company. By making a MM Loan, the Managing Member does not waive any claim of, or remedies with respect to, a default, if any, by the Investor Member in its obligations under this Agreement. Notwithstanding the foregoing, no MM Loan shall be made without the Consent of the Investor Member, which Consent shall not be unreasonably withheld, delayed or conditioned.

4.12 IM Loans. The Investor Member or its designee has the right, but not the obligation, to make loans pursuant to this Section to fund Operating Deficits of the Company or to fund other reasonable and necessary obligations of the Company (together with interest thereon, “IM Loans”). IM Loans shall be on the following terms: (i) interest shall accrue on Default IM Loans at an annual interest rate of eight percent (8%) per annum, compounded annually; (ii) interest shall accrue on the Excess IM Loan Amount (other than Default IM Loans) at an annual interest rate of eight percent (8%) per annum, compounded annually, and on any other IM Loans at an annual interest rate of eight percent (8%) per annum, compounded annually; (iii) IM Loans shall be repayable solely as set forth in Sections 14.1(a), 14.1(b) and 17.2 of this Agreement; and (iv) IM Loans shall be an unsecured, nonrecourse obligation of the Company. By making an IM Loan, neither the Investor Member, nor its designee, waives any claim of, or remedies with respect to, a default, if any, by the Managing Member in its obligations under this Agreement.

4.13 Notice of Member Loans. Except for any Operating Deficit Loans that may be required of the Managing Member under the terms of this Agreement, if the Company shall require a Member Loan to fund Operating Deficits or to satisfy other reasonable and necessary obligations of the Company, a Member (the “Initiating Member”) may give the other Members (the “Non-Initiating Members”) Notice of the Initiating Member’s intent to fund a Member Loan, which Notice shall state (i) the total amount of such Member Loan proposed to be funded, (ii) the purpose for such Member Loan, and (iii) the proposed funding date of such Member Loan, which date (the “Contribution Date”) shall not be less than ten (10) days following the date of such Notice; provided that the Notice requirement shall be shortened to the extent necessary to permit a Member to fund a Member Loan for the purpose of curing a default under a Loan. The Initiating Member and the Non-Initiating Members shall each fund the portion of the Member Loan it agreed to make by the Contribution Date. If a Member fails to make such Member Loan to the Company on or before the Contribution Date, any Member who makes such Member’s share of the Member Loan may, at such Member’s option, advance to the Company the amount of the non-lending Member’s share of the Member Loan. No Member has the right to propose and fund a Member Loan to fund distributions and/or payments to be made pursuant to Sections 14.1(a), 14.1(b) or 17.2. Notwithstanding anything herein to the contrary, the Managing Member is obligated to make an Operating Deficit Loan during the Operating Deficit Guaranty Period and a MM Loan after the expiration of the Operating Deficit Guaranty Period to fund any Operating Deficits.

4.14 Documentation of Member Loans. At the request of a Member, any Member Loan shall be evidenced by a non-negotiable promissory note or notes reflecting any such Member Loans made during or prior to the preceding calendar quarter. Member Loans shall be unsecured loans by such Member. Except as set forth in Section 4.16, Member Loans shall not be considered Capital Contributions, and shall not increase such Member’s Capital Account.
4.15 Usury Savings Clause. Notwithstanding anything to the contrary herein or in any note evidencing a Member Loan, in no event shall interest accrue on any Member Loan at a rate in excess of the highest rate permitted by applicable law.

4.16 Capital Contribution Alternative. If a Member which has made or intends to make a Member Loan (a “Lending Member”) reasonably concludes that the operation of the usury savings clause in Section 4.15 will result in a reduction in the interest rate otherwise specified in Article 4, or if the Investor Member reasonably concludes that it may now have or sometime in the future likely will have a negative Capital Account, then the Lending Member may request that its existing or proposed Member Loans be restructured as Capital Contributions. In such event, all the Members shall cooperate to negotiate and execute an amendment to this Agreement (the “Amendment”), at the expense of the requesting Member, which shall include the following terms: (i) each of the Investor Member (or its designee) and the Managing Member has the right to make Capital Contributions pursuant to the Amendment (“Section 4.16 Capital Contributions”) either instead of making IM Loans and MM Loans, respectively, or to fund the concurrent repayment by the Company of IM Loans or MM Loans, respectively; (ii) with respect to such Section 4.16 Capital Contributions, the Member(s) making them shall be entitled to receive (A) guaranteed payments or a preferred return in amounts and at times corresponding to interest payments that would have been due had the Section 4.16 Capital Contributions been made as Member Loans, and (B) distributions as a return of capital in amounts and at times corresponding to principal payments that would have been due had the Section 4.16 Capital Contributions been made as Member Loans; and (iii) Article 14 shall be revised to the maximum extent feasible to provide that such guaranteed payments or a preferred return and return of capital distributions shall have the same amounts, timing, priority of payment and tax consequences as the corresponding payments of Member Loans would have had. Notwithstanding the foregoing, the Investor Member shall have no obligation to consent to any Amendment pursuant to this Section 4.16, which it concludes could adversely affect the timing or amount of the allocation to the Investor Member of Housing Tax Credits, losses, income or gains.

ARTICLE 5
MANAGING MEMBER RIGHTS, DUTIES
AND OBLIGATIONS

5.1 Management of the Company. Subject to the terms of this Agreement, the Managing Member shall have the sole and exclusive right to manage the business and affairs of the Company; provided, however, that the Managing Member must do so only so as to accomplish the Purposes of this Company. In so doing, the Managing Member shall take all actions necessary or appropriate to protect the interests of the Investor Member and the Company.

5.2 Duties and Obligations.

(a) The Managing Member shall ensure that all requirements shall be met which are necessary to obtain or achieve (i) compliance with the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test, the Rent Restriction Test, and any other requirements necessary for the Apartment Complex to initially qualify, and to continue to qualify, for Housing
Tax Credits, including all applicable requirements set forth in the Extended Use Agreement, (ii) issuance of Forms 8609, (iii) issuance of all necessary permanent, unconditional certificates of occupancy, including all governmental approvals required to permit occupancy of all of the apartment units in the Apartment Complex, (iv) Construction Loan Closing and Conversion; (v) compliance with all material provisions of the Project Documents, (vi) compliance with all provisions contained in the Application, including, without limitation, those as to which the Agency awarded points pursuant to its scoring or award procedures, and (vii) compliance with all provisions contained in the Carryover Allocation.

(b) During the period the Extended Use Agreement is in effect, the Managing Member shall (i) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that (A) 86.21% of the residential rental units in the Apartment Complex will qualify as “low-income units” under Code Section 42(i)(3), (B) and the Applicable Fraction as defined in Section 42(c) of the Code is at least 84.88%; (ii) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that no less than eighty percent (80%) of the gross income from the Apartment Complex in every year is rental income from or with respect to dwelling units in the Apartment Complex used to provide living accommodations not on a transient basis (“Units”); (iii) operate the Apartment Complex and cause the Management Agent to manage the Apartment Complex in such a manner that the Apartment Complex will qualify as a “qualified low-income housing project” under Code Section 42(g); (iv) develop and maintain the Apartment Complex as a first class property; and (v) make, or cause to be made, all certifications required by Code Section 42(l).

(c) The Managing Member shall promptly take all action which may be necessary or appropriate for the proper development, construction, maintenance and operation of the Apartment Complex in accordance with the provisions of this Agreement, the Project Documents and applicable laws and regulations including making any required Capital Contributions pursuant to Section 4.1 and as otherwise required by this Agreement.

(d) While conducting the business of the Company, the Managing Member shall not act in any manner which it knows or should have reasonably known after due inquiry will (i) cause the termination of the Company for federal income tax purposes without the Consent of the Investor Member, or (ii) cause the Company to be treated for federal income tax purposes as an association taxable as a corporation.

(e) The Managing Member shall, during and after the period in which it is a Member, provide the Company with such information and sign such documents as are necessary for the Company to make timely, accurate and complete submissions of federal and state income tax returns.

(f) The Managing Member shall use its best efforts to cause the Company to generate Cash Flow for distribution to the Members at the maximum realizable level in view of (i) any applicable Agency and other regulations, (ii) the Minimum Set-Aside Test and the HOME Minimum Set-Aside Test and (iii) the Rent Restriction Test, and, if necessary, the Managing Member shall also use its best efforts to obtain approvals and implementation of appropriate adjustments in the rental schedule of the Apartment Complex.
(g) The Managing Member shall cause the Company to obtain and keep in force, during the term of the Company, insurance in accordance with Exhibit D hereto. The Managing Member shall provide the Investor Member with written evidence of all insurance required by Exhibit D hereto, in each case in form and substance reasonably acceptable to the Investor Member and, for each particular insurance coverage, both (i) within fifteen (15) days after the first day on which such coverage is required by Exhibit D hereto and (ii) from time to time, as the Investor Member may reasonably request. The Managing Member shall provide the Investor Member with Notice of any cancellation, reduction in coverage, or other coverage changes within 15 days of receipt of notice from the insurance provider. The Investor Member shall have the right to acquire any insurance required by Exhibit D at the expense of the Company if the Managing Member fails to do so and such purchase shall not cure the Managing Member’s default hereunder. In addition, the Managing Member shall indemnify and hold the Hunt Indemnified Parties harmless from any loss suffered by the Hunt Indemnified Parties with respect to its investment in the Company and arising out of any uninsured loss suffered by the Company which would have been insured against by one or more of the policies of insurance described on Exhibit D hereto but which lapsed or which were not in force at the time of such loss because the Managing Member did not obtain or keep said policy or policies in force.

(h) The Managing Member has made (if applicable) and shall make such elections, or refrain from making such elections, with respect to the Housing Tax Credits as are necessary to achieve and maintain the maximum allowable Housing Tax Credits to the Investor Member, unless otherwise directed by the Investor Member. Any such elections (including elections made at the direction or with the Consent of the Investor Member) shall not reduce the obligations of the Managing Member pursuant to this Agreement. Notwithstanding the foregoing, the Investor Member must Consent, before any election is made to defer commencement of the Credit Period pursuant to Code Section 42(f)(1). In the event Building One is Placed in Service in 2019, but the Company is unable to deliver all or a portion of the Projected Housing Tax Credits for 2019, the Managing Member may defer the commencement of the Credit Period to 2020 without the Consent of the Investor Member.

(i) The Managing Member shall (i) not store or dispose of (except in compliance with all laws, including all Environmental Laws, ordinances, and regulations pertaining thereto) any Hazardous Material at the Apartment Complex; (ii) neither directly nor indirectly transport or arrange for the transport of any Hazardous Material (except in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) to or from the Apartment Complex; (iii) provide the Investor Member with Notice (A) upon any Managing Member’s obtaining knowledge of any potential or known release, or threat of release, of any Hazardous Material at or from the Apartment Complex; (B) upon any Managing Member’s receipt of any Notice to such effect from any federal, state, or other governmental authority by any other Person; and (C) upon any Managing Member’s obtaining knowledge of any incurrence of any expense or loss by any such governmental authority or third party in connection with the assessment, containment, or removal of any Hazardous Material at or from the Apartment Complex or any claim for loss or damage associated with Hazardous Materials at or from the Apartment Complex for which expense or loss the Managing Member may be liable or for which expense or loss a lien may be imposed on the Apartment Complex.
(j) The Managing Member shall use all reasonable efforts to maintain the Apartment Complex and the Land upon which it is located so that there is no discharge, release, spillage, uncontrolled loss or seepage of any oil, petroleum or chemical liquids or solids, liquid or gaseous products or Hazardous Material. The Managing Member shall use all best efforts to maintain the Apartment Complex and the Land so as not to violate any Environmental Laws. If any Hunt Indemnified Party becomes liable with respect to the Apartment Complex under any Environmental Law, the Managing Member shall indemnify and hold harmless such Hunt Indemnified Party (except to the extent attributable solely to direct actions of such Hunt Indemnified Party) for any and all costs, expenses (including reasonable attorneys’ fees necessarily incurred), damages or liabilities to the extent that such Hunt Indemnified Party is required to discharge such costs, expenses, damages, or liabilities in whole or in part. If any claim or loss described in the immediately preceding sentence is brought against any Hunt Indemnified Party, and such Hunt Indemnified Party notifies the Managing Member of the commencement thereof, as soon as practicable but in any event no later than 45 days after receipt of notice by the Investor Member, the Managing Member will be entitled to participate in, and, to the extent that it chooses to do so, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, or (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received notice in writing as hereinafore required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment. The foregoing indemnification shall be a recourse obligation of the Managing Member, and shall survive the Withdrawal of the Managing Member. The Managing Member shall not be liable for any claims that arise from actions of others after its withdrawal or removal as a Managing Member under this Agreement, and no settlement of a claim of loss shall occur without the prior written Consent of the Managing Member.
(k) The Managing Member shall promptly request in writing of each Lender that such Lender provide the Investor Member copies of all notices delivered to the Managing Member or the Company under its Loan, and grant an opportunity for the Investor Member to cure any default under such Loan.

(l) The Managing Member shall cause the Company to maintain tenant deposits in separate accounts, which must be used solely to hold tenant deposits as security for the tenant rents and as security for damages. No funds may be used from such account for any other purpose, including payment of Operating Deficits of the Company.

(m) The Managing Member will execute on behalf of the Company all documents necessary to elect, pursuant to Sections 732, 734, 743, and 754 of the Code, to adjust the basis of the Company’s property upon the request of the Investor Member. The Managing Member shall cause the Company’s property to be depreciated in accordance with Sections 5.2(nn) and 18.4. The Managing Member will execute on behalf of the Company all documents necessary to elect, pursuant to Sections 732, 734, 743, and 754 of the Code, to adjust the basis of the Company’s property upon the request of the Investor Member. The Managing Member shall cause the Company to depreciate all of its applicable property in accordance with Section 5.2(oo), 6.1(hhh), and 18.4(a).

(n) The Managing Member shall provide to the Investor Member for its approval a draft of the Cost Certification to be used by the Company in applying to the Agency for issuance of Form 8609 with respect to each building in the Apartment Complex at least five (5) Business Days prior to the date the Cost Certification is to be provided to the Agency. The Managing Member shall provide the initial Forms 8609 to the Investor Member within ten (10) days of receipt thereof by the Managing Member. Subject to the Agency providing the same, the Managing Member shall cause the Extended Use Agreement to be recorded in the appropriate real estate records no later than the last day of the year in which the Apartment Complex is Placed in Service.

(o) The Managing Member shall furnish to the Investor Member within three (3) Business Days of receipt thereof, a copy of any notice of default under a Loan or any of the Project Documents given to the Company or to the Managing Member by the Lender, and Notice of any occurrence which has or would, with the giving of notice or the passage of time, or both, become a violation or default under a Loan or any of the Project Documents. The Managing Member shall also furnish to the Investor Member within seven (7) Business Days of execution a copy of all amendments or changes to the articles, bylaws, certificates, partnership agreement, operating agreement or other organizational documents of the Managing Member or any Guarantor. The Managing Member shall promptly respond to all requests or inquiries made in writing by the Investor Member regarding matters affecting the Apartment Complex or the Company.

(p) The Managing Member shall use all reasonable efforts to cause the Apartment Complex to be kept in compliance with all applicable land use laws, regulations and ordinances.
(q) The Managing Member shall provide the Investor Member with Notice (and with copies of appropriate correspondence) within three (3) Business Days if the Company receives any writing from the Service or the Agency that the Apartment Complex or any portion thereof is not in compliance with the requirements of Code Section 42 or is subject to a Housing Tax Credit Disallowance Event or any other event that could result in an adjustment to the Housing Tax Credits, or losses allocable to the Investor Member.

(r) If any of the Housing Tax Credit Units fail at any time during the Compliance Period to constitute low-income units or if the Apartment Complex is not in compliance with the requirements contained in Code Section 42, the Managing Member agrees to Notify the Investor Member within three (3) Business Days of its knowledge of such event or occurrence and the Managing Member shall take all actions reasonably necessary to bring the Units or the Apartment Complex, as the case may be, into compliance with the requirements of Code Section 42, such that the Apartment Complex will qualify and continue to qualify for Housing Tax Credits during the Compliance Period as projected.

(s) The Managing Member is exclusively responsible for negotiating and performing all services incidental to (i) the Company’s acquisition of the Land, (ii) arranging of appropriate zoning, (iii) arranging of equity and permanent financing with respect to the Apartment Complex (including reviewing the State’s qualified allocation plan, applying for Housing Tax Credits and obtaining such marketing and feasibility studies and appraisals as it deems reasonably necessary), (iv) contacting local government officials concerning access to utilities, public transportation and local ordinances, (v) performing environmental tests on the Land, (vi) negotiating the purchase of the Land and its related financing, (vii) arranging the permanent financing for the Company, and (viii) the organization and formation of the Company.

(t) The Apartment Complex will be operated in accordance with the Fair Housing Act, 42 U.S.C. § 3601 et seq., as amended, and in this regard, all employees and agents of the Managing Member will be appropriately trained and all required notices to tenants specified by the Fair Housing Act will occur in a timely manner. The Managing Member shall promptly provide to the Investor Member a copy of (i) the annual certification required to be submitted by the Company to the Agency pursuant to Regulation Section 1.42-5, including a copy of all required reports with respect to building code violations and the certification with respect to compliance with the Fair Housing Act and (ii) all communications received by the Managing Member or the Company with respect to compliance with, non-compliance with, or other matters relating to the Fair Housing Act.

(u) The Managing Member shall ensure that the Apartment Complex shall at all times comply with the applicable requirements of Section 504 of the Uniform Federal Accessibility Standards, where applicable and as amended, the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, as now existing or hereafter amended or adopted, the Fair Housing Act Design Manual implemented in connection the Fair Housing Act, 42 U.S.C. § 3601 et seq., as amended as now existing or hereafter amended or adopted, any other federal and state and local laws and ordinances related to disabled access, and all statutes, rules, regulations, and orders of governmental bodies and regulatory agencies or orders or decrees of any court adopted or
enacted with respect thereto including (collectively, the “Access Laws”). The Investor Member may also require from the Company an Access Laws Certification. Notwithstanding any provisions set forth herein or in any other document, the Managing Member shall not alter or permit any tenant or other person to alter the Apartment Complex in any manner which would increase the Managing Member’s responsibilities for compliance with the Access Laws without the prior written approval of the Investor Member. In connection with any such approval, the Investor Member may require from the Company an Access Laws Certification. Following Substantial Completion, the Apartment Complex will be operated in a manner that fully complies with applicable accessibility and barrier-free regulations such that if an enforcement action is brought against the Company, the Managing Member will use any and all of its own resources to promptly correct recorded deficiencies and shall immediately Notify the Investor Member of any such claims.

(v) The Managing Member shall give Notice to the Investor Member within three (3) Business Days of any violation or event of default, or any occurrence which would, with the giving of notice or the passage of time, or both, become a violation or event of default under any document executed by the Agency and relating to the Company. Neither the Company nor any Managing Member shall consent to any amendment or modification to any document executed by the Agency and relating to the Company without the prior Consent of the Investor Member.

(w) Without limitation, the Company, the Managing Member, and their Affiliates (i) are in compliance with Anti-Corruption Laws, and (ii) shall remain in compliance with Anti-Corruption Laws.

(x) The Managing Member shall from time to time take all actions as are necessary and appropriate to: (i) effectuate and permit the continuation of the Company as a limited liability company under the laws of the State, (ii) enable the Company to do business in the State, and (iii) protect the limited liability of the Investor Member under the laws and regulations of the State, including the preparation and filing of any certificate, document or instrument of the Company as may be required under the laws and regulations of the State.

(y) The Managing Member shall maintain books, files and records including tenant leasing files in compliance with the Code and the Regulations and which will adequately document the timing, amount and availability of the Housing Tax Credits. The Managing Member shall cause construction related files and files which document the initial qualification of the apartment units for Housing Tax Credits to be copied and stored off-site until the later of sixth (6th) year after the last day of the Compliance Period or for the time period required by Section 42 of the Code at the Managing Member’s principal place of business (which shall not be at the Apartment Complex) or at another off-site location over which the Managing Member has control. The Managing Member shall allow any Investor Member and its agents access to all such files during ordinary business hours; provided, however, that files stored off-site shall be provided within three (3) Business Days’ Notice from the Investor Member. All such files are property of the Company and not of the Managing Member.

(z) Except as otherwise required or permitted by this Agreement, the Managing Member shall not, without the Consent of the Investor Member, assign, pledge or
otherwise encumber, for security or otherwise, any fees, payments or distributions to which the Managing Member is entitled from the Company or any Person pursuant to this Agreement or any Project Document, or any portion thereof or any right of the Managing Member thereto.

(aa) Each Managing Member shall not engage in any other business or activity other than that of being a Managing Member of the Company. Each Managing Member was formed exclusively for the purpose of acting as Managing Member of the Company and has never engaged in any other activity, business or endeavor. As of the date of this Agreement, neither Managing Member has liabilities nor indebtedness other than its liability for the debts of the Company, and neither Managing Member shall incur any indebtedness other than its liability for the debts of the Company. If either Managing Member determines it needs additional funds for any purpose, it shall obtain such funds solely from capital contributions from its members. Each Managing Member has observed and shall continue to observe all necessary or appropriate entity formalities in the conduct of its business. Each Managing Member shall keep its books and records and the Company’s books and records separate and distinct from those of its members and Affiliates. Each Managing Member shall clearly identify itself as a legal entity separate and distinct from its members and its Affiliates in all dealings with other Persons.

(bb) The construction and development of the Apartment Complex shall be undertaken and shall be completed in a timely and workmanlike manner in accordance with (i) all applicable requirements of the Project Documents, (ii) all applicable requirements of all appropriate governmental entities, the violation of which would have, or would be likely to have, an adverse effect on the Apartment Complex or the Company, and (iii) the Plans and Specifications of the Apartment Complex as shown on Exhibit P that have been or shall be hereafter approved by the Investor Member and, to the extent required, the Lenders, and any applicable governmental entities, as such Plans and Specifications may be changed from time to time with the approval of the Investor Member and, to the extent required, the Lenders, and any applicable governmental entities. The Managing Member shall provide copies of all change orders to the Investor Member for its written approval promptly after the preparation and prior to the execution thereof.

(cc) The Managing Member shall cause the Company to keep all sources of funding “in balance,” as required by the Lenders and the Investor Member, and ensure that the Company has adequate sources of funds to timely achieve Conversion and satisfaction of other obligations of the Company in accordance with this Agreement.

(dd) Reserved.

(ee) The Managing Member shall prevent a default from occurring under the Project Documents resulting from a breach by the Managing Member, the Guarantors or their Affiliates of any term, condition or restriction applicable to such parties under the Project Documents, including, without limitation, a breach of a restriction on the ownership of the Managing Member or the financial condition of the Managing Member, the Guarantors or their Affiliates.

(ff) Neither the Managing Member nor its Affiliates will receive, directly or indirectly, from the Company or from any other Person, any fee, commission, compensation or
other consideration in connection with (i) this Agreement, (ii) the acquisition of the Land and/or (iii) the construction or operation of the Apartment Complex, except for the payment of fees and distributions to the Managing Member under this Agreement and to the Developer under the Development Agreement.

   (gg) The Company received points under the Agency’s Low-Income Housing Tax Credit ranking system pursuant to the Application. The Managing Member shall cause the Company to develop the Apartment Complex and manage the Company in a manner which is consistent with the award of the number of points assigned to the Application by the Agency, unless otherwise consented to by the Agency in writing and Consented to by the Investor Member.

   (hh) The Managing Member shall cause the Accountants to certify the Eligible Basis of the Apartment Complex in conjunction with the Company’s application to the Agency for Forms 8609 and in conjunction with the audited cost certification of Eligible Basis.

   (ii) The Managing Member shall provide to the Accountants and the Investor Member, promptly upon their request, such written documentation as is reasonably requested by the Accountants and the Investor Member in order to verify the determination of Eligible Basis, including documentation supporting the allocation of any costs incurred by the Company into the determination of Eligible Basis.

   (jj) The Company will include in Eligible Basis only the Development Fee which is earned on or prior to the date the Apartment Complex is Placed in Service.

   (kk) The Apartment Complex and all of (i) the fixtures, maintenance supplies, tools, equipment and the like now and to be owned by the Company or to be appurtenant to, or to be used in the operation of, the Apartment Complex, as well as (ii) the rents, revenues and profits earned from the operation of, the Apartment Complex, will be free and clear of all security interests and encumbrances except for any mortgages or security agreements (including financing statements) executed in connection with the Loans.

   (ll) To the extent required by the Investor Member, one hundred percent (100%) payment and performance bonds issued by a financially viable, nationally recognized bonding company, or a letter of credit, in forms acceptable to the Investor Member naming the Investor Member as a dual obligee or payee, and in amounts satisfactory to the Investor Member, will be obtained by the Contractor at or before Construction Loan Closing and shall remain in full force and effect under terms and conditions as shall be acceptable to the Investor Member. The Managing Member shall promptly notify the Investor Member of any claims made under the bonds.

   (mm) In connection with the requirements of the Carryover Allocation, the Managing Member shall take all actions necessary and prepare all documents required in connection with the Company’s satisfaction of the Ten Percent Test and submit to the Agency the supporting documents therefor, including, without limitation, the Carryover Certification, by the date required by the Agency. The Managing Member shall deliver to the Investor Member all documents in support thereof, including, without limitation, the Carryover Certification, prior
to submitting the Ten Percent Test documents to the Agency. Upon the Investor Member’s Consent, the Managing Member shall submit the Ten Percent Test documentation and the supporting documents therefor, including, without limitation, the Carryover Certification, to the Agency.

(mn) If a material defect is discovered in the construction of the Apartment Complex and such defect was known to the Managing Member or an Affiliate of the Managing Member and was not disclosed to the Investor Member in writing or was intentionally concealed by the Managing Member or such Affiliate, then the Managing Member shall promptly take such action as may be necessary, at the Managing Member’s sole expense, to correct such defective work to the satisfaction of the Investor Member.

(oo) The Managing Member shall cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code. The Managing Member shall seek the direction and/or Consent of the Investor Member prior to filing of the Company’s 2019 tax returns or such earlier time as such election is to be made. Once made, the election will be irrevocable.

5.3 Restrictions on Authority.

(a) Notwithstanding any other provision of this Agreement, the Managing Member shall have no authority to (1) knowingly perform any act in violation of applicable law, Agency or other government regulations, requirements of the Lenders or the Project Documents or (2) even unknowingly, perform any act in violation of applicable law, Agency or other government regulations, requirements of the Lenders or the Project Documents if such act would or could materially adversely affect the Apartment Complex, the Company, any Investor Member or the Housing Tax Credits. In the event of any conflict between the terms of this Agreement and any applicable Agency or other government regulations or requirements of the Lender, the terms of such regulations or requirements shall govern. The Managing Member shall not have any authority to do any of the following acts without the Consent of the Investor Member:

(i) To have borrowings in excess of $10,000 in the aggregate at any one time outstanding on the general credit of the Company, except for the Loans, Operating Deficit Loans and IM Loans;

(ii) To borrow from the Company or commingle Company funds with funds of any other Person;

(iii) Following the Completion Date, to construct any new or replacement capital improvements on the Apartment Complex except as contemplated in the applicable Annual Budget, unless under emergency conditions;

(iv) To acquire any real property in addition to the Apartment Complex (including easements or similar rights necessary or convenient for the operation of the Apartment Complex);
(v) To finance or enter into any mortgage loan or other indebtedness, or to increase, decrease, amend or modify the terms of or refinance or repay (other than in accordance with its scheduled term or amortization) any Loan;

(vi) To acquire any personal property (tangible or intangible) at a cost in excess of $10,000 in any year except to the extent approved in the applicable Annual Budget, or use any Company property other than for a purpose of the Company as set forth in this Agreement;

(vii) To rent apartments in the Apartment Complex such that the Apartment Complex would not meet the requirements of the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test and/or the Rent Restriction Test;

(viii) To sell, exchange, pledge or otherwise convey or transfer any portion of the Apartment Complex (including any land owned by the Company) or, all or any significant portion of the assets of the Company or any Member’s Interest in the Company, which Consent shall not be unreasonably withheld, conditioned or delayed after year fifteen (15) of the Credit Period;

(ix) To terminate or modify any agreement with any Agency;

(x) To cause the Company to commence a proceeding seeking any decree, relief, order or appointment in respect to the Company under the federal bankruptcy laws, as now or hereafter constituted, or under any other federal or state bankruptcy, insolvency or similar law, or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) for the Company or for any substantial part of the Company’s business or property, or to cause the Company to consent to any such decree, relief, order or appointment instituted by any Person other than the Company;

(xi) To pledge or assign any of the Capital Contribution of the Investor Member or any proceeds thereof;

(xii) To amend the Architect’s Contract or the Construction Contract, including, without limitation, any change orders in excess of $25,000.00 per single change order and $125,000 in the aggregate; provided, however, that all deductive change orders, no matter how small and all change order that materially alter the scope of work, shall be subject to the Consent of the Investor Member;

(xiii) To cause the Company to amend the Development Agreement or any other agreement between the Company and any Managing Member or an Affiliate thereof;

(xiv) To do any act required to be approved or ratified by the Investor Member under the Uniform Act;

(xv) To admit an additional Investor Member;

(xvi) To substantially change the nature of the Company’s business;
(xvii) To permit the Company to engage in any activity inconsistent with the Company’s Purposes;

(xviii) To enter into any Project Document not executed prior to the date hereof, and/or to amend any Project Document;

(xix) To amend the § 811 Subsidy Contract or enter into any contract requiring the Company to accept additional Eligible Tenants;

(xx) To adopt any Annual Budget or make any modification to an approved Annual Budget, which Consent shall not be unreasonably withheld, conditioned or delayed;

(xxi) To modify the Development Budget;

(xxii) To increase the Company’s total initial cost basis allocable to a class of property other than residential rental property by more than 25% of the amount set forth in the LIHTC Certificate attached hereto as Exhibit S;

(xxiii) To change the Accountant or the Management Agent;

(xxiv) To sell, transfer, assign, pledge or otherwise convey the Interest of the Managing Member in the Company, or sell, transfer, assign, pledge or otherwise convey any interest in the Managing Member, except in connection with estate planning purposes (but only if (A) the Interest of the Managing Member is conveyed to a trust for the benefit of the spouse or children of Lisa M. Stephens and/or Megan D. Lasch, as the case may be, and (B) Lisa M. Stephens or Megan D. Lasch continues to control the Co-Managing Member and Megan D. Lasch or Lisa M. Stephens continues to control the Administrative Member), or in any member, partner or shareholder of the Managing Member, as the case may be, or any other party in the line of ownership of such member, partner or shareholder, or permit the Developer to sell, transfer, assign, pledge or otherwise convey the interest of the Developer in the Development Agreement, or sell, transfer, assign, pledge or otherwise convey any interest in the Developer, or in any controlling member, partner or shareholder of the Developer, as the case may be, or any other party in the line of ownership of such member, partner or shareholder of the Developer, or voluntarily retire, withdraw or resign as the Managing Member of the Company; or

(xxv) To make, amend or revoke any tax election required of or permitted to be made by the Company under the Code or the Regulations, including, without limitation, any election under Section 42 or Section 754 of the Code or make an election to defer the first year of Housing Tax Credits. In this regard, the Managing Member shall make any elections required or permitted under Section 42 of the Code requested in writing by the Investor Member;

(xxvi) To accept any grants on behalf of the Company.

5.4 Personal Services. The Managing Member or any Affiliates thereof shall have the right to contract or otherwise deal with the Company for the sale of goods or services to the Company in addition to those set forth herein, if (a) compensation paid or promised for such
goods or services is reasonable (i.e., at fair market value) and is paid only for goods or services actually furnished to the Company, (b) the goods or services to be furnished shall be reasonable for and necessary to the Company, (c) the fees, terms and conditions of such transaction are at least as favorable to the Company as would be obtainable in an arm’s-length transaction, and (d) the Investor Member has given its Consent to the particular contract or other dealings between the Company and the Managing Member or its Affiliates. Any contract covering such transactions shall be in writing and shall be terminable without penalty on sixty (60) days’ Notice. Any payment made to the Managing Member or any Affiliate for such goods or services shall be fully disclosed to the Investor Member in writing in the reports required under Section 18.7. Neither the Managing Member nor any Affiliate shall, by the making of lump sum payments to any other Person for disbursement by such other Person, circumvent the provisions of this Section 5.4.

5.5 Continued Compliance Sale. Notwithstanding the foregoing, subject to the Purchase Option Agreement commitments in the Application, at any time after the Compliance Period, the Investor Member may request that the Company sell the Apartment Complex subject to the Extended Use Agreement (a “Continued Compliance Sale”)

(a) After receipt of a request for a Continued Compliance Sale, the Managing Member shall use its best efforts to find a third party purchaser for the Apartment Complex and to cause the Company to consummate a sale of the Apartment Complex subject to the Extended Use Agreement and on terms Consented to by the Investor Member. If such efforts are not successful on terms reasonably satisfactory to the Investor Member within six (6) months of the date of the Investor Member’s request, the Investor Member shall have the right thereafter to locate a purchaser for the Apartment Complex. If the Investor Member locates such a purchaser, then the Managing Member shall be obligated to either (i) consent to the sale to such purchaser and execute all documents in connection with such sale or (ii) purchase the Investor Member’s Interest for an amount equal to what the Investor Member would have received for a sale of the Apartment Complex.

(b) At all times after the end of the Compliance Period, the Investor Member shall have the right, exercisable in its sole and absolute discretion, to put its entire Interest to the Managing Member (or its designee) for a price equal to $100.

5.6 Other Activities. Any Investor Member may engage independently or with others in other business ventures of every nature and description including the ownership, operation, management, syndication and development of competing real estate; neither the Company nor any other Member shall have any rights in and to such independent ventures or the income or profits derived therefrom.

5.7 Indemnification of the Managing Member.

(a) No Managing Member nor any Affiliate thereof shall have liability to the Company or to any Investor Member for any loss suffered by the Company which arises out of any action or inaction of such Managing Member or Affiliate thereof if such Managing Member or Affiliate thereof in good faith determined that such course of conduct was in the best interest of the Company and such course of conduct did not constitute gross negligence, misconduct,
fraud or any breach of fiduciary duty of such Managing Member or Affiliate thereof or a breach of this Agreement by such Managing Member or Affiliate thereof.

(b) A Managing Member or any Affiliate thereof shall be indemnified by the Company against losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained in connection with the Company, provided that all of the following conditions are met: (i) such Managing Member has determined, in good faith, that the course of conduct which caused the loss, judgment, liability, expense or amount paid in settlement was in the best interests of the Company; and (ii) such loss, judgment, liability, expense or amount paid in settlement was not the result of gross negligence, misconduct, fraud, breach of fiduciary duty on the part of such Managing Member or Affiliate thereof or breach of this Agreement; and (iii) such indemnification or agreement to hold harmless is recoverable only out of the assets of the Company, and not from the Investor Member.

(c) Subject to the provisions of Section 5.7(b), no Managing Member or any Affiliate thereof performing services for the Company shall be indemnified for any losses, liabilities or expenses arising from or out of an alleged violation of federal or state securities laws unless (i) there has been a successful adjudication on the merits of each count involving securities laws violations as to the particular indemnitee and the court approves the indemnification of such litigation costs, (ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee and the court approves the indemnification of such litigation costs or (iii) a court of competent jurisdiction approves a settlement of the claims against a particular indemnitee and the court finds that indemnification of the settlement and related costs should be made. In any claim for indemnification for federal or state securities law violations, the party seeking indemnification shall, prior to seeking court approval for such indemnification, place before the court the positions of the Securities and Exchange Commission and any applicable state securities administrator with respect to the issue of indemnification for securities law violations.

(d) The Company shall not incur the cost of the portion of any insurance, other than public liability insurance, which insures any party against any liability as to which such party is herein prohibited from being indemnified.

5.8 Indemnification of the Company and the Hunt Indemnified Parties.

(a) The Managing Member shall indemnify, defend and hold harmless the Company and the Hunt Indemnified Parties, and the Company shall indemnify, defend, and hold harmless the Hunt Indemnified Parties, from and against any and all loss, damage and liability, cost or expense (including reasonable attorneys’ fees) which the Company or any Hunt Indemnified Party may incur by reason of the past, present or future actions or omissions of the Managing Member or any of their Affiliates constituting gross negligence, misconduct, fraud, breach of fiduciary duty or a breach or an Event of Default with respect to or under this Agreement; provided, however, that the foregoing indemnification shall not constitute a guaranty of the Loans.
(b) Notwithstanding the foregoing, no Managing Member shall be liable to a Hunt Indemnified Party or the Company for any act or omission for which the Company is required to indemnify such Managing Member under Section 5.7.

(c) The Managing Member shall indemnify, defend, and hold the Company and the Hunt Indemnified Parties harmless from and against any claims, suits, actions, debts, damages, costs, charges, losses, obligations, judgments and expenses of any nature whatsoever (other than actions caused by a third party on property outside of the Apartment Complex over which the Managing Member has no control and about which the Managing Member had no prior knowledge and no ability to prevent or mitigate the impact of those actions on the Apartment Complex) suffered or incurred by the Hunt Indemnified Parties and arising directly or indirectly out of the presence on, under or about the Apartment Complex of any Hazardous Substance, the use, generation, manufacture, storage or disposal of any Hazardous Substance on, under or about the Apartment Complex, or the violation of any Environmental Laws by the Managing Member or its representatives. The Managing Member shall further indemnify and hold harmless the Company and the Hunt Indemnified Parties and their respective Affiliates and successors from and against any claims, demands, losses, damages, liabilities, lawsuits and other proceedings, judgments, awards, costs and expenses including, without limitation, reasonable 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 contained in this Agreement. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, or (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received notice in writing as hereinabove required, the Managing Member agrees to indemnify
and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment. In addition to the foregoing indemnification, the Hunt Indemnified Parties may pursue any other available legal or equitable remedy against the Managing Member with respect to the Managing Member’s breach of any of the representations, warranties or covenants contained herein, including, without limitation, the Investor Member’s deferral of the payment of its Capital Contribution pursuant to Section 4.2.

(d) The indemnification rights contained in this Section 5.8 shall be recourse obligations of the Managing Member and shall survive dissolution of the Company and Withdrawal or Involuntary Withdrawal of the Managing Member (except that the Managing Member shall not be liable for claims arising solely from the actions of others after its Withdrawal or Involuntary Withdrawal) and shall be cumulative of, and in addition to, any and all rights, remedies and recourse to which the Hunt Indemnified Parties shall be entitled, whether pursuant to the provisions of this Agreement, at law or in equity.

(e) The Managing Member, on behalf of itself and the Company, hereby waives any and all claims it may now or in the future have against any Lender and the Investor Member relating to the BBVA Loan based in any way upon Lender’s status as an investor in the Investor Member.

5.9 Certain Payments to the Managing Member and Affiliates.

(a) Development Fee. The Company shall pay the Developer the Development Fee on the terms, at the times and in the manner set forth in the Development Agreement. The Development Agreement provides for a Development Fee equal to $1,040,056. No Development Fee shall be paid by the Company upon the occurrence of an Event of Default or the occurrence of an event, which with the giving of notice or the passage of time or both would result in an Event of Default.

(b) MM Incentive Management Fee. The Company shall pay the Managing Member an annual non-cumulative fee payable in arrears (the “MM Incentive Management Fee”), for services commencing at Rental Achievement in connection with the administration of the day-to-day business of the Company in an annual amount not to exceed the lesser of: $40,000 or 7% of Gross Operating Revenue. The MM Incentive Management Fee for each fiscal year of the Company shall be payable from Cash Flow in the manner and priority set forth in Section 14.1(a) and shall be prorated for a partial fiscal year.

(c) Payment of Development Fee and MM Incentive Management Fee. In the event of the occurrence of an Event of Default by the Managing Member under this Agreement, no Development Fee or MM Incentive Management Fee shall be paid, and there shall be no payments on any Operating Deficit Loans, MM Loans, and Excess MM Loans.

5.10 Reserve Accounts.

(a) The Managing Member shall establish and maintain the Replacement Reserve (the “Replacement Reserve”) to provide for working capital needs, improvements, replacements and any other contingencies of the Company as required by the Lenders and/or any Agency. Commencing on the date on which the first building in the Apartment Complex

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receives a certificate of occupancy or other license or permit allowing for the occupancy of such first building, the Managing Member shall cause the Company to deposit into Replacement Reserve from its Cash Receipts, the amount of $14,500 annually (the annual amount of contributions to the Replacement Reserve shall be funded in twelve (12) equal monthly payments), which amount shall be adjusted upward each year, commencing on the one year anniversary of the due date for the initial deposit to the Replacement Reserve, by three percent (3%). Following the 10th year of the Compliance Period, and every five (5) years thereafter, the Investor Member shall have the right to require a physical needs assessment for the Apartment Complex at the Company’s expense, which may result in adjustments to the Replacement Reserve. Withdrawals and expenditures from the Replacement Reserve shall be made only with the Consent of the Investor Member and are subject to any written approval which may be required by any Lender or Agency. If the terms of any loan impose more strict requirements regarding the funding and/or use of Replacement Reserve, such more strict requirements shall apply. If the BBVA Lender does not require that it shall hold and control the Replacement Reserve, then the Replacement Reserve shall be deposited at an FDIC commercial member bank selected by the Investor Member, in an account requiring the signature of the Investor Member for any withdrawals (including any interest earned on the account).

(b) The Managing Member shall cause to be established and maintained the Operating Reserve to fund Operating Deficits (the “Operating Reserve”). Concurrently with the Fourth Installment, the Managing Member shall cause the Company to deposit into the Operating Reserve the greater of $236,000 or an amount equal to six months of Operating Expenses and Debt Service Expense, as determined at the time of Rental Achievement and any contributions to the Operating Reserve required by the Agency or any Lender (the “Initial Operating Reserve Amount”). The Operating Reserve shall be deposited at an FDIC commercial member bank selected by the Investor Member, in an account requiring the signature of the Investor Member for any withdrawals (including any interest earned on the account). Withdrawals and expenditures from the Operating Reserve shall be made only with the Consent of the Investor Member, which Consent shall not be unreasonably withheld, conditioned or delayed, and are not subject to any approval by any Lender or Agency. The Investor Member shall facilitate withdrawals without condition or delay, to such extent that the Managing Member requests to use any funds in the Operating Reserve in excess of $118,000 to pay Operating Deficits prior to funding under its Operating Deficit Guaranty; provided, however, that such funds shall not be applied against the Operating Deficit Loan Cap and shall not be available to pay fees to the Management Agent if it is an Affiliate of the Managing Member, the Developer, or Guarantors. Notwithstanding anything to the contrary, the Managing Member shall cause the Company to increase the Operating Reserve from time to time to the extent necessary to cause the Company to comply with all Operating Reserve (or comparable reserve) requirements imposed, from time to time, by any Lender or the Agency. The Operating Reserve shall be maintained from Cash Flow throughout the Compliance Period at an amount equal to or exceeding the Initial Operating Reserve Amount, and shall not be subject to release prior to the end of the Compliance Period. Upon expiration of the Compliance Period, funds in the Operating Reserve shall be distributed pursuant to Section 14.1(a), except to the extent otherwise required by Section 17.2 of this Agreement, provided, however, that no distribution shall be made to the Managing Member pursuant to such sections if an Event of Default has occurred and is continuing under this Agreement. The release of the Operating Reserve shall not require the consent of the BBVA Lender.
(c) [Reserved]

(d) The Managing Member shall establish and maintain the rental achievement reserve (the “Rental Achievement Reserve”) in the amount of the Permanent Loan Shortfall to pay Debt Service Expense on the BBVA Loan in the event the terms of the BBVA Loan and the BBVA Lender do not permit the application of the Permanent Loan Shortfall to the redemption of the BBVA Loan as set forth in Section 8.4. The Rental Achievement Reserve shall be deposited at an FDIC member bank selected by the Investor Member, in an account requiring the signature of the Investor Member for any withdrawals (including any interest earned on the account). The Investor Member shall facilitate withdrawals without condition or delay, to such extent that the Managing Member requests to use any funds in the Rental Achievement Reserve to pay Debt Service Expense on the BBVA Loan to the extent Cash Receipts are not sufficient to pay all Cash Expenditures. Commencing not sooner than the first anniversary of Rental Achievement, the Investor Member shall facilitate annual disbursements from the Rental Achievement Reserve (as Cash Flow in accordance with Section 14.1(a) hereof), with each annual disbursement in an amount up to 1/15th of the original balance of the Rental Achievement Reserve, provided that such annual disbursements shall only be made if each of the following is true: (i) there are no uncured events of default under the Project Documents, and (ii) the annual audited financial statements of the Company for the immediately preceding year demonstrate a Debt Service Coverage Ratio of not less than 1.15 to 1.00 and no accrued trade payable liabilities aged more than thirty (30) days. The Rental Achievement Reserve shall be held through the Compliance Period and shall be released as Cash Flow pursuant to Section 14.1(a) hereof at the end of the Compliance Period, and any remaining balance in the Rental Achievement Reserve upon sale of the Project shall be disbursed as provided in accordance with Section 14.1(b).

5.11 Pledged Payments. To secure the payment and performance by the Managing Member and the Developer to Investor Member of the Managing Member’s obligations under this Agreement and the Developer’s obligations under the Development Agreement, the Managing Member, in accordance with the Managing Member Pledge, hereby collaterally assigns, pledges and grants a security interest to the Investor Member in all right, title and interest the Managing Member has in the right to receive any distributions and payments under this Agreement, payments with respect to Operating Deficit Loans and MM Loans and distributions of Cash Flow and Cash From Capital Transaction, and the Developer, in accordance with the Developer Pledge, hereby collaterally assigns, pledges and grants a security interest to the Investor Member in all right, title and interest the Developer has in the Development Agreement, including, without limitation, any payments of the Development Fee (collectively, the “Pledged Payments”). The Managing Member and the Developer, in accordance with the terms of the Managing Member Pledge and Developer Pledge, respectively, irrevocably direct the Company to pay to the Investor Member any Pledged Payments at any time that there is an unsatisfied obligation secured by the Pledged Payments. The Company and the Members shall treat any Pledged Payments made by the Company to the Investor Member as a payment by the Company to the Managing Member or the Developer, as applicable, of the particular Pledged Payment and a payment by the Managing Member or Developer, to the Investor Member, of the particular obligation which it secures. If there is more than one type of outstanding obligation secured at the time a Pledged Payment is made to the Investor Member, the Investor Member, in its sole discretion shall decide to which secured obligation the Pledged Payments shall be
applied. This Section 5.11 shall constitute a security agreement under the laws of the State. In addition, the Managing Member and the Developer each grant the Investor Member a right of offset against Pledged Payments with respect to all amounts due to the Managing Member under this Agreement and the Developer under the Development Agreement.

5.12 Assignment to Company. The Managing Member hereby transfers and assigns to the Company all of its right, title and interest in and to the Apartment Complex and in and to all of the Project Documents, including, without limitation, the following: (i) all contracts with architects, supervising architects, engineers and contractors with respect to the development of the Apartment Complex; (ii) all plans, specifications and working drawings heretofore prepared or obtained in connection with the Apartment Complex; (iii) all governmental commitments and approvals obtained, and applications therefor, including those relating to planning, zoning, building permits, Housing Tax Credits; (iv) any and all commitments with respect to the Loans; (v) any and all contracts or rights with respect to any agreements with the Lenders and any Agency; and (vi) any other work product related to the Apartment Complex and/or the Company, all of which, with respect to the Managing Member, shall have an agreed to value of $1.00.

5.13 Meetings. Any Member may call meetings of the Company for any matters for which the Investor Member may vote as set forth in this Agreement. Within seven (7) days after receipt of Notice requesting a meeting, which Notice shall state the purpose of a meeting, the Managing Member shall provide the Investor Member with Notice (either in person or by certified mail) of a meeting and the purpose of such meeting to be held on a date not less than ten (10) nor more than twenty (20) days after receipt of said request, at a time convenient to the Investor Member, except in the case of an emergency such meeting to be held within two (2) days after receipt of a request. All meetings shall be held at the principal office of the Company.

5.14 Purchase Option. The Co-Managing Member shall have the right to purchase with respect to the Apartment Complex in accordance with the terms set forth in the Purchase Option Agreement.

ARTICLE 6
MANAGING MEMBER REPRESENTATIONS
AND WARRANTIES

6.1 Representations, Warranties and Covenants. The Managing Member represents, warrants and covenants to the Company and the Investor Member, and their counsel for purposes of providing certain tax and other opinions, that the following are presently true and accurate:

(a) The Company is a duly organized limited liability company validly existing and in good standing under the laws of the State and has complied with all filing requirements necessary for the protection of the Investor Member, and it has no assets other than those relating to the Apartment Complex and has never engaged in any business or incurred any liabilities other than in respect of the Apartment Complex. The Company has taken all requisite action in order to conduct lawfully its business in the State and is not qualified to do business in and is not required to so qualify in any jurisdiction other than the State.
(b) The Land is and will be zoned for the operation of the Apartment Complex as a permitted use. There is no violation by the Company or the Managing Member of any zoning or similar regulation applicable to the Apartment Complex which could have a material adverse effect thereon, or, to the best of the knowledge of the Managing Member after due inquiry, of any environmental or similar regulation applicable to the Apartment Complex which could have a material adverse effect thereon, and the Company has complied with all applicable municipal and other laws, ordinances and regulations relating to such construction and use of the Apartment Complex.

(c) All appropriate public utilities, including water, electricity and gas (if called for in the Plans and Specifications), are or will be available and operating properly for each apartment unit in the Apartment Complex on the Occupancy Commencement Date.

(d) No event or proceeding (including, without limitation, legal actions or proceedings before any court, commission, administrative body or other governmental authority having jurisdiction over the zoning applicable to the Apartment Complex, labor disputes and acts of any governmental authority) has occurred or is pending or threatened to the best of the Managing Member’s knowledge after due inquiry, which may (i) materially adversely affect the Company, the Apartment Complex or related to the business or assets of the Company or of the Apartment Complex, or (ii) materially adversely affect the ability of the Managing Member or any of its Affiliates to perform their respective obligations hereunder or under any other agreement with respect to the Apartment Complex, other than legal proceedings which have been bonded against in such manner as to stay the effect of the proceedings or otherwise have been adequately provided for.

(e) No default (or event which, with the giving of notice or the passage of time or both, would constitute a default) has occurred and is continuing under this Agreement or under any material provision of the Project Documents, and the same are in full force and effect.

(f) There has been no violation by the Company, the Managing Member, the Guarantors or any Affiliate of the Managing Member or the Guarantors of Anti-Corruption Laws in connection with the execution of this Agreement, the Project Documents and all other instruments, documents and agreements pertaining to the Company or the Apartment Complex.

(g) After Conversion, no Member or Related Person will bear the Economic Risk of Loss with respect to the Loans. No Managing Member has, either on its own behalf or on behalf of the Company, incurred any financial responsibility with respect to the Company prior to the Closing Date, other than as disclosed in writing to the Investor Member or which will be satisfied at or prior to the execution of this Agreement.

(h) Reserved.

(i) Reserved.

(j) The Company owns a fee simple interest in the Apartment Complex, subject to no material liens, charges or encumbrances other than those which (i) are permitted by the Project Documents and are noted or excepted in the Title Commitment, or, after the issuance thereof, the Title Policy, and (ii) do not materially interfere with use of the Apartment Complex.
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(or any part thereof) for its intended purpose or have a material adverse effect on the value of the Apartment Complex. The Managing Member has not made any misrepresentations or failed to make any disclosure that will or could result in the Company lacking title insurance coverage based on imputation of knowledge of the Managing Member to the Company.

(k) Reserved.

(l) Reserved.

(m) The execution and delivery of all instruments and the performance of all acts heretofore or hereafter made or taken pertaining to the Company or the Apartment Complex by each Affiliate of the Managing Member which is a corporation or limited liability company have been or will be duly authorized by all necessary organizational action, and the consummation of any such transactions with or on behalf of the Company will not constitute a breach or violation of, or a default under, the charter, bylaws, operating agreement or other organizational documents of such Affiliate or any agreement by which such Affiliate or any of its properties is bound, nor constitute a violation of any law, administrative regulation or court decree.

(n) Any Managing Member which is a corporation or limited liability company has been duly organized, is validly existing and in good standing under the laws of its state of organization and has all requisite power to be a Managing Member and to perform its duties and obligations as contemplated by this Agreement and the Project Documents. Neither the execution and delivery by such Managing Member of this Agreement nor the performance of any of the actions of such Managing Member contemplated hereby has constituted or will constitute a violation of (i) the articles of organization, by-laws, operating agreements or other organizational documents of such Managing Member, (ii) any agreement by which such Managing Member is bound or to which any of its property or assets is subject, or (iii) any law, administrative regulation or court decree.

(o) [Reserved].

(p) The only tenant eligibility requirements or rent restrictions with which the Apartment Complex and the Company must comply, including restrictions necessary to receive the full amount of the Projected Housing Tax Credits, are the following:

(i) 50 apartment units are subject to the rent restrictions and occupancy limitations that apply to residential units that satisfy the Application, Minimum Set-Aside Test and comply with the term of the Extended Use Agreement and are leased to Qualified Tenants (the “Housing Tax Credit Units”);

(ii) Unless the Investor Member gives its Consent, eight (8) of the apartment units shall at all times be rented or available for rent as “free market” (the “Market Rate Units”) units without regard to any rent restrictions and occupancy limitations imposed under the Code, the Agency, the Extended Use Agreement or from any other source;

(iii) 10 apartment units are subject to the restrictions of the Section 811 Subsidy Contract; and
(iv) [6] apartment units are subject to the restrictions of the HOME Loan.

(q) The Managing Member acknowledges that the HOME Loan has been funded with the proceeds of HOME Program funds pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1990, which is implemented by the HOME Investment Partnerships Program, 24 CFR Part 92, as amended (collectively, the “HOME Act”). The Managing Member shall cause the Company to comply in full with the HOME Act, if applicable, including, without limitation, rental restrictions and tenant income limitations, Davis-Bacon Act compliance requirements, and all requirements set forth in any regulatory agreement executed by the Company in connection with the HOME Loan.

(r) The term of the Extended Use Agreement will not exceed thirty-five (35) years and under the Extended Use Agreement.

(s) Saigebrook Development, LLC owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of the Co-Managing Member and Lisa M. Stephens owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of Saigebrook Development, LLC (subject to any estate planning transfers; provided that (A) any direct or indirect interest of Lisa M. Stephens in the Co-Managing Member is conveyed to a trust for the benefit of the spouse or children of Lisa M. Stephens, and (B) Lisa M. Stephens or Megan D. Lasch continues to control the Co-Managing Member). O-SDA Industries, LLC owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of the Administrative Member and Megan D. Lasch owns and shall continue to own at all times during the term hereof one hundred percent (100%) of all classes of interests of O-SDA Industries, LLC (subject to any estate planning transfers; provided that (A) any direct or indirect interest of Megan D. Lasch in the Administrative Member is conveyed to a trust for the benefit of the spouse or children of Megan D. Lasch, and (B) Megan D. Lasch or Lisa M. Stephens continues to control the Administrative Member).

(t) Single Purpose Requirements.

(i) The Managing Member shall not engage, has not engaged and does not engage, in any business other than the business of making housing available to persons of low and moderate income other than with respect to the Market Rate Units and promoting social welfare and combating community deterioration, through acquisition, investment, funding, construction, rehabilitation, or any other means consistent with its charitable purposes.

(ii) The Managing Member shall not enter into and has not entered into any contract or agreement with any Affiliate of the Managing Member, any constituent party of the Managing Member, or any Affiliate of any constituent party, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm’s length basis with third parties other than any such party.
(iii) The Managing Member has and shall continue to pay its debts and liabilities from its own assets as the same shall become due. No Affiliate has paid any debts or liabilities on behalf of the Managing Member.

(iv) The Managing Member has and shall continue to maintain books, financial records and bank accounts that are separate and distinct from the books, financial records and bank accounts of any other Person including any Affiliate.

(v) The Managing Member has and shall continue to maintain separate annual financial statements prepared in accordance with generally accepted accounting principles, consistently applied, showing its assets and liabilities separate and distinct from those of any other entity; in the event the financial statements of the Managing Member are consolidated with the financial statements of any other entity, the Managing Member has and shall continue to cause to be included in such consolidated financial statements: (i) a narrative description of the separate assets, liabilities, business functions, operations and existence of the Managing Member to ensure that such separate assets, liabilities, business functions, operations and existence are readily distinguishable by any entity receiving or relying upon a copy of such consolidated financial statements; and (ii) a statement that the Managing Member’s assets and credit are not available to satisfy the debts of such other entity or any other person.

(vi) The Managing Member or its members has and shall continue to file its own tax returns and pay its own taxes required to be paid under applicable law.

(vii) The Managing Member has and shall continue to (i) hold itself out as an entity separate and distinct from any other Person; (ii) not identify itself or any of its affiliates as a division or part of the other; (iii) correct any known misunderstanding regarding its separate status; and (iv) use separate stationery, invoices, checks, and the like bearing its own name.

(viii) The Managing Member has and shall continue to conduct its business in its own name so as to avoid or correct any misunderstanding on the part of any creditor concerning the fact that any invoices and other statements of account from creditors of the Managing Member are to be addressed and mailed directly to the Managing Member, though this provision shall not prohibit such mail to be delivered to the Managing Member c/o any other entity.

(ix) The Managing Member has and intends to 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.

(x) The Managing Member has not and shall not commingle any of its assets, funds or liabilities with the assets, funds or liabilities of any other Person or Affiliate.

(xi) The Managing Member has and shall continue to maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any party.
(xii) Except as provided for in this Agreement or under the Loan documents, the Managing Member has not and shall not, (i) assume or guaranty the debts of any other Person in a manner that includes a pledge, encumbrance, transfer or hypothecation (whether by operation of law or otherwise) of any assets or interests of the Company or, (ii) hold itself out to be responsible for the debts of another Person in a manner that includes the pledge, encumbrance, transfer or hypothecation of any assets or interests of the Company (whether by operation of law or otherwise), or (iii) otherwise pledge, encumber, transfer or hypothecate the assets of the Company for the benefit of another Person or permit the same to occur, or (iv) hold the Company’s credit as being available to satisfy the obligations of any other Person.

(xiii) All transactions carried out by the Managing Member have been and will be, in all instances, made in good faith and without intent to hinder, delay or defraud creditors of the Managing Member.

(u) On each date of funding by the Investor Member of a Capital Contribution, the Company shall have good and marketable title to the Apartment Complex, subject only to the permitted exceptions set forth in Section 6.1(f). All real estate taxes, assessments, water and sewer charges and other municipal charges, to the extent due and owing, have been paid in full on the Apartment Complex.

(v) No representation, warranty or statement of the Managing Member in this Agreement or in any document, certificate or schedule furnished or to be furnished to any Investor Member pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

(w) The Apartment Complex is not a scattered site project within the meaning of Code Section 42(g)(7).

(x) The Agency has designated the Apartment Complex as requiring an increase in Housing Tax Credits for financial feasibility under Section 42(d)(5)(B)(v) of the Code so that the Apartment Complex is treated as located in a “difficult development area” under Section 42(d)(5)(B) of the Code. Consequently, the Company will be entitled to increase the Eligible Basis of the buildings comprising the Apartment Complex to one hundred thirty percent (130%) of what it would otherwise be.

(y) The Managing Member represents, warrants and covenants that:

(i) By the Fourth Installment, the Accountants have certified that all amounts included in the determination of Eligible Basis as set forth in the Development Budget and in the Application are properly includable pursuant to the Code and Service rulings.

(ii) The Company’s total initial cost basis allocable to a class of property other than residential rental property shall not be increased by more than 25% of the amount set forth in the LIHTC Certificate attached hereto as Exhibit S.

(iii) No portion of the Apartment Complex’s Eligible Basis, including the portion of the Development Fee included in Eligible Basis, is allocable, under the Code and
rulings issued by the Service, to land costs, organizational or syndication costs. Land preparation costs included in Eligible Basis are inextricably associated with depreciable assets of the Company.

(iv) Any portion of the Development Fee that is included in Eligible Basis, including any portion the payment of which is deferred, is properly includable in Eligible Basis under the Code and Service rulings.

(z) No Event of Bankruptcy has occurred with respect to the Managing Member, any Guarantor or any Affiliate of the Managing Member or any Guarantor.

(aa) Neither the Company nor any Managing Member has liabilities, contingent or otherwise, or pending or threatened litigation or any unasserted claim against any of them which would have a material adverse effect on the Managing Member, the Apartment Complex or the Company that have not been disclosed in writing to the Investor Member.

(bb) There is no litigation, demand, suit, action, inquiry, proceeding, investigation or claim pending or, to the best of the Managing Member’s knowledge, threatened, relating to any Anti-Corruption Laws with respect to the Company, the Managing Member, the Guarantor(s) or any Affiliate with respect to the Managing Member or the Guarantor(s).

(cc) All accounts of the Company required to be maintained under the terms of the Project Documents, including the Replacement Reserve, are currently funded to the levels required by the Lenders and/or any Agency, to the extent required by each such Lender and Agency.

(dd) Prior to Completion, the Guarantors will maintain collectively at least $1,000,000 in Liquid Assets. From the date of Completion through and including the Rental Achievement, the Guarantors will maintain collectively at least $500,000 in Liquid Assets. The Managing Member shall Notify the Investor Member whenever the requirements of this Section 6.1(dd) are not satisfied. [Any Development Fee paid at Closing will count towards the Guarantor’s Liquid Asset requirement on the date of Closing].

(ee) All payments and expenses required to be made or incurred in order to achieve Completion of the Apartment Complex in conformity with the Project Documents, to satisfy all requirements under the Project Documents and/or which form the basis for determining the principal sum of the Loans and to pay the Development Fee (other than the Deferred Development Fee) have been or will be paid or provided for utilizing only the Permitted Sources.

(ff) The amount of Housing Tax Credits which are expected to be allocated by the Company to the Investor Member is as set forth in the definition of Projected Housing Tax Credits.

(gg) The Apartment Complex is being developed in a manner which satisfies, and shall continue to satisfy, all restrictions, including tenant income and rent restrictions, applicable to projects generating Housing Tax Credits.
(hh) None of the costs to develop and construct the Apartment Complex has been paid for, directly or indirectly, from the proceeds of bonds the interest on which is exempt from tax under Section 103 of the Code, and the Eligible Basis of the Apartment Complex shall not include any costs financed with the proceeds of a federally funded grant pursuant to Section 42(d)(5)(A) of the Code.

(ii) (A) The Managing Member has provided to the Investor Member a complete copy of the Environmental Documents. To the best of the knowledge of the Managing Member after due inquiry, except as disclosed in the Environmental Documents, no Managing Member, Affiliate of any Managing Member or Person for whose conduct any Managing Member is or was responsible has ever: (i) owned, occupied, or operated a Facility or Vessel on the Apartment Complex on which any Hazardous Material was or is stored, transported or disposed of (except if such storage, transport or disposal was and is at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto); (ii) directly or indirectly transported, or arranged for transport, of any Hazardous Material (except if such transport was and is at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) to or from the Apartment Complex; (iii) caused or was legally responsible for any release or threat of release of any Hazardous Material to or from the Apartment Complex or the property adjacent thereto; (iv) received notification from any federal, state or other governmental authority or by any other Person of (x) any potential, known, or threat of release of any Hazardous Material at or from the Apartment Complex; or (y) the incurrence of any expense or loss by any such governmental authority or by any other Person in connection with the assessment, containment, or removal of any release or threat of release of any Hazardous Material from the Apartment Complex.

(B) In connection with the acquisition of the Apartment Complex, the Company obtained a “Phase I” environmental site assessment of the Apartment Complex which establishes an innocent landowner defense pursuant to Section 9601(35) of CERCLA. The Managing Member has reviewed the “Phase I” environmental site assessment (and any subsequent studies recommended therein) and believes the same to be true, correct and complete in all respects. To the best knowledge of the Managing Member, after due inquiry, there is no fact, circumstance, event or condition, previously or subsequently occurring, which would or does make any statement in such survey untrue, false or misleading. None of the Company, the Managing Member nor any of its Affiliates has given any waiver or release of liability pursuant to any Environmental Law to any Person in the chain of title of the Land or the Apartment Complex.

(jj) To the best of the Managing Member’s knowledge, after due inquiry, except as disclosed by the Managing Member to the Investor Member in writing, neither the Company nor the Apartment Complex is in violation of any Environmental Law. Neither the Managing Member nor the Company has received any notice from any governmental agency or by any other Person that the Company, Apartment Complex or Land upon which it is located is in violation of any Environmental Law.

(kk) To the best of the Managing Member’s knowledge, after due inquiry, except as disclosed by the Managing Member to the Investor Member in writing or in the Environmental Documents, no Hazardous Material was ever or is now stored, transported or
disposed of (except to the extent any such storage, transport or disposal was at all times in compliance with all laws, including all Environmental Laws, ordinances and regulations pertaining thereto) on the Land.

(II) Except as contemplated in the Purchase Option Agreement, no Person or Entity other than the Company and those Persons holding indirect interests through the Company holds any equity interest in the Apartment Complex.

(mm) The Company has the sole responsibility to pay all maintenance and operating costs, including all taxes levied upon, and all insurance costs attributable to the Apartment Complex.

(nn) The Company, except to the extent that it is protected by insurance and excluding any risk borne by any Lender, bears the sole risk of loss if the Apartment Complex is destroyed or condemned, or if there is a diminution in value of the Apartment Complex.

(oo) No Person except the Company has the right to any proceeds after payment of all indebtedness, from the sale, refinancing or leasing of the Apartment Complex.

(pp) The fair market value of the Apartment Complex exceeds or, once constructed, is expected to exceed the total amount of indebtedness, including accrued interest thereon, encumbering the Apartment Complex and is expected to do so throughout the term of such indebtedness.

(qq) The Managing Member represents and warrants that (i) neither the Managing Member nor the Company has entered into any other enforceable agreement or commitment with any other Person to acquire the Housing Tax Credits, or, in the alternative, (ii) the Managing Member and/or the Company has obtained legally enforceable releases or termination agreements from other Persons with whom the Managing Member and/or the Company has previously entered into an agreement whereby said Persons may acquire the Housing Tax Credits. The Managing Member further warrants that it shall at all times indemnify and hold harmless the Hunt Indemnified Parties against and from any and all claims, suits, actions, damages, costs, judgments and expenses, of any nature whatsoever, suffered or incurred by the Hunt Indemnified Parties as a result of the Managing Member and/or the Company’s prior dealings, negotiations, agreements, and/or commitments with Persons.

(rr) The Managing Member has prepared its own financial analysis of the Apartment Complex and is not relying on any financial analysis, projection or forecast prepared by the Investor Member or any Affiliate thereof of the construction costs associated with the Apartment Complex or the Apartment Complex’s operations. There are sufficient sources of funds to complete the Apartment Complex in accordance with the Development Budget.

(ss) The Apartment Complex has been and will be constructed and operated in conformance with the Application submitted to the Agency.

(tt) No restrictions on the sale or refinancing of the Apartment Complex exist, other than restrictions under Code Section 42, the documents evidencing and securing the HOME Loan and the Extended Use Agreement, and no other such restrictions shall be placed
upon the sale or refinancing of the Apartment Complex at any time while the Investor Member is an Investor Member without the Consent of the Investor Member.

(uu) The Company has not made, and will not make, an election to be taxable as a corporation.

(vv) Other than as specifically provided in this Agreement, a creditor who makes a loan to the Company shall not have or acquire at any time as a result of making the loan, any interest in the profits, capital or property of the Company other than as a secured creditor.

(ww) The Managing Member has disclosed in writing to the Investor Member all material actions with respect to the Company taken by the Managing Member prior to the date hereof.

(xx) All material documents relating to the Company and the Apartment Complex have been made available to the Investor Member.

(yy) The Managing Member acknowledges that no Lender is or will be acting on behalf of or as agent for the Investor Member in connection with Loans.

(zz) The Managing Member, on behalf of itself and the Company, shall not bring any claim against any Lender or the Investor Member relating to the Loans based in any way upon Lender’s status as an investor in the Investor Member.

(aaa) Neither the Managing Member nor the Company (a) is in violation of the USA Patriot Act; (b) is a Person or entity described by section 1 of Executive Order 13224 of September 24, 2001, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, 66 Fed. Reg. 49,079 (2001), or (c) to the best knowledge and belief of the Managing Member, neither the Managing Member or the Company engages in any dealings or transactions, or is otherwise associated, with any such Persons or entities.

(bbb) The Managing Member acknowledges that the fees to be paid by the Company and described in this Agreement and all exhibits thereto, including the Development Agreement, the Management Agreement and the Project Documents, are reasonable compensation for the services for which they will be paid.

(ccc) The Apartment Complex does not contain any commercial spaces.

(ddd) The Managing Member has performed suitable and adequate due diligence as is customary in the industry and, in connection therewith, and the Managing Member has discovered no condition (other than those previously disclosed to the Investor Member in writing) adverse to the development and operation of the Project or any of the assumptions, projections or proformas delivered to the Investor Member.

(eee) The Managing Member shall Notify the Investor Member of any groundbreaking, grand opening, ribbon-cutting or other public relations ceremony relating to the Apartment Complex (collectively, “Groundbreaking Activities”).
Member shall invite (in writing) a representative of the Investor Member to attend and actively participate in such Groundbreaking Activities, such written invitation shall be made no less than thirty (30) calendar days prior to the scheduled event. The Managing Member shall cause the Company to display a sign at the Apartment Complex during construction which clearly states the name of Hunt Capital Partners, LLC as the arranger of equity funds for the Project and at Hunt’s option, the name of the Investor Member or any member/partner of the Investor Member. The sign shall be erected, at the cost of the Company, in a prominent place on the site within fifteen (15) Business Days of receipt by the Managing Member of the Hunt Capital Partners, LLC image and directions. The Managing Member agrees to immediately remove such sign or reference to Hunt Capital Partners, LLC, its investors, and/or any member/partner of the Investor Member if requested by the Investor Member. The Managing Member hereby gives permission to the Investor Member, and any Affiliate thereof, to issue press releases and advertising relating to the equity commitment and the Investor Member’s participation in the transaction. Such media and marketing materials may include, among other things, photos, information about the location of the Apartment Complex, the number of units, the amenities associated with the Apartment Complex and the terms of the equity commitment. The Managing Member shall reference Hunt Capital Partners, LLC as the arranger of equity funds for the Project and at Hunt’s option, the name of the Investor Member or any member/partner of the Investor Member, in any press releases related to the Apartment Complex and shall provide the Investor Member with at least five (5) Business Days to review such items.

(ff) Reserved.

(gg) to the Managing Member’s knowledge, it has complied in all material respects with, and has caused the Company to comply in all material respects with, all applicable local, state and federal laws, statutes, regulations, rules and ordinances (including, without limitation, (i) all applicable filing and disclosure requirements related thereto, (ii) the USA Patriot Act and (iii) the Currency and Foreign Transactions Reporting Act of 1970 and neither it nor the Company has entered into any transaction with any entity or country that, to its knowledge, is (A) sanctioned under Section 311 of the USA Patriot Act or (B) a Foreign Shell Bank; it has established anti-money laundering policies and procedures as may be required by the Bank Secrecy Act, as amended by USA Patriot Act, which policies and procedures shall also apply, as applicable, to the Company, and is in full compliance with the Financial Crimes Enforcement Network of the U.S. Department of Treasury (“FinCen”) regulations.

(hh) At the written direction of the Investor Member, the Managing Members shall cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code. The Managing Member shall not otherwise make the foregoing election without the written direction of, or with the Consent of, the Investor Member. The Managing Member shall seek the direction and/or Consent of the Investor Member prior to filing of the Company’s 2019 tax returns or such earlier time as such election is to be made. Once made, the election will be irrevocable.

(iii) All of the representations, warranties and covenants contained herein shall survive the date of Conversion and the funding date of each Installment made by the Investor Member. The Managing Member shall indemnify and hold harmless the Hunt Indemnified Parties 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. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, or (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there is a final judgment for the plaintiff in any such action as to which the Managing Member has received Notice in writing as hereinabove required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment.

6.2 Environmental Representations, Warranties and Covenants. The Managing Member will establish operating and maintenance programs (an “O&M”) to instruct site staff and vendors on how to proceed when (i) maintaining the components of the electrical system that facilitate safe mixing of aluminum and copper components, and (ii) dealing with Hazardous Materials at the Apartment Complex, each as and if applicable. A copy of each such O&M report shall be furnished to the Investor Member and the Management Agent, and the Management Agreement shall obligate the Management Agent to act in accordance with the recommendations in any such O&M.

ARTICLE 7
EVENTS OF DEFAULT AND REMEDIES

7.1 Events of Default. Any one or more of the following events, whether described in Section 7.1(a) or Section 7.1(b) is an Event of Default under this Agreement, and the term “Event of Default,” wherever used herein, means any one of the following events, whatever the reason for such default and whether it shall be voluntary or involuntary or be effected by
operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body. The Events of Default described in Section 7.1(a) may also give rise to the Investor Member’s repurchase right as described in Section 7.2(b)(iv), however, after the Company’s receipt of Forms 8609 and the funding of the Fifth Installment, the Investor Member’s repurchase right shall terminate.

(a) **Events of Default That Are Repurchase Triggers.**

(i) acts or omissions of the Managing Member that either (A) constitute fraud, bad faith, gross negligence, misconduct, or breach of fiduciary duty with respect to any material matter in the discharge of its duties as the Managing Member or (B) results in or is likely to result in a material detriment to or an impairment of the Apartment Complex, the Company, the Housing Tax Credits or any assets of the Company;

(ii) a Loan shall have been declared in default by Lender, which gives the Lender the right to foreclose on the Apartment Complex;

(iii) any interest rate lock-in has expired and is not replaced with a rate lock of equivalent terms, or the Apartment Complex only qualifies for a permanent loan that is insufficient to balance the sources and uses of funds;

(iv) [Reserved];

(v) other than due to a Tax Law Change, the amount of Actual Housing Tax Credits for any year are (with the exception of year 2020, so long as all adjuster payments due hereunder are funded in a timely manner), or are projected by the Accountants after the issuance of Forms 8609 to be less than eighty percent (80%) of Projected Housing Tax Credits;

(vi) For any reason whatsoever, the Apartment Complex does not generate any Actual Housing Tax Credits during 2021;

(vii) Placement in Service does not occur on or before the earlier to occur of (a) December 31, 2020, or (b) the date required by the Code and the Agency to preserve the Housing Tax Credits;

(viii) reserved;

(ix) reserved;

(x) IRS Forms 8609 are not issued for all buildings in the Apartment Complex on or before the date required under the Code or by the Agency to claim the Housing Tax Credits for the Apartment Complex in the year available (subject, in either case, to delays in issuance thereof solely due to inaction of the Agency);

(xi) The satisfaction of all First Installment Funding Conditions does not occur by June 30, 2019;
(xii) Rental Achievement does not occur on or before October 1, 2021;

(xiii) a casualty shall have occurred with respect to the Apartment Complex and insurance proceeds are insufficient to fully restore the Apartment Complex to its condition immediately prior to such casualty, or the Apartment Complex is not fully restored to its condition immediately prior to such casualty within twenty-four (24) months of such casualty or such earlier date as may be required by the Code or the Agency to preserve the Housing Tax Credits;

(xiv) reserved;

(xv) the Ten Percent Test is not met within earlier of the time specified by Section 42(h)(1)(E) of the Code or the date required by the Agency;

(xvi) reserved;

(xvii) the Managing Member and/or the Company fail to comply with any requirement of the Agency which may have a material adverse effect on the Carryover Allocation, including, without limitation, a reduction in the Projected Housing Tax Credits;

(xviii) at any time prior to Completion, an action is commenced to abandon or permanently enjoin the construction of the Apartment Complex;

(xix) non-achievement of the Minimum Set-Aside Test and/or the Rent Restriction Test by the end of the first year of the Credit Period;

(xx) the Company fails to execute and record an Extended Use Agreement by the close of the first year of the Credit Period;

(xxi) the Company fails to achieve Initial 100% Occupancy on or before October 31, 2021;

(xxii) at any time prior to Rental Achievement, the Managing Member and/or the Developer fail to provide or cause to be provided any funds required to be provided by the Managing Member hereunder or by the Developer under the Development Agreement;

(xxiii) reserved;

(xxiv) the occurrence of an Event of Bankruptcy prior to Rental Achievement, with respect to the Managing Member, the Company, the Guarantor or the Developer, or a Person with a Controlling Interest in any of them;

(xxv) the Managing Member shall have conducted its own affairs or the affairs of the Company in such a manner as would (1) cause the termination of the Company for federal income tax purposes or (2) cause the Company to be treated for federal income tax purposes as an association taxable as a corporation; (3) cause the Company to fail to qualify as a limited liability company under the Uniform Act; or (4) cause the Investor Member to be liable for Company obligations in excess of its Capital Contribution; or (5) otherwise substantially
reduce tax benefits or substantially increase tax liabilities of the Investor Member for which the Investor Member is not compensated under this Agreement; or

(xxvi) any change of control of the Managing Member without the Consent of the Investor Member.

(b) Events of Default That are Not Repurchase Triggers.

(i) the Company fails to pay on a timely basis any of its real estate or personal property tax obligations (including any payments-in-lieu-of-taxes) to any county, city, town or other local government;

(ii) the occurrence of an Event of Bankruptcy after Rental Achievement with respect to the Managing Member, the Company, a Guarantor, the Developer, or a Person with a Controlling Interest in any of them;

(iii) any commission of, indictment or conviction for, or pleading of, no contest or plea of guilty with respect to a felony by the Managing Member or a Controlling Person of the Managing Member, or an Affiliate of the Managing Member, or there be a complaint filed against the Managing Member or a Controlling Person of the Managing Member, or an Affiliate of the Managing Member, alleging violation of any anti-fraud, registration or reporting provision of state or federal securities law or a judgment rendered against the Managing Member, a Controlling Person of the Managing Member, or an Affiliate of the Managing Member as a defendant (or admit to liability) in any action based upon civil fraud or misrepresentation, or a debarment or otherwise declaration of ineligibility to participate in any federal program or the Managing Member, a Controlling Person of the Managing Member or an Affiliate of the Managing Member is indicted by a grand jury. In the event a Controlling Person of the Co-Managing Member or an Affiliate of the Co-Managing Member is under investigation by a grand jury, voting rights and control belonging to the Co-Managing Member’s Interest shall vest to the Administrative Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable. In the event a Controlling Person of the Administrative Member or an Affiliate of the Administrative Member is under investigation by a grand jury, voting rights and control belonging to the Administrative Member’s Interest shall vest to the Co-Managing Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable. In the event a Controlling Person of both the Co-Managing Member and the Administrative Member or an Affiliate of the Co-Managing Member and an Affiliate of the Administrative Member is under investigation by a grand jury, voting rights and control belonging to the Interests of Co-Managing Member and the Administrative Member shall vest to the Investor Member until the conclusion of the investigation or the receipt by the Investor Member of a satisfactory letter from the Attorney General of the United States or the Texas Attorney General, as applicable;

(iv) a default by a Guarantor under the Guaranty;
(v) any representation or warranty made by the Managing Member herein, or in any document or certificate furnished to the Investor Member in connection herewith or pursuant hereto shall prove at any time to be false, incorrect or misleading as of the date made and which has an adverse impact upon the Company or the Investor Member;

(vi) the failure of the Managing Member to make any Capital Contributions or payments to the Investor Member required pursuant to Section 4.2(d);

(vii) the Managing Member shall fail in any respect to observe and perform or shall breach in any respect any covenant, condition, duty, obligation or agreement set forth in Articles 5, 6 and 8, which are not otherwise set forth in this Section and which has an adverse impact upon the Company or the Investor Member;

(viii) any act by the Managing Member outside the scope of its duties or obligations under this Agreement that has a material adverse effect on the Company, the Apartment Complex or the Investor Member;

(ix) the material breach by the Managing Member of any provision of this Agreement or a breach or default by the Company of any Project Document;

(x) the Apartment Complex or the Company is substantially mismanaged in any material respect;

(xi) the Managing Member fails to fund any Operating Deficits (regardless of whether the Operating Deficit Guaranty Period has expired or whether the Operating Deficit Cap has been reached);

(xii) the Managing Member withdraws, attempts to withdraw, or for any reason is deemed to have withdrawn from the Company;

(xiii) the Managing Member fails to provide or maintain any insurance required by this Agreement;

(xiv) the Managing Member shall have conducted its own affairs or the affairs of the Company in such a manner as would qualify as an event of removal or withdrawal with respect to a Managing Member under the Uniform Act; or

(xv) a Loan shall have been declared in default by Lender.

7.2 Notice and Remedies.

(a) Notice. Prior to or concurrently with the enforcement of any remedy in Section 7.2(b), the Investor Member shall give Notice of an Event of Default (“Notice of Default”) to the Managing Member and, with respect to certain Events of Default set forth in Section 7.2(c) only, the Managing Member shall have the right to cure such Event of Default.

(b) Remedies.
(i) Upon the occurrence of an Event of Default (and if the Event of Default is subject to cure under Section 7.2(c), upon a failure to cure such Event of Default by the expiration of the applicable cure period), the Investor Member may elect that, such Managing Member (a) shall immediately cease to be a Managing Member, (b) shall no longer have any Interest, (c) shall not be entitled to receive any fees, including but not limited to the MM Incentive Management Fees, which have not been fully paid prior to the date of the occurrence of the Event of Default or payment with respect to any Operating Deficit Loans or MM Loans (such removal of the Managing Member shall be an “Involuntary Withdrawal”). Notwithstanding the foregoing, upon the occurrence of the Event of Default described in Section 7.1(b)(ii) hereof, the Involuntary Withdrawal of the Managing Member shall occur immediately upon the occurrence of the Event of Default, without any election by the Investor Member.

(ii) Upon an Event of Default (and if the Event of Default is subject to cure under Section 7.2(c), upon a failure to cure such Event of Default by the expiration of the applicable cure period), the Investor Member’s designee, which may be a Hunt Entity or a qualified non-profit organization if required by the Application, shall be admitted as a replacement Managing Member (the “Replacement Managing Member”) on the terms set forth herein without any further action by any other Member. Upon any such admission of the Replacement Managing Member, the former Managing Member’s interest in all items of profits, losses, credits, distributions and Percentage Interest shall be transferred to the Replacement Managing Member and the Replacement Managing Member shall be paid all fees and loans, including but not limited to MM Incentive Management Fees, Operating Deficit Loans and MM Loans, which would have been payable to the removed Managing Member had an Event of Default not occurred. In addition, the obligation to pay any Development Fee, or portion thereof, that is not paid with the Managing Member’s Special Capital Contribution in accordance with Section 4.1(c), shall be automatically assigned to the Replacement Managing Member. The Replacement Managing Member shall be automatically admitted and become the managing member of the Company without the need for any approval from any Member, Agency or any Lender, unless otherwise required by the Agency or by any Lender, and shall be irrevocably delegated all of the power and authority of the Managing Member pursuant to Section 5.1. Each Member hereby grants to the Investor Member a special power of attorney, irrevocable to the extent permitted by law and coupled with an interest, to amend the Certificate and this Agreement and to do anything else which, in the view of the Investor Member, may be necessary or appropriate to accomplish the purposes of this Section 7.2(b)(ii) or to enable the Replacement Managing Member admitted pursuant to this Section 7.2(b)(ii) to manage the business of the Company. The admission of the Replacement Managing Member shall not relieve the former Managing Member of any of its obligations hereunder incurred as a Managing Member, and the former Managing Member shall fully indemnify and hold harmless the Replacement Managing Member from and against any and all losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained in connection with its capacity as a Managing Member. For the avoidance of doubt, the Managing Member shall not be responsible for obligations incurred or arising from the actions or inactions of the Replacement Managing Member on or after the Replacement Managing Member is admitted to the Company or for claims arising after its removal and not attributable to the former Managing Member’s actions or inactions.

(iii) The Investor Member hereby is granted an irrevocable power of attorney, coupled with an interest, to execute any and all documents on behalf of the Members.
and the Company as shall be legally necessary and sufficient to effect all of the foregoing provisions of this Section 7.2, including, without limitation, any amendment to the Certificate and this Agreement.

(iv) Upon the occurrence of an Event of Default by the Managing Member described in Section 7.1(a), the Investor Member may, at its option, at any time, require the Managing Member to, and the Managing Member shall, purchase the Investor Member’s Interest in the Company for an amount equal to the Capital Contribution paid by the Investor Member (together with interest thereon at an annual interest rate of ten percent (10%) compounded annually from the date on which each installment of the Investor Member’s Capital Contribution was actually advanced to the Company) plus all expenses (including, without limitation, reasonable costs of in house and outside legal counsel and accountants) incurred by the Investor Member in connection with its participation in the Company and enforcing their rights hereunder, plus the repayment in full of all outstanding IM Loans plus any federal income tax liability incurred by the Investor Member as a result of the payment of any amounts pursuant to this Section 7.2(b)(iv) less Housing Tax Credits allocated to the Investor Member that have not been or will not be recaptured. Upon receipt of such amount, the Investor Member’s interest as an Investor Member in the Company shall terminate, the Investor Member shall transfer its interest in the Company to the Managing Member or its designees, and the Managing Member shall indemnify and hold harmless the Hunt Indemnified Parties from and against any losses, damages, liabilities, costs or expenses (including reasonable attorneys’ fees) to which the Hunt Indemnified Parties (as a result of its participation hereunder) may be subject. In case such action is brought against any Hunt Indemnified Party, and it notifies the Managing Member of the commencement thereof as soon as practicable, the Managing Member will be entitled to participate in, and, to the extent that it chooses so to do, to assume the investigation and defense thereof (including the employment of counsel reasonably satisfactory to the Hunt Indemnified Party), and the Managing Member will assume the payment of all fees and expenses relating to such investigation and defense and will have the right to negotiate and consent to settlement thereof provided such settlement expressly and unconditionally releases the Hunt Indemnified Party from all liabilities and obligations with respect to the claim without prejudice and the settlement would not otherwise materially adversely affect the Hunt Indemnified Party. Any one or more of the Hunt Indemnified Parties will have the right to employ separate counsel in any such action and to participate in the defense thereof, but after Notice from the Managing Member to such Hunt Indemnified Party of its election to assume the defense thereof, the fees and expenses of such separate counsel will be at the expense of such Hunt Indemnified Party unless (i) the employment of such counsel and the payment of such fees and expenses by the Managing Member has been specifically authorized in writing by the Managing Member, or (ii) the Managing Member has not employed counsel to have charge of the defense of such action within a reasonable time after receipt of a request by the Hunt Indemnified Party to assume the defense of the action, (iii) counsel for such Hunt Indemnified Party or Parties has reasonably concluded that there may be material defenses available to it or them which are different from or additional to those available to the Managing Member and other Hunt Indemnified Parties (in which case, the Managing Member will not have the right to direct the defense of such action on behalf of such Hunt Indemnified Party and the fees and expenses of counsel necessary as a result of the occurrence of the events described in (i), (ii), or (iii) above will be borne by the Managing Member). The Managing Member will not be liable for any settlement of any such action effected without its Consent, but if settled with the Consent of the Managing Member or if there
is a final judgment for the plaintiff in any such action as to which the Managing Member has received Notice as hereinabove required, the Managing Member agrees to indemnify and hold harmless the Hunt Indemnified Party from and against any loss or liability by reason of such settlement or judgment.

(v) The Managing Member, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agrees that if the Managing Member becomes the subject of Bankruptcy proceedings pursuant to the United States Bankruptcy Code, as it may be amended (the “Bankruptcy Code”), then (i) any other Member shall thereupon be entitled to immediate relief from any automatic stay imposed by Section 362 of the Bankruptcy Code or otherwise, on or against the exercise of the rights and remedies available to such Member pursuant to this Agreement or otherwise, and (ii) any Member may apply or move the bankruptcy court in which the Bankruptcy proceedings are pending for a change of venue to the bankruptcy court where the Company has its principal place of business and the Managing Member agrees not to oppose or object to such application or motion in any way. The foregoing shall in no way preclude, restrict or prevent the Managing Member from filing for protection under the Bankruptcy Code.

(vi) This is an agreement under which applicable law excuses the Investor Member from accepting performance from any Managing Member which is a debtor in a case under the Bankruptcy Code, 11 U.S.C. § 101 et seq., from a trustee of any such debtor and from the assignee of any such debtor or trustee. The Managing Member acknowledges that the Investor Member has entered into this Agreement with the Managing Member in consideration of and in reliance upon its unique knowledge, experience and expertise, and that of its principals in the planning and implementation of the development of the Apartment Complex and in the area of affordable housing and development in general. The foregoing restriction on transfer is based in part on the above factors. The Managing Member expressly agrees that the Investor Member shall not be required to accept performance under this Agreement from any person other than the Managing Member, including, without limitation, any trustee of the Managing Member appointed under the Bankruptcy Code, 11 U.S.C. § 101 et seq., and any assignee of any such trustee or any receiver or examiner appointed under federal or state law.

(vii) Upon the occurrence of an Event of Default, the Company shall withhold payment of any installment of fees payable pursuant to Section 5.9 and the Managing Member shall be liable for the Company’s payment of any and all installments of the Development Fee payable pursuant to the Development Agreement. All amounts so withheld by the Company under this Section 7.2(b)(vii) shall be promptly released to the payees thereof only after the Managing Member has cured the default justifying the withholding, as demonstrated by evidence acceptable to the Investor Member.

(viii) In addition to the foregoing remedies, the Investor Member can take suits, actions or proceedings in equity or at law, either for the specific performance of any covenant or contract contained herein or in aid or execution of any right herein granted, or for any legal or equitable remedy as the Investor Member shall deem most effectual to protect and enforce this Agreement, the Guaranty and the Project Documents.
(c) **Cure.** After Notice from the Investor Member pursuant to Section 7.2(a), the Managing Member shall have the following opportunity to cure only the following Events of Default:

(i) There shall be no cure period with respect to Events of Default described in Section 7.1(a). There shall be no cure period with respect to Events of Default described in any of Sections 7.1(b)(ii) and (iii) (the "No Cure Sections").

(ii) The Managing Member shall have ten (10) Business Days from the date of the Notice of Default to cure a monetary Event of Default described in Sections 7.1(b)(i), (iv), (vi), (xi), (xvi) and (xvii) in a manner acceptable to the Investor Member in its sole discretion.

(iii) In the case of an Event of Default in Section 7.1(b) that is susceptible of cure, the Managing Member shall have thirty (30) days from the date of the Notice of Default to cure such Event of Default in a manner acceptable to the Investor Member in its sole discretion or, if the Managing Member commences such cure within thirty (30) days from the date of the Notice of Default and proceeds diligently and in good faith to cure such Event of Default, ninety (90) days from the date of the Notice of Default; but only if the failure to cure such Event of Default within such ninety (90) day period does not have, or in the sole judgment of the Investor Member, will not have, a material adverse effect on the Company, the Apartment Complex or the Investor Member.

(iv) With respect to any Event of Default attributable solely to the Co-Managing Member and for which such Event of Default has been cured by the Administrative Member, the Administrative Member shall have the right to replace the Co-Managing Member with another entity Consented to by the Investor Member. With respect to any Event of Default attributable solely to the Administrative Member and for which such Event of Default has been cured by the Co-Managing Member, the Co-Managing Member shall have the right to replace the Administrative Member with another entity Consented to by the Investor Member.

(v) Any cure of an Event of Default by the Investor Member or an Affiliate of the Investor Member shall not constitute a cure by the Managing Member.

7.3 **Nonexclusive Remedies.** No remedy herein conferred upon or reserved to the Investor Member is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Investor Member to exercise any remedy reserved to it in this Article, it shall not be necessary to give any Notice other than such Notice as may be herein expressly required or as may be required by law.

7.4 **Attorney’s Fees and Expenses.** If an Event of Default shall exist under this Agreement and the Investor Member employs attorneys or incurs other expenses for the
collection of any amounts due hereunder, or for the enforcement of performance of any obligation or agreement on the part of the Managing Member, Developer or Guarantor, the Managing Member shall upon demand pay to the Investor Member the reasonable fees of such attorneys and such other expenses so incurred.

7.5 **Effect of Waiver.** In the event any Event of Default is waived by the Investor Member, such waiver shall be limited to the particular Event of Default so waived and shall not be deemed to waive any other Event of Default hereunder. Any such waiver shall only be effective if signed in writing by the Investor Member.

**ARTICLE 8**
**MANAGING MEMBER GUARANTEES**

8.1 **Construction Completion Guaranty.**

(a) The Managing Member shall:

(i) Cause all of the dwelling units in the Apartment Complex to be Placed in Service on or before the Placed in Service Date;

(ii) Achieve Completion on or before the date that is ninety (90) days following the date set forth in Section 8.1(a)(i);

(iii) Cause the full funding of the HOME Loan by Conversion; and

(iv) Fulfill all actions required of the Company to assure that the Apartment Complex satisfies the Minimum Set-Aside Test and the Rent Restriction Test on or before by the end of the first year of the Credit Period.

(b) The Managing Member hereby is obligated to pay all Development Deficits when and as incurred. The Company shall have no obligation to pay any Development Deficits. Any amounts funded by the Managing Member pursuant to this clause (b) shall not be treated as a Capital Contribution or a Member Loan and shall not be repaid by the Company. Such Development Deficits may, at the Managing Member’s election together with the prior Consent of the Investor Member, be paid by the Managing Member, through the deferral of additional Development Fee as set forth in Section 3(b) of the Development Agreement, causing a portion of the unpaid Development Fee then due (not to exceed the lesser of the amount such Development Deficits or the unpaid cash portion of the Development Fee then due to the Developer) to be changed to a Deferred Development Fee in the manner provided in Section 3(b) of the Development Agreement (a “DDF Election”), provided, the Investor Member shall Consent to such deferral only if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after Rental Achievement, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to generate Projected Housing Tax Credits and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period.
(c) The Managing Member shall pay any Development Deficits pursuant to Section 8.1 by the earlier of (i) the date required to avoid a default or penalties under Company obligations, including, without limitation, the Loans, (ii) the date required to keep all sources of funding for the Apartment Complex “in balance,” (iii) the date required to keep all expenses without a specific maturity date paid on a sixty (60) day current basis or (iv) such earlier date as may be set forth in this Agreement.

(d) If, as the result of any failure by the Sub-Contractor to fulfill its obligations under that certain agreement between Sub-Contractor and General Contractor with respect to the Apartment Complex, a Development Deficit exists and the Guarantor makes a payment of such Development Deficit under the Guaranty, any liquidated damages payment received by the Partnership under the Construction Contract shall be paid to the Guarantor to the extent the Guarantor makes such a payment.

8.2 Operating Deficit Guaranty. Subject to the Managing Member’s right under Section 5.10(b) to use funds in the Operating Deficit Reserve to pay Operating Deficits, if at any time during the Operating Deficit Guaranty Period, an Operating Deficit shall exist, the Managing Member shall make an Operating Deficit Loan to the Company as shall be necessary to pay such Operating Deficits; provided, however, that the Managing Member shall not be obligated to make an Operating Deficit Loan if and to the extent such loan would cause the aggregate amount of all Operating Deficit Loans then outstanding to exceed six (6) months of Operating Expenses and Debt Service Expense as reasonably determined by the Investor Member upon the achievement of Rental Achievement (the “Operating Deficit Loan Cap”). Any Operating Deficit Loan shall be on the following terms: (a) it shall be unsecured; (b) it shall not bear interest; (c) it shall be repayable solely from Cash Flow and proceeds of a Capital Transaction at the time and in the amounts set forth in Sections 14.1(a), 14.1(b) and 17.2(b) of this Agreement; and (d) it shall be fully subordinated to payment of the Loans, IM Loans, MM Loans and indebtedness of the Company to all Persons other than Members. The Managing Member shall be required to fund Operating Deficits pursuant to this Section 8.2 by the earlier of (A) the date required to avoid a default or penalties under Company obligations, including, without limitation, the Loans, and (B) the date required to keep all expenses without a specific maturity date paid on a sixty (60) day current basis. Proceeds of an Operating Deficit Loan may not be used to pay fees to the Management Agent if it is an Affiliate of the Managing Member, the Developer, or the Guarantors.

8.3 Housing Tax Credit Compliance Guaranty.

(a) If, at any time after the earlier to occur of (i) the date that the Investor Member’s Capital Contribution obligation has been reduced to zero or (ii) the occurrence of an Event of Default, there is a Housing Tax Credit Shortfall other than as a result of a Housing Tax Credit Disallowance Event, the Managing Member shall promptly, but in any event within five (5) calendar days after demand, pay the Investor Member an amount equal to (1) the amount of the Housing Tax Credit Shortfall for the fiscal year immediately preceding the Payment Date, (2) all penalties and interest imposed by the Code and assessed against the Investor Member, by the Service with respect to any Housing Tax Credit Shortfall, and (3) an amount sufficient to pay any tax liability owed by the Investor Member resulting from the receipt from the Managing Member of the amounts specified in the foregoing clauses (1), (2) and this clause (3) (such
calculation to be made assuming the Investor Member is subject to the highest federal and Texas state rate imposed on corporate taxpayers under the Code and applicable state law for the taxable year of the Investor Member in which such payment is taken into income by the Investor Member) together with interest on such amounts at the AFR accruing from such Payment Date if such payments in (i), (ii) and (iii) are not made on the Payment Date. There shall be no duplication between amounts paid under this Section 8.3(a) and amounts reflected as reductions in Capital Contributions (and/or payments by the Managing Member, if applicable) under Section 4.2(d).

(b) If at any time after the earlier to occur of (i) payment of the Investor Member’s Capital Contribution or (ii) the occurrence of an Event of Default, there is a Housing Tax Credit Disallowance Event, the Managing Member shall promptly, but in any event within five (5) days after demand, pay to the Investor Member the sum of the following amounts: (i) the amount of Housing Tax Credits previously allocated to the Investor Member, and subsequently disallowed because of such Housing Tax Credit Disallowance Event; (ii) the “credit recapture amount” (as defined in Code Section 42(j)(2)) allocated to the Investor Member because of such Housing Tax Credit Disallowance Event; (iii) all penalties and interest imposed by the Code and assessed against the Investor Member by the Service with respect to such Housing Tax Credit Disallowance Event; (iv) an amount sufficient to pay any tax liability owed by the Investor Member resulting from the receipt from the Managing Member of the amounts specified in the foregoing clauses (i), (ii), (iii), and this clause (iv) (such calculation to be made assuming the Investor Member is subject to the highest federal and Texas state rate imposed on corporate taxpayers under the Code and applicable state law for the taxable year of the Investor Member in which such payment is taken into income by the Investor Member) together with interest on such amounts at the AFR accruing from such Payment Date; and (v) if the cause of the Housing Tax Credit Disallowance Event will in the determination of the Investor Member decrease the maximum amount of Housing Tax Credits that will be available to the Company and allocated to the Investor Member during the remainder of the Credit Period assuming full compliance with Code Section 42, then an amount equal to the total amount of such decrease. There shall be no duplication between amounts paid under this Section 8.3(b) and amounts reflected as reductions in Capital Contributions (and/or payments by the Managing Member, if applicable) under Section 4.2(d).

(c) If the Investor Member receives a payment under the Housing Tax Credit Compliance Guaranty and the Company has appealed the issue giving rise to such payment (but has not caused a stay of enforcement with respect to such issue), and if the Company prevails on such appeal based on a final ruling by a federal court of competent jurisdiction, then the Investor Member shall refund the excess payment under the Housing Tax Credit Compliance Guaranty which it had received.

(d) If there is a Tax Law Change, the Managing Member shall use its good faith, reasonable efforts to comply with such Tax Law Change and to avoid a Housing Tax Credit Shortfall or Housing Tax Credit Disallowance Event, based on such Tax Law Change. If despite the Managing Member’s good faith, reasonable efforts to comply with the Tax Law Change, such Tax Law Change results in a claim under Section 8.3 (a “Limited Recourse Liability”), then the sole recourse of the Investor Member with respect to the Limited Recourse
Liability shall be to the Pledged Payments (excluding only payments of the Development Fee) and the Managing Member shall have no personal liability for the payment of such Limited Recourse Liability (unless and to the extent it wrongfully received Pledged Payments or otherwise breached this Agreement) that should have been made to the Investor Member in satisfaction of the Limited Recourse Liability.

8.4 Permanent Loan Funding Guaranty.

(a) The Managing Member irrevocably and unconditionally guarantees and covenants that in no event shall the principal amount of the BBVA Loan shall result in a Debt Service Coverage Ratio being less than one hundred fifteen percent (115%), as determined by the Investor Member in its reasonable discretion. The principal balance of the permanent phase of the BBVA Loan shall not exceed $2,000,000 and the interest rate shall be fixed at \[6.51\]% over its eighteen (18) year term (thirty-five (35) year amortization schedule). Upon Conversion, all Loans shall be nonrecourse, except for customary carve-outs.

(b) A “Permanent Loan Shortfall” shall be the amount by which $2,000,000 exceeds the actual principal amount of the BBVA Loan after Conversion, not to exceed the amount which would result in an aggregate Debt Service Coverage Ratio equal to one hundred fifteen percent (115%), as determined by the Investor Member in its sole discretion. The Managing Member shall provide such funds to the Company or, with the Consent of the Investor Member, defer the Managing Member’s portion of the Development Fee to be paid as a Deferred Development Fee, as may be necessary to pay for any Permanent Loan Shortfall before Conversion; provided, the Investor Member shall Consent to such deferral only if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after the Placed in Service Date, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to allocate Projected Housing Tax Credits to the Investor Member and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Any amounts funded by the Managing Member pursuant to this clause (b) shall not be treated as a Capital Contribution or a Member Loan and shall not be repaid by the Company. The Permanent Loan Shortfall shall be used by the Company to reduce the principal amount of the BBVA Loan to result in an aggregate Debt Service Coverage Ratio of not less than 1.15 to 1.00.

8.5 Security Documents. As security for the foregoing guarantees and the other obligations of the Managing Member under this Agreement and the Developer under the Development Agreement and concurrently with the execution of this Agreement, the Managing Member shall cause to be delivered to the Investor Member the following documents: (a) Managing Member Pledge; (b) Developer Pledge; and (c) Guaranty.
ARTICLE 9
WITHDRAWAL OF THE MANAGING MEMBER; ADMISSION OF NEW MANAGING MEMBER; REMOVAL OF A MANAGING MEMBER

9.1 Withdrawal.

(a) Except for an Involuntary Withdrawal, the Managing Member may not withdraw from the Company or sell, transfer assign or encumber its Interest without the Consent of the Investor Member.

(b) In the case of a Managing Member who is an individual, upon the death or adjudication of incompetence of such Managing Member, such Managing Member shall cease to be a Managing Member and shall have no Interest in the Company.

9.2 Admission of Additional Managing Member(s) under Certain Circumstances.

(a) Except as otherwise provided in Article 7, a Person shall be admitted as a Managing Member (the “Additional Managing Member”) of the Company only if the following terms and conditions are satisfied, or waived by the Investor Member:

(i) except as otherwise provided in Article 7 or in the event of the Withdrawal of the Managing Member, the admission of such Person has been consented to by the Managing Member or its successor;

(ii) the admission of such Person has been Consented to by the Investor Member and, if required, by the Agency and the Lenders;

(iii) the successor or additional Person has accepted and agreed in writing to be bound by (i) all the terms and provisions of this Agreement, and (ii) all the terms and provisions of the documents executed in connection with each of the Loans and the Extended Use Agreement, by executing counterparts thereof, if required by the Lenders and/or the Agency, as applicable, and (iii) all the terms and provisions of such other documents or instruments as may be required or appropriate in order to admit such Person as a Managing Member, and (iv) if required under the Uniform Act as a condition precedent to the admission of a Managing Member, an amendment to the Certificate has been filed;

(iv) such Person has provided the Company with evidence satisfactory to Counsel for the Company of its authority to become a Managing Member, to do business in the State and to be bound by the terms and provisions of this Agreement; and

(v) Counsel for the Company has rendered an opinion that the admission of the successor or additional Person is in conformity with the Uniform Act and that none of the actions taken in connection with the admission of the successor Person will cause the termination or dissolution of the Company or will cause it to be classified other than as a limited liability company for federal income tax purposes.

9.3 Effect of Voluntary Withdrawal of Managing Member.
(a) In the event of the Voluntary Withdrawal of the Managing Member, the business of the Company shall be continued by the other Managing Member(s); provided, however, that if the withdrawn Managing Member is then the sole Managing Member, or if such Managing Member withdraws from the Company in contravention of the provisions of Section 9.1 of this Agreement, then the Company shall be terminated, unless within ninety (90) days after receiving Notice of such withdrawal, a majority-in-interest of the other Members elect to designate a successor Managing Member and continue the Company upon the admission of such successor Managing Member to the Company.

(b) If, at the time of the Voluntary Withdrawal of a Managing Member, the withdrawing Managing Member was not the sole Managing Member of the Company, the remaining Managing Member or Managing Members shall immediately (i) give Notice to the Investor Member of such Withdrawal, and (ii) make such amendments to this Agreement and execute and file such amendments or documents or other instruments as are necessary to reflect the disposition of the Interest of the withdrawing Managing Member pursuant to this Section 9.3. The remaining Managing Member or Managing Members are hereby granted an irrevocable power of attorney, coupled with an interest, to execute any or all documents on behalf of the Members and the Company and to file such documents as may be required to effectuate the provisions of this Section 9.3.

(c) Upon a Voluntary Withdrawal, (i) the Managing Member shall cease to have any Interest in the Company, (ii) the Managing Member shall not be entitled to any distributions or allocations from the Company, (iii) the Managing Member shall not be entitled to any repayment of Operating Deficit Loans and (iv) the Managing Member shall not be entitled to any payments of the MM Incentive Management Fee relating to the period of time after the date of its withdrawal. The Managing Member shall be entitled, however, to receive any fees expressly provided for under this Agreement which have been fully earned and accrued prior to the date of Withdrawal, which fee shall be paid when and as specified in this Agreement and shall be entitled to the payment of any MM Loans in the time and manner specified in this Agreement.

(d) If the Managing Member Withdraws from the Company, including, without limitation, an Involuntary Withdrawal, then the Managing Member shall be and shall remain liable for all damages to the Investor Member resulting from the Withdrawal of the Managing Member in breach of this Agreement and for all its obligations and liabilities under this Agreement, including, without limitation, all its liabilities and obligations under Article 5 (including, without limitation, its obligation to make a Managing Member’s Special Capital Contribution in an amount sufficient to pay the Deferred Development Fee on or before the date of such Deferred Development Fee as required to be paid under this Agreement); provided, however, that the Managing Member shall have no liability with respect to any actions or failure to act on the part of any Replacement Managing Member or for claims arising after its removal and not attributable to the former Managing Member’s actions or inactions.

(e) Upon a Voluntary Withdrawal, the Investor Member, or its designee shall, at the sole option of the Investor Member, be admitted as a Replacement Managing Member on the terms set forth in Section 7.2(b)(ii).
9.4 **Effect of Involuntary Withdrawal of Managing Member.** The effect of an Involuntary Withdrawal of the Managing Member is set forth in Article 7.

**ARTICLE 10**
**RIGHTS OF THE INVESTOR MEMBER**

10.1 **Management of the Company.** No Investor Member shall have the right to take part in the management or control of the business of the Company or to transact any business in the name of the Company. No provision of this Agreement which makes the Consent of any Investor Member a condition for the effectiveness of an action taken by the Managing Member is intended and no such provision shall be construed to give any Investor Member any participation in the control of the Company business.

10.2 **Limitation on Liability of the Investor Member.** The liability of each Investor Member shall be limited to its Capital Contribution as and when payable under the provisions of this Agreement, and as provided under the Uniform Act. No Investor Member shall have any other liability to contribute money to, or in respect of the liabilities or obligations of, the Company, nor shall any Investor Member be personally liable for any obligations of the Company, except as and to the extent provided in the Uniform Act. No Investor Member shall be obligated to make loans to the Company.

10.3 **Other Activities.** Any Investor Member may engage in or possess interests in other business ventures of every kind and description for its own account, including, without limitation, serving as managing or investor member of other companies which own, either directly or through interests in other partnerships, government-assisted housing projects similar to the Apartment Complex. Neither the Company nor any of the Members shall have any right by virtue of this Agreement in or to such other business ventures to the income or profits derived therefrom.

10.4 **Full Disclosure of and Right to Revise Information.** The Investor Member shall have the right to review information pertaining to the Company which is possessed by the Managing Member, and the right to receive on a regular basis timely and accurate reports, schedules and accountings to the Company’s financial performance, in each case as may be required pursuant to this Agreement or as requested by the Investor Member.

10.5 **Fees to Hunt and its Affiliates.** Commencing on the date first Unit in the Apartment Complex is Placed in Service, Hunt, its successor or an Affiliate thereof, shall earn an annual fee (pro rata for first year) for its services in connection with the Company’s accounting matters relating to the Investor Member, and assisting with the preparation of tax returns and the reports required by Section 18.7 in the original amount of $6,000 and then adjusted annually to reflect a 3% annual increase (the “Asset Management Fee”). The Asset Management Fee shall be payable from Cash Flow and proceeds of a Capital Transaction, in the manner and priority set forth in Article 14 on April 1 of each year. If, however, Cash Flow in any fiscal year is insufficient to pay the full amount of Asset Management Fee, the Asset Management Fee shall accrue without interest and be payable to Hunt until such time there is sufficient Cash Flow in the manner and priority set forth in Article 14. Any Asset Management Fee earned prior to
Rental Achievement shall accrue without interest until Rental Achievement at which time interest shall start to accrue on any unpaid portion.

10.6 Control Over Investor Member Decisions. Unless otherwise expressly provided, any decision required to be made by the Investor Member under this Agreement shall be made by the Investor Members. Any decision required to be made by the majority in interest of the Investor Members shall be made by the Investor Members of any class whose Percentage Interest in the Company exceeds fifty percent (50%) of the Percentage Interests of all Investor Members. The decision of the majority in interest of the Investor Members shall be effective after five (5) days’ Notice has been given to each Investor Member and the occurrence of any of the following: (i) a written document signed by the Investor Members; or (ii) a written document signed by the Investor Members who own more than fifty percent (50%) of the Percentage Interests of the Investor Members.

ARTICLE 11
TRANSFERABILITY OF INVESTOR MEMBER INTERESTS

11.1 Assignment or Pledge of Investor Member Interests.

(a) The Investor Member shall have the right at any time to make an Assignment of its Interests as follows:

(i) Prior to payment of all of its Capital Contributions:

(A) to any Person without the Consent or approval of the Managing Member or any other Member, provided that an Affiliate of the Investor Member will serve as the manager or general partner of such Person; and

(B) to a non-Affiliate with the approval of the Managing Member which approval shall not be unreasonably withheld or delayed.

(ii) After payment of its Capital Contributions:

(A) to any Person without any restriction.

In connection with the Investor Member’s admission into the Company and acquisition of their respective Interests, the Managing Member acknowledges that the Investor Member intends to assign its Interest subsequent to the Closing Date and may pledge its Interests to the Equity Lender. The Investor Member shall Notify the Managing Member as to any Assignment.

(b) The Investor Member whose interest is being transferred shall pay such reasonable expenses as may be incurred by the Company in connection with such transfer.

(c) The Managing Member shall cooperate with the Investor in facilitating such Assignment by promptly furnishing complete and accurate financial and other relevant data regarding the Company, the Apartment Complex, the Managing Member and Affiliates of the Managing Member and any other matters reasonably necessary in the judgment of the Investor
Member to facilitate such Assignment, including any amendments to this Agreement or the Project Documents so long as such amendments do not materially adversely affect the Managing Member.

(d) Within five (5) days of receipt of notification, the Managing Member shall execute the form of Assignment and shall cause Counsel for the Company, at the Managing Member’s expense, to deliver to the Investor Member an opinion as to the enforceability of such Assignment, if not already provided (the form of such Assignment is attached hereto as Exhibit M).

11.2 Admission of Substitute Investor Member.

(a) Subject to the other provisions of this Article 11, an assignee of the Interest of an Investor Member (which shall be understood to include any purchaser, transferee, donee, or other recipient of any disposition of such Interest) shall be deemed admitted as a Substitute Investor Member of the Company only upon the satisfactory completion of the following:

(i) Consent of the Managing Member (which may not be unreasonably withheld), and the consent of the BBVA Lender, if required, has been given; such Consent of the Managing Member may be evidenced by the execution by the Managing Member of an amended Agreement and/or Certificate evidencing the admission of such Person as an Investor Member pursuant to the requirements of the Uniform Act; provided, however, the Investor Member may transfer its Interest to an Affiliate and to any tax credit syndication fund of which the Investor Member or an Affiliate thereof is the general partner or managing member, pursuant to the Assignment, in the form attached hereto as Exhibit M, without obtaining the consent of Managing Member or any Lender;

(ii) the assignee has accepted and agreed to be bound by the terms and provisions of this Agreement by executing a counterpart thereof or an appropriate amendment hereto, and such other documents or instruments as the Managing Member may reasonably require in order to effect the admission of such Person as an Investor Member; and

(iii) if required by the Act, an amended Agreement and/or Certificate evidencing the admission of such Person as an Investor Member shall be filed.

(b) For the purpose of allocation of profits, losses and credits, and for the purpose of distributing cash of the Company, a Substitute Investor Member shall be treated as having become, and as appearing in, the records of the Company as a Member upon its signing of an amendment to this Agreement agreeing to be bound hereby.

(c) The Managing Member shall cooperate with the Person seeking to become a Substitute Investor Member by preparing the documentation required by this Section and making all official filings and publications. The Company shall take all such action, including the filing, if required, of any amended Agreement and/or Certificate, if obtainable, evidencing the admission of any Person as an Investor Member, bringing forward the effective date of the Title Policy and issuing any new or modified endorsements to the Title Policy that the Substitute Investor Member may require, and the making of any other official filings and publications, as
promptly as practicable after the satisfaction by the assignee of the Interest of an Investor Member of the conditions contained in this Article 11 to the admission of such Person as an Investor Member of the Company. Any cost or expense incurred in connection with such admission (including any transfer taxes) shall be borne by the Substitute Investor Member.

11.3 Rights of Assignee of Limited Liability Company Interest.

(a) Except as provided in this Article 11 and as required by operation of law, the Company shall not be obligated for any purpose whatsoever to recognize the assignment by any Investor Member of its Interest until the Company has received actual Notice thereof.

(b) Any Person who is the assignee of all or any portion of an Investor Member’s Interest, but does not become a Substitute Investor Member, and who desires to make a further assignment of such Interest, shall be subject to all the provisions of this Article 11 to the same extent and in the same manner as any Investor Member desiring to make an assignment of its Interest.

11.4 Equity Lender. The Members acknowledge that the Equity Lender may advance funds to the Investor Member prior to the admission of investors into the funds sponsored by the Investor Member and, to the extent that the Investor Member has loans outstanding from the Equity Lender in order to finance their Capital Contributions, all Members hereby Consent to the admission of the Equity Lender as a Substitute Investor Member if the Equity Lender finds itself in the position of enforcing certain remedies in connection with its loan to the Investor Member. Each Member hereby agrees to cooperate with the Equity Lender, as the Investor Member may from time to time reasonably request, by delivering to the Equity Lender information concerning the Company and documents executed by such Member.

11.5 Funds Sponsored by Investor Member(s). All Members hereby agree to cooperate with the Investor Member, as may be reasonably requested by the Investor Member, in connection with the admission of investors into the funds sponsored by the Investor Member. In addition to such Opinion of Counsel (which Opinion of Counsel shall be at the expense of the Company), if the Investor Member request then the Managing Member shall cause, from time to time, one or more updates to the Opinion of Counsel to be delivered to the Investor Member, which updates shall be at the expense of the Company.

ARTICLE 12
BORROWINGS

12.1 Borrowings. The Company is authorized to receive Operating Deficit Loans, IM Loans and MM Loans on the terms set forth in this Agreement. In addition, if (a) additional funds are required by the Company for any purpose relating to the business of the Company or for any of its obligations, expenses, costs or expenditures, and (b) the Company has not received an Operating Deficit Loan, IM Loan or MM Loan to pay such amounts, then the Company may borrow such funds as are needed from a Person or organization other than a Member in accordance with the terms of this Section 12.1, for such period of time and on such terms as the Managing Member and the Investor Members may agree; provided, however, that no such additional loans shall be secured by any mortgage or other encumbrance on the property of the
Company without the prior approval of the Investor Member and, to the extent required, the Consent of the Agency and/or the Lenders. Nothing in this Section 12.1 shall modify or affect the obligation of the Managing Member to make Operating Deficit Loans and to perform its obligations when and as required by this Agreement.

ARTICLE 13
ALLOCATIONS

13.1 Allocation of Profits, Losses and Housing Tax Credits from Operations. After giving effect to the special allocations set forth in Section 13.4, all profits, losses and Housing Tax Credits incurred or accrued by the Company, other than those arising from a Capital Transaction, shall be allocated to the Members in accordance with the Members’ Percentage Interests.

13.2 Allocation of Profits and Losses From Capital Transactions. After giving effect to the special allocations set forth in Section 13.4, all profits and losses recognized by the Company from a Capital Transaction in any fiscal year shall be allocated in the following manner:

(a) Profits. (i) First, profits shall be allocated to the Members with negative Adjusted Capital Account balances, that portion of profits (including any treated as ordinary income for federal income tax purposes) which is equal in amount to, and in proportion to, such Members’ respective negative Adjusted Capital Accounts in the Company; provided that no profit shall be allocated under this Section 13.2(a) to a Member once such Member’s Adjusted Capital Account balance is brought to zero and (ii) second, profits in excess of the amount allocated under (i) shall be allocated to the Members in the amounts and to the extent necessary to increase the Members’ respective positive Capital Accounts so that the proceeds distributed in accordance with the Members’ respective positive Capital Account balances under Section 17.2(b)(iv) below will equal the amounts that would have been received if the proceeds were instead distributed under Section 14.1(b)(viii) below.

(b) Losses. (i) First, losses shall be allocated to the Members in the amount and to the extent necessary so that the proceeds distributed in accordance with the Members’ respective positive Capital Account balances under Section 17.2(b)(iv) below will equal the amounts that would have been received if the proceeds were instead distributed under Section 14.1(b)(viii) below, and (ii) second, any remaining losses shall be allocated to the Members in accordance with the manner in which they bear the economic risk of loss associated with such losses or, if none, to the Members in accordance with their Percentage Interests.

13.3 Determination of Profits and Losses. The terms “profits” and “losses” used in this Agreement shall mean income and losses, and each item of income, gain, loss, deduction or credit entering in to the computation thereof determined in accordance with the method of accounting followed by the Company and computed in accordance with Code Sections 703(a) and 704(b), and Regulation Section 1.704-1(b)(2)(iv). Every item of income, gain, loss, deduction, credit or tax preference entering into the computation of such profits or losses, or applicable to the period during which such profits and losses are allocated to such partner, shall
be considered allocated to each Member in the same proportion as profits and losses are allocated to such Member.

13.4 Special Allocations. Notwithstanding the foregoing provisions of this Article 13:

(a) Recourse Obligations.

(i) If the Company incurs losses from extraordinary events that are not recovered from insurance or otherwise, including casualty losses, losses resulting from liability to third parties for tortious injury, losses resulting from a breach of legal duty by the Company or by the Managing Member, and losses resulting from other liabilities which are not incurred in the ordinary course of business (“Recourse Obligations”), such losses shall be allocated to the Managing Member. Nothing in this Section 13.4(a)(i) shall prevent the Company from recovering an extraordinary loss from a Managing Member who is liable therefor by law or under this Agreement.

(ii) If the Company incurs Recourse Obligations secured by Company property with respect to which the Managing Member or a related person of the Managing Member bears the risk of loss, then except to the extent otherwise required by the Regulations, deductions attributable to the Recourse Obligations shall be allocated to the Members in accordance with their Percentage Interests provided, however, that any such deductions which, if allocated to the Investor Members, would cause or increase a negative balance in their Capital Accounts shall be allocated to the Managing Member. Upon the disposition of such property, any income or gain shall be allocated first to the Managing Member to the extent of any deductions specially allocated to the Managing Member under this Section 13.4(a)(ii) and then to the Members in accordance with their Percentage Interests.

(b) Recapture Allocation. If any profit arises from the sale or other disposition of any Company asset which shall be treated as ordinary income under the depreciation recapture provisions of the Code including, but not limited to, Sections 1245 and 1250, then the full amount of such ordinary income shall be allocated among the Members in the proportions that the Company deductions from the depreciation giving rise to such recapture were actually allocated. If subsequently-enacted provisions of the Code result in other recapture income, no allocation of such recapture income shall be made to any Member who has not received the benefit of those items giving rise to such other recapture income.

(c) Tax Allocations, Section 704(c). Income, gain, loss and deduction with respect to any asset which has a variation between its basis computed in accordance with Regulation Section 1.704-1(b) and its basis computed for federal income tax purposes shall be shared among the Members so as to take account of such variation in a manner consistent with the principles of Section 704(c) of the Code and Regulation Section 1.704-1(b)(2)(iv)(g).

(d) Minimum Gain Chargeback. If there is a net decrease in Company Minimum Gain during a Company taxable year, each Member will be allocated (without duplication of items allocated in 13.4(a) and 13.4(b)) items of income and gain for such year (and, if necessary, subsequent years) in proportion to, and to the extent of, an amount equal to such Member’s share of the net decrease in Company Minimum Gain during the year, before any
other allocation of Company items for such taxable year. A Member shall not be subject to this
mandatory allocation of income or gain to the extent that any of the exceptions provided in
Regulation Section 1.704-2(f)(2)-(5) apply. All allocations pursuant to this Section 13.4(d) shall
be in accordance with Regulation Section 1.704-2(f). This provision is a “minimum gain
chargeback” within the meaning of Regulation 1.704-2(f) and shall be construed as such.

(e) Member Nonrecourse Debt Minimum Gain. If the Company incurs
Member Nonrecourse Liability in which a Member or a related person to the Member bears the
risk of loss, then partner nonrecourse deductions (within the meaning of Regulations Section
1.704-2(i)(2)) shall be allocated to such Member. If there is a net decrease in Member
Nonrecourse Debt Minimum Gain during a Company taxable year, then each Member with a
share of the minimum gain attributable to such debt at the beginning of such year will be
allocated items of income and gain for such year (and, if necessary, subsequent years) in an
amount equal to such Member’s share of the net decrease in Member Nonrecourse Debt
Minimum Gain during the year. A Member is not subject to this Member Nonrecourse Debt
Minimum Gain chargeback to the extent that any of the exceptions provided in Regulation
Section 1.704-2(i)(4) applied consistently with Regulation Section 1.704-2(f)(2)-(5) apply. Such
allocations shall be made in a manner consistent with the requirements of Regulation Section
1.704-2(i)(4) under Section 704 of the Code.

(f) Qualified Income Offset. If an Investor Member unexpectedly receives (i)
an allocation of loss or deduction or expenditures described in Section 705(a)(2)(B) of the Code
made (A) pursuant to Section 704(e)(2) of the Code to a donee of an Interest, (B) pursuant to
Section 706(d) of the Code as the result of a change in any Member’s Interest or (C) pursuant to
Regulation Section 1.751-1(b)(2)(ii) as a result of a distribution by the Company of unrealized
receivables or inventory items or (ii) a distribution, and such allocation and/or distribution would
cause the negative balance in such Member’s Capital Account to exceed (1) such Member’s
share of Company Minimum Gain plus (2) the amount of such Member’s obligation (actual or
deemed) to restore a negative balance in such Member’s Capital Account plus (3) such
Member’s share of Member Nonrecourse Debt Minimum Gain, then such Member shall be
allocated items of income and gain in an amount and manner sufficient to eliminate such
negative balance as quickly as possible. For purposes of Section 13.6, a Member’s Capital
Account shall be treated as reduced by Qualified Income Offset Items. This provision is a
“qualified income offset” under the meaning of Regulation Section 1.704-1(b)(2)(ii)(d)(3) and
shall be interpreted and applied in a manner consistent with such Regulation.

(g) Nondeductible Items. If any fee payable to any Managing Member or any
Affiliate thereof shall instead be determined to be a nondeductible, noncapitalizable distribution
from the Company to a Member for federal income tax purposes, then there shall be allocated to
such Managing Member in the year(s) of payment an amount of gross income equal to the
amount of such distribution in such year(s).

(h) Member Loans. If a Member makes any Member Loans pursuant to
Article 4, any deductions or losses of the Company attributable to the use of those funds shall be
specially allocated to such Member and if there is a repayment of all or part of such funds in any
year, such Member shall be allocated in such year an amount of gross income equal to the
amount of such repayment.
(i) **Operating Deficit Loans.** Subject to Section 13.4(a), if the Managing Member funds any Operating Deficit Loans pursuant to Section 8.2, any deductions or losses of the Company attributable to the use of those funds shall be specially allocated to the Managing Member, and if there is a repayment of all or part of such funds in any year, the Managing Member shall be allocated in such year an amount of gross income equal to the amount of such repayment.

(j) **Gross Income Allocation for Unanticipated Gross Income.** Notwithstanding any other provision of this Agreement, before any other allocation of gross income and gain is made under this Agreement, in the event that any unanticipated gross income arises from a subsequent recharacterization of a tax reporting position of the Company, it is the intent of the Members that all such gross income shall be allocated to the Managing Member.

(k) **Gross Income Allocation for Unanticipated Fee Recharacterization.** If any fee payable by the Company to any Member or any Affiliate thereof shall instead be determined to be a nondeductible, noncapitalizable distribution from the Company to a Member for federal income tax purposes, then there shall be allocated to such Member in the year of payment an amount of gross income equal to the amount of distribution in such year(s).

(l) **Construction Period Income.** One hundred percent (100%) of the Company’s net taxable income incurred during the Construction Period shall be specially allocated to the Managing Member.

(m) **Nonrecourse Deductions.** “Nonrecourse deductions” (within the meaning of Regulation Section 1.704-2(b)(1)) shall be allocated to the Members in accordance with their Percentage Interests. “Member nonrecourse deductions” (within the meaning of Regulation section 1.704-2(c)) shall be allocated to the Member who bears the economic risk of loss associated with such deductions, in accordance with Regulation Section 1.704-2(i).

13.5 **Authority of the Managing Member to Vary Allocations to Preserve and Protect the Members’ Intent.**

(a) It is the intent of the Members that each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and items thereof) shall be determined and allocated in accordance with this Agreement to the fullest extent permitted by Section 704(b) of the Code. In order to preserve and protect the determinations and allocations provided for in this Agreement, subject to the prior written Consent of the Investor Member, the Managing Member is hereby authorized and directed to allocate profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and items thereof) arising in any year differently than otherwise provided for in this Agreement to the extent that allocating profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures or credits (or any item thereof) in the manner provided for herein would cause the determinations and allocations of each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures or credits (or any item thereof) not to be permitted by Section 704(b) of the Code. Any allocation made pursuant to this Section 13.5 shall be deemed to be a complete substitute for any allocation otherwise provided.
for in this Agreement, and no amendment of this Agreement or approval of any Member shall be required.

(b) In making any allocation under Section 13.5(a) (a “New Allocation”), the Managing Member is authorized to act only after having been advised in writing by the Accountants or the Investor Member that, under Section 704(b) of the Code, (i) the New Allocation is necessary, and (ii) the New Allocation is the minimum modification of the allocations otherwise provided for in this Agreement necessary in order to assure that, either in the then-current year or in any preceding year, each Member’s distributive share of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (or any item thereof) is determined and allocated in accordance with this Agreement to the fullest extent permitted by Section 704(b) of the Code.

(c) If the Managing Member is required by Section 13.5(a) to make any New Allocation in a manner less favorable to the Investor Member than is otherwise provided for herein, then the Managing Member is authorized and directed, only after having been advised in writing by the Accountants or the Investor Member that such an allocation is permitted by Section 704(b) of the Code, to allocate profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and any item thereof) arising in later years in such manner so as to bring the allocations of profits, tax-exempt income, losses, non-deductible non-capitalizable expenditures and credits (and each item thereof) to the Members as nearly as possible to the allocations thereof otherwise contemplated by this Agreement.

(d) New Allocations made by the Managing Member under Section 13.5(a) and Section 13.5(c) in reliance upon the advice of the Accountants shall be deemed to be made pursuant to the fiduciary obligation of the Managing Member to the Company and the Members, and no such allocation shall give rise to any claim or cause of action by any Member.

13.6 Capital Account.

(a) An individual Capital Account shall be established and maintained on behalf of each Member, including any additional or Substitute Investor Member who shall hereafter receive an interest in the Company. In accordance with Regulation Section 1.704-1(b), the Capital Account of each Member shall consist of (i) the amount of cash such Member has contributed to the Company plus (ii) the fair market value of any property such Member has contributed to the Company net of any liabilities assumed by the Company or to which such property is subject plus (iii) the amount of profits or income (including tax-exempt income) allocated to such Member less (iv) the amount of losses and deductions allocated to such Member less (v) the amount of all cash distributed to such Member less (vi) the fair market value of any property distributed to such Member net of any liabilities assumed by such Member or to which such property is subject less (vii) such Member’s share of any other expenditures which are not deductible by the Company for federal income tax purposes or which are not allowable as additions to the basis of Company property and shall be (viii) subject to such other adjustments as may be required under the Code. Each Member’s Capital Account shall be maintained and adjusted in accordance with the Code and the Regulations. It is the intention of the partners that the Capital Accounts maintained under this Agreement be determined and maintained throughout the full term of this Agreement in accordance with the accounting rules of Regulation Section
1.704-1(b)(2)(iv), and the foregoing provisions shall be interpreted and applied in a manner consistent with such Regulation.

(b) If the Company is liquidated within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g) and if the Managing Member’s Capital Account has a deficit balance (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), the Managing Member shall make Capital Contributions in the amount of such deficit in compliance with Regulation Section 1.704-1(b)(2)(ii)(b)(3). Notwithstanding the foregoing, if the Company is liquidated within the meaning of Regulation Section 1.704-1(b)(2)(ii)(g) but no event has occurred under Section 17.1 to dissolve the Company, the Company assets shall not be liquidated, the Company’s liabilities shall not be paid or discharged, and the Company’s affairs shall not be wound up.

(c) The original Capital Account established for any Substitute Investor Member shall be in the same amount as, and shall replace, the Capital Account of the Member which such Substitute Investor Member succeeds, and, for the purposes of this Agreement, such Substitute Investor Member shall be deemed to have made the Capital Contribution, to the extent actually paid in, of the Member which such Substitute Investor Member succeeds. To the extent a Substitute Investor Member receives less than one hundred percent (100%) of the Interest of a Member it succeeds, the original Capital Account of such transferee Substitute Investor Member and his Capital Contribution shall be in proportion to the portion of the transferor Member’s Interest prior to the transfer which the transferee receives, and the Capital Account of the transferor Member who retains a portion of its former Interest and its Capital Contribution shall continue, and not be replaced, in proportion to the portion of the transferor Member’s Interest prior to the transfer which the transferor Member retains. Nothing in this Section 13.6 shall affect the limitations on transferability of Interests set forth in Article 11.

13.7 Excess Nonrecourse Liabilities. The Members agree that, except as otherwise determined by the Investor Member pursuant to this Section, the Members’ interests in the Company profits for such purposes of determining such Members’ interests in Company profits for purposes of such Members’ share of the excess nonrecourse liabilities of the Company under Treasury Regulation Section 1.752-3(a)(3) shall be determined by the Members’ allocable share of profits from Section 13.2(a); provided, however, that the Members agree that, upon giving written notice to the Managing Member, the Investor Member shall have the right at any time to cause the Company to use the alternative method under Treasury Regulation Section 1.752-3(a)(3) if the Investor Member reasonably determines that such alternative method would (or could reasonably be expected to) avoid or mitigate any tax or economic detriment to the Investor Member or its Affiliates (as a result of an actual or pending change in law, change in circumstance or otherwise). Without limiting the foregoing, the Managing Member shall provide written notice to the Investor Member no later than 45 days following the close of any taxable year of the Company in which the Investor Member’s adjusted basis in the Company interest is or is reasonably likely to be zero.
ARTICLE 14
DISTRIBUTIONS AND PAYMENTS

14.1 Distributions and Payments of Cash Flow (Other than Cash From a Capital Transaction and Other Than in Connection with a Liquidation).

(a) Cash Flow. Subject to Agency and Lender approval (if required) and after Rental Achievement, Cash Flow of the Company for each fiscal year or portion thereof shall be applied and distributed on the following Payment Date in the following priority:

(i) to the Housing Tax Credit Shortfall Payment, if required under Section 4.2(d)(iii);

(ii) to the Investor Member or other Hunt Indemnified Parties to the extent of any amounts owing to it by reason of any indemnification or guaranty obligations of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty;

(iii) (A) to the payment of the Excess IM Loan Amount, (B) then to the payment of the Excess MM Loan Amount, and (C) then to the payment of IM Loans and MM Loans, pro rata based on their respective outstanding balances;

(iv) [Reserved];

(v) to the payment of the Asset Management Fee for such year, and any accrued and unpaid Asset Management Fee;

(vi) one hundred percent (100%) of the remaining Cash Flow to the payment of any Deferred Development Fee as described in the Development Agreement;

(vii) to the repayment of any accrued and outstanding interest due under the HOME Loan;

(viii) to replenish any draws from the Operating Reserve;

(ix) to the repayment of any Operating Deficit Loans;

(x) to the payment of any unpaid and accrued Management Agent fees under Section 16.2;

(xi) then:

(A) if the Managing Member’s Capital Account is less than or equal to zero, then until the Managing Member has received payments of the MM Incentive Management Fee under this clause 14.1(a)(xi)(A) equal to the maximum amount for the preceding fiscal year, Cash Flow under this clause 14.1(a)(xi)(A) shall be paid and distributed ninety percent (90%) to the Managing Member as payment of the MM Incentive Management Fee (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the
Administrative Member) up to a maximum of the lesser of (i) $40,000 per annum and (ii) 7% of Gross Revenues, and 10% to the Investor Member as a distribution;

(B) if the Managing Member’s Capital Account is greater than zero, then until the Managing Member’s Capital Account equals zero, Cash Flow under this clause 14.1(a)(xi)(B) shall be distributed ninety percent (90%) to the Managing Member as a distribution (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member), and ten percent (10%) to the Investor Member as a distribution; and

(xii) the balance thereof, if any, shall be paid and distributed ninety percent (90%) to the Managing Member (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member and ten percent (10%) to the Investor Member as a distribution.

Additionally, notwithstanding the foregoing, during such time as Agency and Lender regulations are applicable to the Apartment Complex, the total amount of Cash Flow which may be so distributed to the Members in respect to any fiscal year shall not exceed such amounts as Agency and Lender regulations permit to be distributed.

(b) Distributions of Cash From Capital Transaction (Other Than in Connection with a Liquidation). Within thirty (30) days of a Capital Transaction, Cash From Capital Transaction (other than a sale or other disposition of the property of the Company in connection with a liquidation and dissolution of the Company which is governed by Article 17 below) or cash proceeds from a refinancing of the Loans, shall be applied or distributed in the following order of priority:

(i) to the Housing Tax Credit Shortfall Payment if required under Section 4.2(d)(iii);

(ii) to the payment of any amounts owing to the Investor Member or other Hunt Indemnified Parties by reason of any unpaid indemnification or guaranty obligation of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty;

(iii) (A) to the payment of the Excess IM Loan Amount, (B) then to the payment of the Excess MM Loan Amount and (C) then to the payment of IM Loans and MM Loans, pro rata based on their respective outstanding balances;

(iv) to the payment of the Asset Management Fee for such year, and any accrued and unpaid Asset Management Fee;

(v) to the payment of any outstanding Deferred Development Fee as described in the Development Agreement until paid;

(vi) to the repayment of any Operating Deficit Loans;

(vii) to the repayment of the HOME Loan; and
(viii) any balance 10% to the Investor Member and 90% to the Managing Member (of which 67.5% shall be paid to the Co-Managing Member and 32.5% shall be paid to the Administrative Member).

14.2 Distribution of Cost Savings. If Cost Savings exist, on the date no earlier than funding of the Fifth Installment, the Company shall use and distribute such savings as follows: (i) first, until the Deferred Development Fee has been paid in full, one hundred percent (100%) to the payment of the Deferred Development Fee; and (ii) then, one hundred percent (100%) as determined by the Investor Member in its sole discretion, either (A) to the repay the BBVA Loan and/or (B) to fund a supplemental operating reserve. The Investor Member shall determine the amount of Cost Savings on or before the date of funding of the Fifth Installment.

ARTICLE 15
PARTNERSHIP AUDIT PROCEDURES

15.1 Defined Terms. For purposes of this Article 15, the following terms shall have the meanings set forth below:

Administrative Adjustment Request means an administrative adjustment request under Code Section 6227.

Affected Member means at any point in time, with respect to any Administrative Adjustment Request or proposed Partnership Adjustment, any person who is a then current Member or a Former Member.

Former Member means any Person who was a Reviewed Year Member but is not a Member in the year of an Administrative Adjustment Request or proposed Partnership Adjustment.

Imputed Underpayment has the meaning set forth in Section 6225 of the Code.

Partnership Adjustment means any adjustment to any item of income, gain, loss, deduction, or credit of the Company, or any Member’s distributive share thereof, in either case as described in any applicable Regulations or other guidance prescribed by the Service.

Reviewed Year means the Company taxable year to which a Partnership Adjustment relates.

Reviewed Year Member means any Person who held an interest in the Company at any time during the Reviewed Year.

Revised Partnership Audit Rules means 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 Treasury Regulations promulgated thereunder, as amended from time to time.

Taxes means any tax, penalties, additions to tax, additional amounts, and interest as described in Section 6226 of the Code.
15.2 Partnership Representative

(a) Appointment and Designation. The Members hereby authorize the Company to appoint the Co-Managing Member as the initial partnership representative of the Company pursuant to Section 6223(a) of the Code (the “Partnership Representative”). The Partnership Representative shall timely designate, with the Consent of the Investor Member, an individual to serve as the sole individual through whom the Partnership Representative will act for purposes of the Revised Partnership Audit Rules (the “Designated Individual”). The Designated Individual must agree in writing to be bound by the same obligations and restrictions imposed on the Partnership Representative under this Article 15 prior to and as condition of such designation.

(b) Resignation; Revocation. The Company shall revoke the designation of the Co-Managing Member as the Partnership Representative for all taxable years during which such designation was in effect by written notice to the Partnership Representative and the Service: (i) upon withdrawal or removal of the Co-Managing Member for any reason, (ii) upon request of the Investor Member at a time when there exists any Event of Default and any notice of Partnership Adjustment has been issued by the Service, or (iii) upon request of the Investor Member in the event of a default by the Partnership Representative or Designated Individual of its/his/her duties and obligations under this Article 15. The designation of the Designated Individual as the Designated Individual shall automatically terminate on the effective date of the resignation or revocation of the applicable entity as Partnership Representative. If a Designated Individual becomes unable to perform the tasks required of a Designated Individual, no longer has the “capacity to act” within the meaning of the Revised Partnership Audit Rules, or the Partnership Representative otherwise determines that such individual should be removed as the Designated Individual, the Partnership Representative shall promptly notify the Investor Member of such determination and take all necessary actions to effectuate the resignation of such individual as Designated Individual for all applicable taxable years. Notice of any revocation of a Partnership Representative or Designated Individual shall be given to the Service in the time and manner prescribed by the Service and shall include the designation of another Person selected by the Investor Member as the successor Partnership Representative and/or the designation of another Person selected by the Partnership Representative (with the Consent of the Investor Member) as the successor Designated Individual. The resigning or removed Partnership Representative and/or Designated Individual shall remain obligated hereunder in such capacity until the replacement is acknowledged by the Service. The Co-Managing Member hereby constitutes and appoints the Investor Member, with full power of substitution, its true and lawful attorney-in-fact in its name, place and stead to carry out fully the provisions of this Section 15.2(b) and take any action which the Investor Member may deem necessary or appropriate in connection herewith. The power of attorney hereby granted shall be deemed to be coupled with an interest, shall be irrevocable and shall survive and shall not be affected by the subsequent incapacity, dissolution, resignation, revocation or other termination of the Co-Managing Member as the Partnership Representative.

(c) Successor Partnership Representative. Any successor Partnership Representative and/or Designated Individual must satisfy all statutory and regulatory requirements imposed by the Revised Partnership Audit Rules and must agree in writing to be bound by the terms of this Article 15.
(d) Notice of Communications; Cooperation. The Partnership Representative shall: (i) give all Affected Members prompt notice of any inquiry, notice, or other communication received from the Service or other applicable tax authority regarding the tax treatment of the Company or the Members, (ii) consult with the Affected Members in good faith on the strategy and substance of any tax audit or contest, and (iii) shall, to the extent possible, give the Affected Members prior notice of and a reasonable opportunity to review and comment upon any written communication the Partnership Representative intends to make to any such taxing authority in connection with any examination, audit or other inquiry involving the Company and the nature and content of all actions to be taken and defenses to be raised by the Company in response to any tax audit or contest (including without limitation the decision to institute proceedings, whether administrative or judicial, and whether in response to a previous Service proceeding against the Company or otherwise. Without limiting the generality of the foregoing, the Company immediately shall send to all Affected Members copies of any notice of a proposed or final Partnership Adjustment received by the Company and/or the Partnership Representative from the Service. To the extent requested by the Affected Member and permitted under Treasury Regulations or by the Service or other taxing authority in a particular tax audit or contest, the Partnership Representative shall cooperate in allowing the Affected Member or its representative to participate, at its own expense, in such tax audit or contest.

(e) Duties and Limitations on Authority. The Partnership Representative and any Designated Individual shall have all power and authority of a partnership representative and designated individual, respectively, as set forth in Section 6223 of the Code, and shall represent the Company and its Members in all dealings with the Service and state and local taxing authorities. If the Company receives notice of a final Partnership Adjustment from the Service, the Partnership Representative shall so notify the Affected Members, and if requested to do so by the Investor Member, (i) the Partnership Representative shall file a petition for readjustment within the time frame required by Treasury Regulations or Service guidance, and/or (ii) the Partnership Representative shall cause the Company to seek any and all available judicial review of such final Partnership Adjustment as is available under applicable law. Notwithstanding the foregoing, except as specifically provided in Section 15.3 below, the Partnership Representative shall not, without the Consent of the Investor Member (and, in the case of (C), (D) and (F), the Investor Member for the Reviewed Year), have any power or authority to do any or all of the following:

(A) make an election to opt out of the application of the Revised Partnership Audit Rules to the Company;

(B) make a Push-Out Election, or request a modification to an Imputed Underpayment;

(C) file an Administrative Adjustment Request;

(D) select any judicial forum for the litigation of any Company tax dispute;

(E) extend the statute of limitations for the Company; or,
(f) **Fiduciary Relationship.** The relationship of the Partnership Representative to the Investor Member shall be that of a fiduciary, and the Partnership Representative shall have a fiduciary obligation to perform its duties in such manner as will serve the best interests of the Investor Member.

(g) **Indemnification.** To the extent of available funds, the Company shall indemnify the Partnership Representative against judgments, fines, amounts paid in settlement and expenses (including attorneys’ fees) reasonably incurred by the Partnership Representative in its capacity as the Partnership Representative, and not its capacity as a Member or a Former Member, in connection with any audit or administrative or judicial proceeding in which the Partnership Representative is involved solely by reason of being the Partnership Representative of the Company, provided that the same were not the result of negligence, misconduct, fraud, breach of fiduciary duty or breach of this Agreement on the part of the Partnership Representative and were the result of a course of conduct which the Partnership Representative, in good faith, reasonably believed to be in the best interests of the Investor Member and within the scope of its authority under this Article 15.

15.3 **Modifications and Company Elections**

(a) **Modifications to Imputed Underpayment.** If requested to do so by the Investor Member, the Managing Member shall request modification of an Imputed Underpayment in accordance with any applicable Treasury Regulations, forms, instructions, and other guidance prescribed by the Service. With any such request, the Investor Member shall describe the modifications or adjustment factors that the Investor Member believes affect the calculation of the Imputed Underpayment in sufficient detail to substantiate the request for modification and timely provide all required supporting documents or information.

(b) **Amended Returns.** If requested to do by the Investor Member, the Partnership Representative shall request a modification of an Imputed Underpayment based on an amended return (or, to the extent permitted by law, any similar statement) filed by a Member (or its owners) that takes account of all of the Partnership Adjustments properly allocable to such Member (or its owners). Any such request shall be accompanied by an affidavit from the requesting Member that each required amended return (or similar statement) has been filed and all Taxes due as a result of taking into account the adjustments in the first affected year and all modification years have been paid, as required by any applicable Regulations, forms, instructions, and other guidance prescribed by the Service.

(c) **Push-Out Election.** If requested to do by the Investor Member, the Partnership Representative shall timely make and implement an election (a “Push-Out Election”) under Section 6226 of the Code with respect to an Imputed Underpayment. Except as hereinafter provided, if a Push-Out Election is made, each Reviewed Year Member shall take into account its allocable share of the Partnership Adjustments that relate to the specified Imputed Underpayment (as determined with the Consent of the Investor Member for such Reviewed
(d) **Reimbursement of Allocable Share of Imputed Underpayment.** If the Company becomes obligated to make an Imputed Underpayment under Code Section 6225, each of the Members (including any Former Member) to whom such liability relates (as determined with the Consent of the Investor Member) shall be obligated, within thirty (30) days after written notice from the Managing Member, to pay an amount that, on an After-Tax Basis if such payment is treated as a taxable payment to the Company, is equal to its allocable share of such amount to the Company; *provided, however*, that if and to the extent that the Company’s liability results from a loss, disallowance or recapture of Housing Tax Credits for which a Housing Tax Credit Shortfall Payment is due to such Person and has not been paid, the amount otherwise payable by such Person to the Company under this Section 15.3(d) shall be reduced by the amount of any unpaid Housing Tax Credit Shortfall Payment payable to such Person so that the Company will bear the portion of the Imputed Underpayment equal to such reduction, and such Housing Tax Credit Shortfall Payment shall be paid to the Company and applied to the Imputed Underpayment. Any amount not paid by a Member (or Former Member) within such 30-day period shall accrue interest at Prime Rate plus 2% until paid. Any such payment made by any Member shall be treated as a Capital Contribution and, if and to the extent permitted by the Code and Regulations, any Capital Account reduction attributable to the Imputed Underpayment shall be allocated to the Members in proportion to such Capital Contributions.

(e) **Withholding.** Notwithstanding anything to the contrary contained herein, the Managing Member shall cause the Company to withhold from any distribution or payment due to any Member (or Former Member) under this Agreement any amount due to the Company from such Member (or Former Member) under clause (d) above. Any amount(s) so withheld shall be applied by the Company to discharge the obligation in respect of which such amount was withheld. All amounts withheld pursuant to the provisions of this Section 15.3(e) with respect to a Member (or Former Member) shall be treated as if such amounts were distributed or paid, as applicable, to such Member (or Former Member).

(f) **Indemnity.** To the extent that a portion of the Taxes imposed under Code Section 6225 relates to a Former Member, the Managing Member shall require such Former Member to indemnify the Company for its allocable portion of such tax (including any penalties, additions to tax, additional amounts, and interest) to the extent such amounts have not been withheld pursuant to the provisions of Section 15.3(e). Each Member acknowledges that, notwithstanding the transfer or liquidation of all or any portion of its Interest in the Company, it shall remain liable for Taxes with respect to its allocable share of income and gain of the Company for the Company’s taxable years (or portions thereof) prior to such transfer or liquidation and entitled to the Consent rights provided to it in this Article 15 with respect to such taxable years unless otherwise agreed to in writing by the Members during the taxable year(s) (or portion thereof) to which the Taxes relate and all Former Members during the Company’s taxable year(s) (or portion(s) thereof) to which the Taxes relate.

(g) **Continuing Obligations.** Whether the liability is assessed to the Company or the Members (or Former Members), the parties hereto acknowledge and agree that nothing in this Article 15 is intended, nor shall it be construed, to modify or waive any obligations of the
Amended and Restated Operating Agreement

Canova Palms, LLC

Managing Member under this Agreement including, without limitation, the obligation to make a payment pursuant to the provisions of Section 4.2(d).

15.4 Related Tax Items

(a) Tax Counsel or Accountants. The Partnership Representative, with the reasonable Consent of the Investor Member, shall employ experienced tax counsel and/or accountants to represent the Company in connection with any audit or investigation of the Company by the Service or any other taxing authority and in connection with all subsequent administrative and judicial proceedings arising out of such audit. Such counsel and/or accountants shall be responsible for representing the Company; it shall be the responsibility of the Members, at their expense, to employ tax counsel or accountants to represent their respective separate interests.

(b) Survival. The rights and obligations of each Member or Former Member under this Section shall survive the transfer, redemption or liquidation by such Member of its Company Interest and the termination of this Agreement or the dissolution of the Company.

(c) Amendments. Upon the promulgation of revised Treasury Regulations implementing the Revised Partnership Audit Rules or upon further amendment of the Revised Partnership Audit Rules, the Members will evaluate and consider options available with respect to preserving the allocation of responsibility and authority described in this Article 15, while conforming with the applicable provisions of the Revised Partnership Audit Rules. The Members agree to work together in good faith to make elections and amend this Agreement (if any party determines that an amendment is required) to maintain the intent of the parties with respect to the obligations and limitations of the Partnership Representative.

(d) State and Local Income Tax Matters. The provisions of this Article 15 shall also apply to state and local income tax matters affecting the Company to the extent the terms and conditions hereof have any application to audit procedures at the state and local level.

ARTICLE 16
MANAGEMENT AGENT

16.1 Appointment of Management Agent. The Managing Member shall cause the Company at all times during which the Company owns the Apartment Complex to engage a Management Agent subject to the approval of the Investor Member in its sole discretion (which may be a Managing Member or an Affiliate thereof if approved by the Investor Member in its sole discretion, and if approved by the Lenders and by the Agency, to the extent such approval by a Lender and/or the Agency is required) to provide management services for the Company with respect to the Apartment Complex pursuant to a Management Agreement meeting the requirements of this Agreement. Accolade Property Management, Inc. is approved as the initial Management Agent. Such engagement shall occur no later than the date on which the first certificate of occupancy for any unit in the Apartment Complex is issued and shall continue thereafter for so long as the Company owns the Apartment Complex. Concurrently with execution of the Management Agreement, the Management Agent shall execute and deliver to
the Company and the Investor Member consent in the form attached hereto after the signature pages of the Members.

16.2 Management Agreement. The Management Agreement shall be subject to the Consent of the Investor Member in its sole discretion and, unless the Investor Member otherwise Consents, must satisfy the following terms and conditions: (a) the Company shall pay the Management Agent a monthly Management Fee not to exceed the greater of (a) five percent (5%) of the Gross Operating Revenues (as defined in the Management Agreement) of the Apartment Complex for the month preceding payment and (b) $2,000 per month; and (b) the Management Agreement must have a term which does not exceed one (1) year and provide that it is terminable by the Company on thirty (30) days’ Notice by the Company without cause. Notwithstanding the foregoing, if at any time the Management Agent is an Affiliate of any Managing Member, Guarantor or Developer, payment of the Management Fee shall be subordinated to payment of Operating Expenses, Debt Service Expenses and funding of any reserve required under this Agreement, and any portion of the Management Fee which is not paid shall accrue without interest and be paid from available Cash Flow in accordance with Section 14.1(a) hereof. If the Management Agent is an Affiliate of the Managing Member, the Developer or the Guarantors, then the Management Fee shall not be paid from either the Operating Reserve or an Operating Deficit Loan.

16.3 Removal of Management Agent. If (a) the Apartment Complex shall be subject to a building code violation the Investor Member shall deem material and which shall not have been timely cured after notice from the applicable agency or department; (b) an Event of Bankruptcy shall occur with respect to the Management Agent; (c) the Management Agent shall commit misconduct or negligence in the performance of its duties and obligations under the Management Agreement, or fails to promptly and competently perform (after any applicable notice and cure period) all duties of the Management Agent under the Management Agreement or materially mismanage the Apartment Complex; (d) the Managing Member Withdraws; (e) there is change in ownership of the Managing Member without the Consent of the Investor Member; (f) the Management Agent is cited by any Agency for a violation or alleged violation of any applicable rules, regulations or requirements, including noncompliance with the Minimum Set-Aside Test, the HOME Minimum Set-Aside Test or any other Lender or Set-Aside Test, the Rent Restriction Test or any other Housing Tax Credit-related provision; (g) from or after Rental Achievement, the Company experiences Operating Deficits (prior to the effect of subordinating payment of the Management Fee, if applicable) for six (6) consecutive months; (h) the Company’s actual Housing Tax Credits are less than 95% of the Projected Housing Tax Credits or the Revised Projected Housing Tax Credits, as applicable, (i) the Management Agent fails to comply with any applicable compliance rule, recordkeeping and/or reporting requirement under Section 42 of the Code and the Regulations, rulings and policies related thereto (which is not timely cured); or (j) the Investor Member funds Default IM Loans or Excess IM Loans, then, upon Notice from the Investor Member and subject to any Lender or Agency approval, if required, the Managing Member must cause the Company to promptly terminate the Management Agreement with the Management Agent.

16.4 Replacement of Management Agent. Upon termination of the Management Agreement with the Management Agent, the Managing Member shall appoint a new Management Agent which is not an Affiliate of the Managing Member, Developer or Guarantor,
subject to the Consent of the Investor Member, to the extent required, the Lenders, and on the
terms set forth in Section 16.2.

ARTICLE 17
SALE, DISSOLUTION AND LIQUIDATION

17.1 Dissolution of the Company. The Company shall be dissolved upon the earlier of the expiration of the term of the Company, or upon:

(a) the Withdrawal of the Managing Member who is at that time the sole Managing Member, subject to the provisions of Section 7.2(b)(ii), unless a majority in Interest of the other Members, within ninety (90) days after receiving Notice of such withdrawal, Bankruptcy, death, dissolution or adjudication of incompetence, elects to designate a successor Managing Member(s) and continue the Company upon the admission of such successor Managing Member(s) to the Company;

(b) the sale or other disposition of all or substantially all of the assets of the Company or liquidation as defined in Treasury Regulation Section 1.704-1(b)(2)(ii)(g);

(c) the election by the Managing Member, with the Consent of a majority in interest of the other Members; or

(d) any other event causing the dissolution of the Company under the laws of the State.

17.2 Winding Up and Liquidation.

(a) Upon the dissolution of the Company pursuant to Section 17.1, (i) a Certificate of Cancellation shall be filed in such offices within the State as may be required or appropriate, and (ii) the Company business shall be wound up and its assets liquidated as provided in this Section 17.2.

(b) The net proceeds resulting from the dissolution and liquidation of the Company shall be distributed and applied in the following order of priority:

(i) to the payment of all debts and liabilities of the Company (including amounts due pursuant to all Loans and all expenses of the Company incident to any such dissolution and liquidation), other than its Members and Affiliates;

(ii) to the payment of debts and liabilities (including unpaid fees) owed to the Members or their Affiliates by the Company for Company obligations (limited to those debts that have been Consented to by the Investor Member as provided in this Agreement); provided, however, that the foregoing debts and liabilities owed to the Members and their Affiliates shall be paid or repaid, as applicable, in the following order of priority, if and to the extent applicable: (A) to the payment of any amounts owing to the Investor Member or other Hunt Indemnified Parties by reason of any unpaid indemnification or guaranty obligation of the Managing Member pursuant to this Agreement or of the Guarantors pursuant to the Guaranty; (B) to the payment of any outstanding Excess IM Loan Amount until paid in full, then to the
payment of the Excess MM Loan Amount and then to the payment of any remaining IM Loans and MM Loans pro rata based on their respective outstanding balances until paid in full; (C) to the payment of any accrued and unpaid Asset Management Fee; (D) to the payment of amounts due under the Development Agreement (including any Deferred Development Fee); (E) to the payment of amounts due with respect to Operating Deficit Loans; and (F) to the payment of any other such debts and liabilities;

(iii) to the setting up of any reserves which the Liquidator deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Company; and

(iv) thereafter, to the Members in accordance with the Members’ respective positive Capital Account balances as determined by taking into account all Capital Account adjustments required by Section 13.2 and otherwise required by this Agreement.

17.3 Rights and Obligations of Investor Member upon Dissolution. Except as otherwise expressly provided in this Agreement, the Investor shall look solely to the assets of the Company for the return of its Capital Account balance. Notwithstanding the provisions of Section 17.2 or any other provision of this Agreement, except as otherwise elected by the Investor Member pursuant to Section 4.2(c)(ii) or this Section 17.3, the Investor shall not have any obligation to restore any deficit in its Capital Account upon the liquidation of the Company. Notwithstanding the foregoing, or anything to the contrary contained in this Agreement, the Investor Member 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 Investor Member’s delivery of a Notice of election to the Managing Member no later than April 15 following 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 Investor Member agrees to restore. Such election shall be irrevocable and shall be binding on subsequent transferees of the Investor Member’s Company Interest.

17.4 Filing of Certificate of Dissolution. The Liquidator shall file all certificates and notices of the dissolution of the Company required by law. The Liquidator shall proceed without any unnecessary delay to sell and otherwise liquidate the Company’s property and assets; provided, however, that if the Liquidator shall determine that an immediate sale of part or all of the Company property would cause undue loss to the Members, then in order to avoid such loss, the Liquidator may, except to the extent provided by the Uniform Act, defer the liquidation as may be necessary to satisfy the debts and liabilities of the Company to Persons other than the Members. Upon the complete liquidation and distribution of the Company assets, the Members shall cease to be Members of the Company, and the Liquidator shall execute, acknowledge and cause to be filed all certificates and notices required by the law to terminate the Company. Upon the dissolution of the Company pursuant to Section 17.1, the Accountants shall promptly prepare, and the Liquidator shall furnish to each Member, a statement setting forth the assets and liabilities of the Company upon its dissolution. Promptly following the complete liquidation and distribution of the Company property and assets, the Accountants shall prepare, and the Liquidator shall furnish to each Member, a statement showing the manner in which the Company assets were liquidated and distributed.
ARTICLE 18
BOOKS AND RECORDS, ACCOUNTING,
TAX ELECTIONS, ETC.

18.1 Books and Records. Every Member, or its duly authorized representatives, shall at all times have access to the records of the Company at the principal office of the Company at any and all reasonable times, and may inspect and copy any of such records. A list of the names and addresses of all of the Members shall be maintained as part of the books and records of the Company and shall be mailed to any Member upon request. The Company may charge reasonable costs for duplication and mailing.

18.2 Bank Accounts. Except as provided in Section 5.10 with respect to the Operating Reserve, the bank accounts of the Company shall be maintained in the Company’s name with one commercial bank as the Managing Member shall determine with the reasonable Consent of the Investor Member; provided, however, that no such account may be held in a bank which is an Affiliate of the Managing Member unless the Consent of the Investor Member shall have been received with respect thereto. Withdrawals shall be made only in the regular course of Company business on such signature or signatures as the Managing Member may determine. All deposits (including security deposits and other funds required to be escrowed by any Lender or Agency) and other funds not needed in the operation of the business shall be deposited, in the following: (a) cash deposits (including certificates of deposits) at commercial banks; (b) obligations of the United States or any State or Municipality, thereof, that have an initial or remaining term of 60 days or greater; or (c) money market mutual funds that are registered investment companies under the Investment Company Act of 1940. To the extent the Managing Member seeks to invest in either (b) or (c), it agrees that it will hold such instrument for at least 60 days following such purchase prior to sale. The Managing Member agrees that it will monitor any investments to ensure that they comply with the aforesaid requirements and will promptly notify the Investor Member in the case of any instances of non-compliance have been detected. The Managing Member shall not be obligated to maximize the interest rates received on Company funds. Tenant security deposits shall be maintained in a bank account separate from any other bank accounts. The tenant security deposit account shall be maintained with a balance equal to the corresponding liability, and shall in all other respects comply with applicable laws.

18.3 Accountants.

(a) The Accountants shall prepare, for execution by the Managing Member, all tax returns of the Company. Prior to the filing of the Company tax returns, and in no event later than February 28 of each year, the Accountants shall deliver draft financial statements for the Company and the tax returns for such year to the Investor Member for its review and comment. If a dispute arises between the Accountants and the Investor Member over the proper preparation of the financial statements and the tax returns and such dispute cannot be resolved by the Accountants and the Investor Member by March 1 of such year, then the Investor Member shall make the final decision on whether any changes are necessary and must have a rationale for such decision. The Company shall reimburse the Investor Member or its Affiliates for all costs and expenses related to the aforementioned review.
(b) The Accountants shall audit and certify all annual financial reports to the Members in accordance with generally accepted auditing standards, and shall deliver a draft of such financial reports not later than February 28 of each year and a final version of such financial reports not later than March 31.

(c) If the Company fails to fulfill any of its obligations under Sections 18.3(a), 18.3(b) or 18.7(a) within the time periods set forth therein, at any time thereafter upon Notice from the Investor Member that a change in the identity of the Accountants is desired and the foregoing failure is due to the Accountants second or more violation which caused such failure, the Managing Member, on behalf of the Company, shall promptly terminate the Company’s engagement of the Accountants, and the Consent of the Investor Member must be received to the appointment of replacement Accountants. If the Managing Member has not designated replacement Accountants within ten (10) days of the Notice from the Investor Member to replace the Accountants, then the Investor Member shall appoint replacement Accountants of its own choosing, the cost of which shall be borne by the Company as a Company expense. All Members hereby grant to the Investor Member a special power of attorney, irrevocable to the extent permitted by law, coupled with an interest, to so appoint replacement Accountants and to do anything else which in the view of the Investor Member may be necessary or appropriate to accomplish the purpose of this Section 18.3(c).

18.4 Cost Recovery and Elections.

(a) Except as otherwise required in Section 5.2(oo), the Managing Member shall also cause the Company to make an election to be treated as an “electing real property trade or business” under Section 163(j)(7)(B) of the Code and will cause the Company to use the Alternative Depreciation System (ADS) to the extent required by such election. The Managing Member shall also cause the Company to use “bonus” depreciation to the extent not inconsistent with the foregoing.

(b) Subject to the provisions of Section 18.5, all other elections required or permitted to be made by the Company under the Code shall be made by the Managing Member with the Consent of the Investor Member.

18.5 Special Basis Adjustments. In the event of a transfer of all or any part of the Interest of the Investor Member or a transfer of all or any part of an interest of a partner of the Investor Member, the Company shall elect, upon the request of the Investor Member, pursuant to Section 754 of the Code, to adjust the basis of the Company property. Any adjustments made pursuant to said Section 754 shall affect only the successor in interest to the transferring Member or partner thereof. Each Member will furnish the Company all information necessary to give effect to such election.

18.6 Fiscal Year. The fiscal and tax year of the Company shall be the calendar year. The books of the Company shall be kept on an accrual basis.

18.7 Information Reporting to Members.

(a) The Managing Member shall cause to be prepared and distributed to all Persons who were Members at any time during a fiscal year of the Company:
(i) During the construction of the Apartment Complex, within fifteen (15) days after the end of each month, copies of draw requests which may be submitted simultaneously with the draw request provided to the BBVA Lender.

(ii) During the initial lease-up period, and ending on the date on which Initial 100% Occupancy occurs:

(A) a leasing report provided weekly in the form approved by Investor Member;

(B) a vacancy report and rent roll provided monthly in the form approved by the Investor Member;

(C) a low income housing credit monitoring form, an occupancy/rental report in the form approved by the Investor Member, provided monthly in arrears, within seven (7) days of the end of the month being reported;

(D) on the last day of each calendar quarter until Initial 100% Occupancy has been achieved, copies of the complete tenant files for each tenant (including both returning and new tenants) initially occupying a unit during such quarter;

(iii) Within forty-five (45) days after the Occupancy Commencement Date, the Managing Member shall:

(A) cause the Accountants to prepare, and deliver to each Investor Member a Housing Tax Credit eligible basis worksheet for each building in the Apartment Complex, all in a form approved by the Investor Member;

(B) or cause the Management Agent to provide a draft of the Annual Budget.

(iv) The Company shall send to the Investor Member, on or before the tenth (10th) day of each month beginning with initial lease up of the Apartment Complex:

(A) copies of all applicable periodic reports covering the status of project operations from the previous period, as may be required by the Agency; and

(B) copies of all initial tenant leases and associated application information, including third party verification information and copy of the audit, for leases entered into or renewed during the preceding month, and as requested copies of all leases other than initial leases and any related back-up documentation.

(v) Within twenty (20) days after the end of each month, beginning with the month in which the Occupancy Commencement Date occurs, a report, which may be unaudited, that is reasonably satisfactory to the Investor Member, and at minimum contains each of the following:
then ended;

(B) a statement of income and expenses for the month then ended;

(C) a statement of cash flows for the month then ended;

(D) a year-to-date trial balance of all Company accounts, prepared using Microsoft Excel and showing a beginning balance, gross debits, gross credits, and an ending balance for each account;

(E) after Initial 100% Occupancy, rent rolls and occupancy/rental report for each month;

(F) a certification of the Managing Member that the Apartment Complex and its tenants are in compliance with all applicable federal, state and local requirements and regulations; and

(G) at the request of the Investor Member, such other information which would be pertinent to a reasonable investor regarding the Company and its activities during the month covered by the report.

(vi) No later than February 28 of each year, drafts of (A) a balance sheet as of the end of such fiscal year, a statement of income, a statement of partners’ equity, and a statement of cash flows, each for the year then ended, all of which, except the statement of cash flows, shall be prepared in accordance with generally accepted accounting principles and accompanied by a report of the Accountant containing an opinion of the Accountant, and (B) a report of the activities of the Company during the period covered by the report. The report called for shall separately identify distributions from (1) Cash Flow from operations during the period, (2) Cash Flow from operations during a prior period which had been held as reserves, (3) proceeds from disposition of property and investments, (4) lease payments on net leases with builders and sellers, (5) reserves from the gross proceeds of the Capital Contribution of the Investor Member, (6) borrowed monies, and (7) transactions outside of the ordinary course of business with a description thereof:

(A) No later than March 31, but not prior to approval of the Investor Member, a final version of the aforementioned reports will be provided.

(B) No later than February 28, drafts of the Form K-1 and all other information which is necessary, in view of the Accountant, for the preparation of the Investor Member’s federal income tax returns.

(C) The final Form K-1 will be delivered to the Investor Member no later than March 31, but not prior to approval of the Investor Member, for the preceding fiscal year.
(vii) Within the latest of (a) forty-five (45) days after the end of each fiscal year of the Company or (b) two (2) weeks of receipt by the Company from the Agency, a copy of the annual report on Form(s) 8609A to be filed with the United States Treasury concerning the status of the Apartment Complex as low-income housing and, if required, a certificate to the appropriate state agency concerning the same and any reports filed in connection with the compliance monitoring conducted by the Agency on behalf of the State.

(viii) By November 1 of each year, a draft of the Annual Budget for the Company for the next year, which budget shall have been prepared by the Managing Member or the Management Agent and shall be subject to the approval of the Investor Member, with such approval not to be unreasonably withheld.

(b) Upon the written request of the Investor Member for further information with respect to any matter covered in item (a) above, the Managing Member shall furnish such information within thirty (30) days of receipt of such request.

(c) Prior to October 15 of each year, the Company shall send to the Investor Member an estimate of each Investor Member’s share of the Housing Tax Credits, profits and losses of the Company for federal income tax purposes for the current fiscal year. Such estimate shall be prepared by the Managing Member and the Accountants.

(d) Within ninety (90) days after the end of each fiscal year of the Company, the Managing Member shall provide to the Investor Member:

(i) a certification from the Managing Member that (A) all payments payable with respect to all Loans and all taxes and insurance with respect to the Apartment Complex are current as of the date of the year-end report, (B) there is no default under the Project Documents or this Agreement, or if there is any such default, a detailed description thereof, and (C) there is no building, health or fire code violation or similar violation of a governmental law, ordinance or regulation against the Apartment Complex or, if there is any such violation, a detailed description thereof; and

(ii) a descriptive statement of all transactions during the fiscal year between the Company and any Managing Member or any Affiliate thereof, including the nature of the transaction and the payments involved.

(e) The Managing Member shall send the Investor Member a detailed report within five (5) Business Days after the occurrence of any of the following events:

(i) there is a default by the Company under any Project Document or in the payment of any mortgage, taxes, interest or other obligation on secured or unsecured debt;

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

(iii) the Managing Member has received any notice of a fact which may materially affect further distributions or Housing Tax Credit allocations to any Investor Member; or
(iv) any Member has pledged or collateralized its Interest in the Company.

(f) On or before ninety (90) days after the expiration of each fiscal year of the Managing Member or its members, such Managing Member or its members shall send to the Investor Member copies of the balance sheet and income statement of such Managing Member or its members for such fiscal year, which financial statements shall be audited by an independent certified public accountant in the case of a Managing Member or its members which is an Entity.

(g) The Managing Member shall promptly send to the Investor Member a copy of each draw requisition with respect to the Loans and any notification or correspondence from any Lender indicating that any such draw will not be paid as requisitioned.

(h) Promptly upon receipt, the Managing Member shall send to the Investor Member copies of all documents evidencing any Carryover Allocation pursuant to Section Code 42(h) and the Form(s) 8609 evidencing the Housing Tax Credit allocation.

(i) Promptly after Construction Loan Closing, the Managing Member shall send to the Investor Member closing binders containing photocopies of the fully-executed versions of all documents signed in connection with the Loans.

(j) The Managing Member hereby Consents to any Agency providing the Investor Member with copies of all material communications between any such office and the Managing Member and/or the Company, including any notices of default.

(k) The Managing Member shall promptly Notify the Investor Member if it becomes aware of any violation of Anti-Corruption Laws, or circumstances likely to give rise to such a violation by the Company, the Developer, the Managing Member, the Guarantors or any Affiliate of the Managing Member, the Developer or the Guarantors. Upon request by the Investor Member, the Managing Member will provide information verifying compliance with Anti-Corruption Laws by the Company, the Developer, the Managing Member, the Guarantors or any Affiliate of the Managing Member, the Developer or the Guarantors.

(l) If the Managing Member does not cause the Company to fulfill its obligations under this Section 18.7, the Managing Member shall pay as damages the sum of $100.00 per day to the Investor Member until such obligations shall have been fulfilled. Such damages shall be immediately paid by the Managing Member, and failure to so pay shall constitute a material default of the Managing Member hereunder. In addition, if the Managing Member shall so fail to pay, the Managing Member shall cease to be entitled to the MM Incentive Management Fee and to the payment of any Cash Flow or Capital Transaction proceeds to which it may otherwise be entitled hereunder. Such payments of the MM Incentive Management Fee, Cash Flow and Capital Transaction proceeds shall be restored only upon the payment of such damages in full, and any amount of such damages not so paid shall be deducted against payments of the MM Incentive Management Fee, Cash Flow and Capital Transaction proceeds due to the Managing Member. The imposition of this fee does not affect the other
rights and remedies the Investor Member has under this Agreement and all such rights and remedies are expressly reserved.

18.8 Expenses of the Company. All expenses of the Company shall be billed directly to and paid by the Company.

18.9 Housing Tax Credit Compliance Records. Except to the extent that another record storage method shall have been Consented to by the Investor Member, the Managing Member shall cause all tenant leases, income certifications and other records required by the Code and the Agency to evidence that all tenants occupying Housing Tax Credit Units are Qualified Tenants to be stored in fireproof file cabinets in a secure location. Without limiting the foregoing, all such records relating to initial occupancy of each Low-Income Apartment Unit by Qualified Tenants and evidencing timely satisfaction of the Minimum Set-Aside Test and the HOME Minimum Set-Aside Test shall be stored for a period of not less than 21 years.

18.10 Compliance Audit. The Investor Member may, at its own expense, conduct or cause to be conducted an audit or review of the Company’s compliance with all regulations and procedures relating to the operation of the Apartment Complex as a qualified Tax Credit project within the meaning of Section 42(h) of the Code. Such audit or review shall be conducted upon not less than thirty (30) or more than ninety (90) days prior Notice. The Managing Member shall cooperate with any such audit by making appropriate personnel of the Managing Member and the Management Agent and all books and records of the Apartment Complex and Company available to the Investor Member or its representatives at the offices of the Company during regular business hours.

18.11 Inspections. The Investor Member, at its sole cost and expense, shall have the right to conduct physical inspections of the Apartment Complex on an annual basis (or more frequently if the Investor Member in its sole discretion determines it necessary or advisable) and the Managing Member shall take all reasonable steps necessary to cooperate therewith.

18.12 Guarantors’ Financial Statements. The Managing Member shall cause to be delivered to the Investor Member financial statements of each of the Guarantors to include a schedule of contingent liabilities, together with bank statements for each Guarantor who is an individual, within ninety (90) days of the end of each fiscal year of such Guarantor, unless waived by the Investor Member in writing.

ARTICLE 19
GENERAL PROVISIONS

19.1 Notices. Any Notice or Notification called for under this Agreement shall be in writing and shall be deemed adequately given if actually delivered or if sent by registered or certified mail, postage prepaid, sent by express courier or electronic mail, to such Member at such Member’s address as specified below on the date of receipt thereof (or the next business day if the date of receipt is not a business day) (or in the case of registered or certified mail the date of registry thereof or the date of the certification receipt, as applicable) being deemed the date of such notice (“Notice”, “Notification” or “Notify”); provided, however that any written
communication containing such information sent to such Member actually received by such Member shall constitute Notice for all purposes of this Agreement.

To the Investor Member:  HCP-ILP, LLC
15910 Ventura Boulevard, Suite 1100
Encino, California 91436
Attention: Jeffrey N. Weiss
Email: jeff.weiss@huntcompanies.com

With a copy to:  Nixon Peabody LLP
799 9th Street NW, Suite 500
Washington, DC 20001-5327
Attention: Matthew W. Mullen
Email: mmullen@nixonpeabody.com

To the Co-Managing Member:  Saigebrook Canova, LLC
220 Adams Drive Ste. 280 #138
Weatherford, Texas 76086
Attention: Lisa Stephens
Email: lisa@saigebrook.com

To the Administrative Member:  O-SDA Canova, LLC
5714 Sam Houston Circle
Austin, Texas 78731
Attention: Megan D. Lasch
Email: megan@o-sda.com

With a copy to:  Shutts & Bowen LLP
200 South Biscayane Boulevard, Suite 4100
Miami, Florida 33131
Attention: Gary J. Cohen
Email: gcohen@shutts.com

With a copy to:  Shackelford, Bowen, McKinley & Norton, LLP
9201 N. Central Expressway, Fourth Floor
Dallas, Texas 75231
Attention: John Shackelford
Email: jshack@shackelfordlaw.net

19.2 Word Meanings. The words such as “herein,” “hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. The words “includes,” “including” and the like shall in each case mean “including without limitation.” References to “Sections” and “Articles” refer to Sections and
Articles of this Agreement, unless otherwise specified. References to any Regulations (permanent or temporary) or Revenue Procedures shall include any successor provisions.

19.3 **Binding Effect.** The covenants and agreements contained herein shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the respective parties hereto.

19.4 **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State.

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

19.6 **Entire Agreement.** This Agreement sets forth all (and is intended by all parties to be an integration of all) of the representations, promises, agreements and understandings among the parties hereto with respect to the Company, the Company’s business and the property of the Company, and there are no representations, promises, agreements or understandings, oral or written, express or implied, among them other than as set forth or incorporated herein.

19.7 **Reserved.**

19.8 **Separability of Provisions.** Each provision of this Agreement shall be considered separable and (a) if for any reason any provision is determined to be invalid, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid, or (b) if for any reason any provision would cause any Investor Member to be bound by the obligations of the Company (other than the rules and regulations of any Agency and the requirements of any Lender), such provision or provisions shall be deemed void and of no effect.

19.9 **Paragraph Titles.** All article and section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any article or section.

19.10 **Project Lender Provisions.** Notwithstanding anything to the contrary, all required Lender consents must be obtained for the following actions: (a) permitting the withdrawal of a Managing Member from the Company; (b) admitting a new Managing Member to the Company; (c) substituting a Managing Member; (d) amending this Agreement or the Company’s Certificate of Formation; (e) selling all or substantially all of the Company’s assets; (f) dissolving, liquidating or terminating the Company; or (g) borrowing funds from a Managing Member or any third party.

19.11 **No Continuing Waiver.** The waiver by any party of any breach of this Agreement or any full or partial condition for performance hereunder shall not operate as or be construed to be a waiver of any subsequent breach or condition.

19.12 **Amendment Procedure.** This Agreement may be amended by the Managing Member only with the Consent of the Investor Member. To the extent that the Investor Member(s) has or have loans outstanding from the Equity Lender in order to finance their
Capital Contribution(s), no amendment may be made to Article 14 without the Consent of the Equity Lender. The Managing Member agrees to execute amendments proposed by the Investor Member which do not affect the obligations of the Managing Member under this Agreement and (a) increase or impose upon the Investor Member the obligation to restore a deficit balance in its Capital Account, or (b) prospectively decrease the obligation of the Investor Member to restore a deficit balance in its Capital Account in a subsequent fiscal year of the Company. The Managing Member agrees to cooperate and to act promptly with respect to amendments proposed by the Investor Member.

19.13 Waiver of Jury Trial. (A) EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AFTER OPPORTUNITY FOR CONSULTATION WITH INDEPENDENT COUNSEL, WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS OR OBLIGATIONS (I) UNDER THIS AGREEMENT, (II) ARISING FROM THE FINANCIAL RELATIONSHIP BETWEEN THE PARTIES IN CONNECTION WITH THIS AGREEMENT OR (III) ARISING FROM ANY COURSE OF DEALING, COURSE OF CONDUCT, STATEMENT (VERBAL OR WRITTEN) OR ACTION OF THE PARTIES IN CONNECTION WITH SUCH FINANCIAL RELATIONSHIP; (B) NO PARTY HERETO WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED; (C) THE PROVISIONS OF THIS SECTION HAVE BEEN FULLY NEGOTIATED BY THE PARTIES HERETO, AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS; (D) NO PARTY HERETO HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES; AND (E) THIS SECTION IS A MATERIAL INDUCEMENT FOR THE INVESTOR MEMBER TO ENTER INTO THIS AGREEMENT.

19.14 No Third-Party Rights. No creditor or other third party having dealings with the Company shall have the right to enforce the right or obligation of any Member 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 Members herein set forth to make Capital Contributions or loans to the Company shall be deemed an asset of the Company 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 Company or pledged or encumbered by the Company to secure any debt or other obligation of the Company or of any of the Members. Without limiting the generality of the foregoing, a deficit Capital Account of a Member shall not be deemed to be a liability of such Member nor an asset or property of the Company.

19.15 Forbearance. Any forbearance by the Investor Member in exercising any right or remedy under this 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 Investor Member of any right herein shall not constitute an
election by the Investor Member of remedies so as to preclude the exercise of any other right available to the Investor Member.

19.16 Review with Counsel. THE MEMBERS ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT AND HAVE BEEN ADVISED BY COUNSEL AS NECESSARY OR APPROPRIATE.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: [Signature]
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By:  Saigebrook Development, LLC,
a Florida limited liability company
Its:  Managing Member

By:  ____________________________
Name: Lisa M. Stephens
Title:  Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By:  O-SDA Industries, LLC,
a Texas limited liability company
Its:  Sole Member

By:  ____________________________
Name: Megan D. Lasch
Title:  Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

INVESTOR MEMBER:

HCP-ILP, LLC,
a Nevada limited liability company

By:  Hunt Capital Partners, LLC,
a Delaware limited liability company

Its:  Manager

By:  _______________________

Name:  Jeffrey N. Weiss
Title:  President

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
WITNESS the execution hereof as of the Closing Date.

WITHDRAWING INVESTOR MEMBER:

LISA M. STEPHENS, an individual

[Signature]
DEVELOPER CONSENT AND AGREEMENT

The undersigned, being the Developer for Canova Palms, LLC (the “Company”), hereby consents to the provisions in Sections 4.1(c), 5.9(a), 5.11, 7.2(b)(ii) and 8.5 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Development Agreement to the contrary.

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC,

a Florida limited liability company

By: ______________________________
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,

a Texas limited liability company

By: ______________________________
Name: Megan D. Lasch
Title: Managing Member
DEVELOPER CONSENT AND AGREEMENT

The undersigned, being the Developer for Canova Palms, LLC (the “Company”), hereby consents to the provisions in Sections 4.1(c), 5.9(a), 5.11, 7.2(b)(ii) and 8.5 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Development Agreement to the contrary.

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: _____________________________
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: _____________________________
Name: Megan D. Lasch
Title: Managing Member
MANAGEMENT AGENT CONSENT AND AGREEMENT

The undersigned, being the Management Agent for Canova Palms, LLC (the "Company"), hereby consents to the provisions in Article 16 of the foregoing First Amended and Restated Operating Agreement of the Company, notwithstanding any provision of the Management Agreement to the contrary.

MANAGEMENT AGENT:

ACCOLADE PROPERTY MANAGEMENT, INC.,
a Texas corporation

By: ___________________________
Name: Stephanie Baker
Title: President

[Signature to be added prior to full funding of the First Installment]
<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Capital Contribution</th>
<th>Taxpayer Identification No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Co-Managing Member:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saigebrook Canova, LLC</td>
<td>$100.00</td>
<td>45-3062708</td>
</tr>
<tr>
<td>220 Adams Drive Ste. 280 #138</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weatherford, Texas 76086</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative Member:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>O-SDA Canova, LLC</td>
<td>$100.00</td>
<td>80-0641068</td>
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<tr>
<td>5714 Sam Houston Circle</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Austin, Texas 78731</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Investor Member:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HCP-ILP, LLC</td>
<td>$8,373,153</td>
<td>27-4320633</td>
</tr>
<tr>
<td>15910 Ventura Boulevard, Suite 1100</td>
<td>(subject to adjustment)</td>
<td></td>
</tr>
<tr>
<td>Encino, California 91436</td>
<td>as provided in the Agreement</td>
<td></td>
</tr>
</tbody>
</table>
EXHIBIT A

LEGAL DESCRIPTION OF LAND

Tract 1: (Fee Simple)

Being Lot 1, in Block A, of J D I, LLC, ADDITION, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded under cc# 20080220250, Real Property Records, Dallas County, Texas.

Tract 2: (Easement Estate)

Non-Exclusive Access Easement as shown and created on plat across a portion of Lot 2, Block A, of J D I, LLC, ADDITION, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded under cc# 20080220250, Real Property Records, Dallas County, Texas.
EXHIBIT B

DEVELOPMENT BUDGET,
SOURCES AND USES
and
SUMMARY OF LOANS

[To be attached at the full funding of the First Installment.]
### SUMMARY OF LOANS

<table>
<thead>
<tr>
<th>Lender</th>
<th>Related Party (Yes or No)</th>
<th>Principal Amount</th>
<th>Interest Rate</th>
<th>Hard Debt Payment Terms</th>
<th>Soft Debt Payment Terms</th>
<th>Construction or Permanent or Both</th>
</tr>
</thead>
<tbody>
<tr>
<td>BBVA Compass.</td>
<td>No</td>
<td>Up to $7,563,000; Up to $2,000,000 upon Conversion</td>
<td>6.51% upon Conversion</td>
<td>24-month term, interest only payable monthly; 18-year term, amortizing at 35 years upon Conversion</td>
<td>N/A</td>
<td>Both</td>
</tr>
<tr>
<td>City of Irving (HOME Loan)</td>
<td>No</td>
<td>$1,000,000</td>
<td>1%; Fixed</td>
<td>Payable from Cash Flow -40 year term</td>
<td>N/A</td>
<td>Both</td>
</tr>
</tbody>
</table>
EXHIBIT C

FUNDING CONDITIONS

Payment Certificate. The obligation of the Investor Member to pay each Installment (or disbursement of each Installment) is conditioned upon delivery by the Managing Member to the Investor Member of a written certificate (the “Payment Certificate”) in the form attached hereto as Exhibit R. The Payment Certificate for each Installment subsequent to the First Installment shall be dated and delivered not less than fifteen (15) nor more than thirty (30) days prior to the due date for such Installment.

First Installment Funding Conditions ($837,315) The Limited Partner has agreed to fund $1,000 of the First Installment upon its admission to the Partnership, which shall be used to pay for a portion of the expense reimbursement due to an affiliate of the Limited Partner under Article 4.8. The balance of the First Installment, subject to adjustment, shall be funded once all First Installment Funding Conditions are satisfied.

1. Admission of the Investor Member to the Company.

2. Proof of property and liability insurance in accordance with Exhibit D to the Agreement.

3. No Event of Default of the Managing Member has occurred.

4. Receipt by the Investor Member of an LIHTC Certificate in the form attached hereto as Exhibit S.

5. Receipt by the Company of the Carryover Allocation and satisfaction by the Company of all conditions to the effectiveness of the Carryover Allocation which are to be satisfied prior to Closing imposed by the Code, the Agency or otherwise.

6. Closing and funding of the BBVA Loan on terms approved by the Investor Member, with such funds to be used solely for site acquisition, development and construction costs, including an expense reimbursement of $65,000 to an Affiliate of the Investor Member for its review and approval costs in connection with the Closing.

7. Closing and initial funding of the HOME Loan on terms approved by the Investor Member, with such funds to be used solely for purposes set forth in the HOME Loan documents.

8. The Title Policy meeting the requirements set forth in Exhibit Q.

9. The Predevelopment Loan shall have been paid in full or will be paid in full concurrently with the funding of the First Installment.

10. An Opinion of Counsel of the Managing Member confirming such tax, corporate and partnership matters, and in such form, as the Investor Member or its counsel may reasonably request. Such opinion shall expressly permit reliance thereon by the Investor
Member and counsel engaged by the Investor Member in connection with the admission of the Investor Member to the Company and confirm that, upon an Assignment of the Investor Member’s Interest in the Company pursuant to an Assignment executed substantially in the form attached to the Agreement as Exhibit M, (1) the Assignee of the Investor Member’s Interest will, except for the payment of its Capital Contribution, have no liability with respect to obligations of the Company except as provided under the provisions of the Uniform Act, and (2) the Assignment will not affect the validity of the Guaranty Agreement, the benefits of which will run to the Assignee of the Investor Member’s Interest.

11. The Development Agreement between the Company and the Developer, in the form attached to the Agreement as Exhibit E, pursuant to which the Developer will be paid a Development Fee as described therein.

12. The Guaranty Agreement in the form attached to the Agreement as Exhibit F.

13. The ALTA Survey certified to the Company and the Investor Member and meeting the requirements set forth in Exhibit Q.


15. The Management Agreement between the Company and the Management Agent, in the form attached to the Agreement as Exhibit I.

16. Receipt of the fully executed Section 811 Subsidy Contract, in a form acceptable to the Investor Member.

17. Building permits for the Apartment Complex or will issue letter.

18. Receipt of the fully executed copy of the Assignment and Assumption of Limited Liability Company Interests and Amendment to First Amended and Restated Operating Agreement of Company, in a form reasonably acceptable to the Investor Member.

19. The Due Diligence Documents and any other documents as the Investor Member may require in its sole and absolute discretion.

**Second Installment Funding Conditions ($837,315)**

1. The date determined by the Architect (pursuant to a standard AIA Form G702 and Form G703) and as approved by the Investor Member, that the Apartment Complex is fifty percent (50%) complete.

2. Carryover Certification with paid invoices to confirm satisfaction of the Ten Percent Test.

3. No Event of Default of the Managing Member has occurred.
4. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

5. Receipt of all other reports required to be submitted to date according to Article 18, including but not limited to budgets, tax returns, audits and compliance documentation.

6. Satisfaction of all conditions for the payment of the First Installment.

7. Such additional documentation as the Investor Member may reasonably require.


**Third Installment Funding Conditions ($837,315)**

1. Substantial Completion has occurred.

2. Receipt of Draws and related Draw Documents for Capital Contributions to pay costs of constructing the Apartment Complex, which are approved by the Investor Member pursuant to Section 4.4 of the Agreement.

3. If available, a date down endorsement to the Title Policy dated within thirty (30) days of funding the Third Installment, in form and substance reasonably acceptable to the Investor Member.

4. Unconditional lien waivers for previous Draws and Conditional lien waivers for current Draw.

5. A certification of the Managing Member, in form and substance acceptable to the Investor Member, confirming that any asserted violations of building codes or Environmental Laws that were to be corrected or remediated during Construction of the Apartment Complex have been timely and fully corrected or remediated in strict compliance with applicable law.

6. A report from the Investor Member’s construction consultant that Substantial Completion has been achieved, that completed construction work is good quality and generally in accordance with the Plans and Specifications and the Apartment Complex is completely operable and inhabitable. The Investor Member shall cause its consultant to deliver a copy of its report (or the pertinent portions thereof) promptly to the Managing Member if there are any construction or other development items which the Investor Member claims are unsatisfactory based upon the findings in the report.

7. Engineer’s Report.

8. Receipt of Draws and related Draw Documents for Capital Contributions to pay costs of constructing the Apartment Complex, which are approved by the Investor Member pursuant to Section 4.4 of the Agreement.

9. Updated Sources and Uses of Development Budget.
10. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

11. Receipt of all other reports required to be submitted to date according to Article 18, including but not limited to budgets, tax returns, audits and compliance documentation.

12. Satisfaction of all conditions for the payment of the Second Installment.

13. Such additional documentation as the Investor Member may reasonably require.


Fourth Installment Funding Conditions ($5,811,208)

1. Completion has occurred, and all Completion Documentation has been received and approved by the Investor Member.

2. The ALTA As-Built Survey.

3. A final report from the Investor Member’s construction consultant that all design, site, construction and finishing work necessary for the completion of the Apartment Complex and any necessary utilities have been finished in a good and workmanlike manner, free from defects in design and construction and substantially in accordance with the Plans and Specifications, which shall additionally include evidence of the delivery and installation of all necessary and appropriate fixtures, equipment and personal property. The Investor Member shall cause its consultant to deliver a copy of its report (or the pertinent portions thereof) promptly to the Managing Member if there are any construction or other development items which the Investor Member claims are unsatisfactory based upon the findings in the report.

4. Rental Achievement.

5. An unaudited balance sheet of the Company, dated no earlier than thirty (30) days prior to such Installment, certified by the Managing Member as true, complete and correct.

6. An estimate of the likely adjustment to Capital Contributions, if any, that may be due under Section 4.2(d).

7. Evidence that all warranties relating to the Construction have been issued to the Company, including the commencement and termination date and product information.

8. Copies of all maintenance and operating agreements for the Apartment Complex.

9. Executed and recorded Extended Use Agreement; provided however, if a recorded copy is not yet available, evidence of submission of the executed Extended Use Agreement for recording.

10. Evidence that the Operating Reserve and Replacement Reserve have been funded in accordance with the terms of the Agreement.
11. Receipt by the Company of the Cost Certification and such documentation as may be reasonably required by the Investor Member to support the Cost Certification, together with an estimate of the likely adjustment to Capital Contributions, if any, that may be due under Section 4.2(d)(i).

12. Update of each Guarantor’s financial statements to include a schedule of contingent liabilities, together with bank statements for each Guarantor who is an individual, dated no later than ninety (90) days prior to the Fourth Installment Funding.

13. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

14. Date down endorsement, if available, to the Title Policy dated on at the time of Conversion, in form and substance reasonably acceptable to the Investor Member, and issuance of an ALTA zoning 3.1 endorsement, a comprehensive endorsement for improved land, a revised survey endorsement reflecting and referring to the ALTA As-Built Survey, and any other endorsements requested by the Investor Member, all in form reasonably satisfactory to the Investor Member.

15. Satisfaction of all conditions for the payment of the Third Installment.

16. Such additional documentation as the Investor Member may reasonably require.


**Fifth Installment Funding Conditions ($50,000)**

1. Receipt of Internal Revenue Service Forms 8609 for each building in the Apartment Complex.

2. Receipt of all other reports required to be submitted to date according to Article 18, including but not limited to budgets, tax returns, audits and compliance documentation.

3. Copies of all initial tenant files.

4. The completion of Investor Member’s first year Tenant File Audit.

5. Final calculation of the adjustments to Capital Contributions, if any, that may be due under Section 4.2(d)(i) and 4.2(d)(ii).

6. Proof that all insurance requirements continue to be satisfied in accordance with Exhibit D to the Agreement.

7. Satisfaction of all conditions for the payment of the Fourth Installment.

8. Such additional documentation as the Investor Member may reasonably require.

EXHIBIT D

INSURANCE REQUIREMENTS

I. Immediately upon purchase of the land and building(s) upon which new construction will take place and/or building(s) will be rehabilitated, and throughout the term of this Agreement, The Managing Member shall obtain, and maintain in full force and effect, the following policies of insurance for the Company:

A. Commercial General Liability Insurance:
   1. $1,000,000 per occurrence;
   2. $2,000,000 general aggregate;
   3. $2,000,000 product liability/completed operations aggregate;
   4. Personal and Advertising injury: $1,000,000;
   5. The Investor Member and any other party as designated by the Investor Member shall be included as an additional insured using form CG2026 Designated Person or Organization or form CG2027 Co-Owner of Insured Premise or its equivalent. If these or equivalent endorsements are not available it must specifically state on the certificate “Who is an insured includes all members & partners per policy form {state policy form number} attached”. The additional insured form/endorsement or policy form must be attached to the certificate of Insurance.
   6. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.
   7. Deductible/SIR not greater than $10,000; and
   8. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided.

B. Automobile Insurance, only required if the Apartment Complex has employees or owns or uses any autos (must provide written statement stating the Apartment Complex has no employees, owns or uses any autos if proof of coverage is not provided):
   1. Liability with $1,000,000 combined single limit for personal injury and property damage (including all hired and non-owned vehicles).
   2. Physical Damage, including comprehensive and collision, for any owned autos

C. Worker’s Compensation Insurance, only required if the Company has employees (must provide written statement that the Company has no employees if proof of coverage is not provided):
1. State Benefits and Employer’s liability: $1,000,000.

D. Umbrella/Excess Liability Insurance:

1. $5,000,000 per occurrence and aggregate (primary and umbrella/excess liability can be combined to achieve minimum limit of $6,000,000 per occurrence and $7,000,000 Aggregate); Higher limits may be required depending project characteristics, location and size.

2. The Commercial General Liability, Automobile Liability and Employers Liability policies should be scheduled as underlying policies; and

E. All coverages to be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Investor Member and any other party as designated by the Investor Member as Certificate Holder. A separate certificate shall be issued for each requested Certificate Holder.

F. All coverage shall be primary and any insurance carried by the Investor Member or any other partners shall be excess and non-contributory. All insurance companies shall agree to waive their right of subrogation against the Investor Member or any other partners or party as designated by the Investor Member.

G. Other forms or types of insurance which the Investor Member may now or hereafter reasonably require.

II. Prior to the commencement of any construction or rehabilitation of the Apartment Complex, The Managing Member shall obtain (or cause to be obtained by the Contractor/Architect) and keep in force until construction is completed, accepted and initial occupancy of any portion of the Apartment Complex:

A. Builder’s Risk Insurance:

1. “Special Form” Builder’s Risk policy;

2. Replacement Cost;

3. New construction – limit of insurance must be equal to the full value of the completed project;

4. Rehabilitation/Reconstruction limit of insurance must be equal to the value of the building after demolition is completed, plus the full construction/rehab value, including labor;

5. Deductible not greater than $10,000;

6. Completed Value Form; Reporting form policies of any kind will not be acceptable.
7. Earthquake/DIC coverage for all properties located in UBC Seismic Zones 3 & 4; For projects with an approved seismic study indicating a loss prediction of less than 20%, earthquake insurance may be waived; with limits and deductibles that are acceptable to the Investor Member.

8. Flood coverage (for all properties located in FEMA Flood Zones A, V, and D); with limits equal to 50% of the replacement cost of the completed project.

9. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.

10. To be shown on an ACORD 27/28 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Investor Member or any other party as designated by the Limited Liability Company as Certificate Holder and Loss Payee using form CP1218 or its equivalent with a waiver of subrogation; The loss payee form/endorsement must be attached to the certificate. A separate certificate shall be issued for each Certificate Holder.

11. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided.

12. Soft Cost Endorsement, including increased engineering/architectural fees, interest expense, insurance, real estate taxes, and other miscellaneous expenses associated with project completion delays resulting from a loss.

13. Hail, Named Storms, Windstorm Coverage with deductibles that are acceptable to the Investor Member.

14. Waiver of Coinsurance or Agreed Amount Endorsement.

15. Policy shall contain a Permission to Occupy provision

16. Coverage shall include costs for Debris Removal

B. Evidence of insurance from the Contractor:

1. Worker’s Compensation insurance including state benefits and employers liability of not less than $1,000,000; with a waiver of subrogation in favor of the Company, the Investor Member and any other party as designated by the Investor Member.

2. Commercial Liability insurance coverage of $6,000,000 per occurrence and $7,000,000 aggregate naming the Company, the Investor Member and any other party as designated by the Investor Member as an Additional Insured including Products and Completed Operations for the appropriate statute of limitations.

3. Auto Liability insurance with limits not less than $1,000,000 combined single limit covering all owned, hired & non-owned autos.
4. Contractors Pollution Liability with limits not less than $1,000,000 per occurrence and aggregate if work involves any environmental remediation such as asbestos, lead or other pollutants on structures or the site

5. All coverage shall be primary and any insurance carried by the Company, Investor Member or Members shall be excess and non-contributory. All insurance companies shall agree to waive their right of subrogation against the Company, the Investor Member or any other party as designated by the Investor Member.

6. To be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Company, the Investor Member and any other party designated by the Investor Member as Certificate Holder. A separate certificate shall be issued for each Certificate Holder.

7. The Managing Member shall make sure the Investor Member and any other party designated by the Investor Member are included in any construction contracts so as to trigger the benefit of any blanket additional insured, primary wording or waiver of subrogation insurance endorsements where written contract is required so that the above requirements are met.

C. Evidence of insurance from the Architect and Engineer:

1. Errors & Omissions insurance coverage of $1,000,000 per occurrence and in the aggregate; and

2. To be shown on an ACORD 25 Form with 30 days’ Notice of Cancellation deleting the words “endeavor to” and “but failure to…”, listing the Investor Member and any other party designated by the Investor Member as Certificate Holder.

III. Prior to the Occupancy Commencement Date, the Managing Member shall obtain, and shall maintain in full force and effect throughout the term of this Agreement, the following policies of insurance:

A. Property Insurance:

1. “Special Form” policy at replacement cost excluding land;

2. Loss of Rents: greater than or equal to 12 months’ rental income, maximum deductible 72 hours

3. Building Contents: full replacement cost on “Special Form” basis;

4. Waiver of Co-insurance or agreed amount endorsement;

5. Include Terrorism Coverage as per the Terrorism Risk Insurance Act of 2002 and as extended or equivalent replacement coverage if the Act is not extended, without any exclusions or limitations for Other Acts of Terrorism.
6. Earthquake/DIC coverage (for all properties located in UBC Seismic Zones 3 & 4; Projects with an approved seismic study indicating a loss prediction of less than 20%, earthquake insurance may be waived); with limits and deductibles that are acceptable to the Investor Member.

7. Deductibles not greater than $10,000;

8. Flood coverage (for all properties located in FEMA Flood Zones A, V, and D) with limits not less than 50% of the replacement value of the completed project.

9. Hail, Named Storms, Windstorm Coverage with deductibles that are acceptable to the Investor Member.

10. Building Ordinance or Law A, B & C $500,000 for properties that contain any type of non-conformance under current building, zoning, or land use laws or ordinances.

11. Boiler & Machinery/Equipment Breakdown insurance at 100% replacement cost of building(s) that houses equipment with deductibles same as property insurance for all properties with any centralized HVAC, boiler, water heater or other type of pressure-fired vessel.

12. To be shown on an ACORD Form 27/28 with 30 days’ Notice of Cancellation listing the Investor Member and any other party designated by the Investor Member as Certificate Holder and adding as Loss Payees per form CP 1218 (form/endorsement must be attached to the certificate) with a waiver of subrogation, with the words “endeavor to” and “but failure to” struck from the notice;

13. Premium amount to be shown on certificate or copy of premium invoice or coverage proposal provided.

B. Management Agent Insurance:

1. Worker’s Compensation insurance including state benefits and employers liability of not less than $1,000,000; with a waiver of subrogation in favor of the Company, the Investor Member and any other party as designated by the Investor Member.

2. General Liability insurance coverage of $6,000,000 per occurrence and $7,000,000 aggregate; and

3. Professional Liability Insurance with limits of $1,000,000 per occurrence and aggregate with deductible/SIR not greater than $10,000

4. Auto Liability insurance with limits not less than $1,000,000 combined single limit covering all owned, hired & non-owned autos.

5. Employee Dishonesty Crime Coverage or similar Fidelity Bond coverage in an amount not less than the equivalent of 2 months gross income of the project.
6. To be shown on an ACORD Form 25 with 30 days’ Notice of Cancellation listing the Company, the Investor Member and any other party designated by the Investor Member as certificate holder with the words “endeavor to” and “but failure to” struck from the notice. A separate certificate shall be issued for each Certificate Holder.

IV. All policies of insurance described on this Exhibit D shall be underwritten by companies licensed to write such insurance in the state where the Apartment Complex is located and shall be rated in the A.M. Best’s Insurance Rating Guide with a rating of at least A VII. Notice of any replacement of any policy shall be made at least 10 days prior to such replacement, and shall be in the form of a copy of the replacement policy, or by certificate, as noted above. If any Acord Forms or other evidences of insurance do not contain a notice provision for the benefit of the Certificate Holder it shall be the obligation of the Managing Member to Notify all Certificate Holders of any cancelation, non-renewal or material reduction in coverage of all required insurance.

V. All liability insurance maintained by the Company and General Contractor shall include a provision that is primary and any such insurance maintained by the Investor Member or other party designated by the Investor Member is excess and non-contributory.

VI. All parties and their respective insurers are required and must agree to waive their rights of subrogation against the Investor Member or any other party designated by the Investor Member.

VII. The Managing Member is advised to obtain whatever additional insurance is deemed prudent to adequately protect the Company. These insurance requirements are considered minimum standards.
EXHIBIT E

DEVELOPMENT AGREEMENT
DEVELOPMENT AGREEMENT

THIS AGREEMENT (this “Agreement”) is made and entered into as of February 1, 2019, between Canova Palms, LLC, a Texas limited liability company (the “Company”), SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook”) and O-SDA INDUSTRIES, LLC, a Texas limited liability company (“O-SDA” and together with Saigebrook, the “Developer”).

A. The Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”) (capitalized terms used herein without definition shall have the definitions given them in the Operating Agreement).

B. The Company has been formed to develop, construct, own, maintain and operate a 110-unit multifamily apartment complex intended for rental to families of low and moderate income and for rental to families at market rates, to be known as Canova Palms, and to be located at 1717 Irving Blvd., Irving, Dallas County, Texas (the “Apartment Complex”).

C. Saigebrook Canova, LLC, a Texas limited liability company, O-SDA Canova, LLC, a Texas limited liability company and HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”) are the sole Members in the Company.

D. The Company desires to appoint the Developer to provide certain services for the Company with respect to overseeing the development of the Apartment Complex until all development work is completed.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Appointment. The Company hereby appoints the Developer to render services for the Company, and confirms and ratifies the appointment of the Developer with respect to services rendered for the Company to date, in supervising and overseeing the development of the Apartment Complex as herein contemplated.

2. Authority. In conformity with the provisions of the Operating Agreement, the Developer shall have, and has had, the authority and the obligation to:

(a) select the architect (“Architect”), coordinate the preparation of the plans and specifications (the “Plans and Specifications”) and recommend alternative solutions whenever design details affect construction feasibility or schedules;

(b) insure that the Plans and Specifications are in compliance with all applicable codes, laws, ordinances, rules and regulations;

(c) cause the General Contractor to negotiate all necessary contracts and subcontracts (other than the Construction Contract) for the construction of the Apartment Complex;
verify the utilization of the products and materials necessary to equip the Apartment Complex in a manner which satisfies all requirements of the BBVA Loan and the Plans and Specifications;

monitor disbursement and payment of amounts owed Architects and the subcontractors;

insure that the Apartment Complex is constructed free and clear of all mechanics’ and materialmen’s liens;

obtain an Architect’s certificate that the work on the Apartment Complex is substantially complete and inspect the Architect’s work;

secure all building code approvals and obtain certificates of occupancy for all of the residential units of the Apartment Complex;

cause the Apartment Complex to be completed in a prompt and expeditious manner, consistent with good workmanship, and in compliance with the following:

(i) the Plans and Specifications as they may be amended by the agreement of the parties hereto and with the consent of the mortgagee under the BBVA Loan; and

(ii) any and all zoning regulations, county ordinances, including health, fire and safety regulations, and any other requirements of federal, state and local laws, rules, regulations and ordinances applicable to construction of the Apartment Complex;

cause to be performed in a diligent and efficient manner the following:

(i) construction of the Apartment Complex pursuant to the Plans and Specifications, including any required off-site work; and

(ii) general administration and supervision of construction of the Apartment Complex;

cause the General Contractor to administer and supervise activities of subcontractors and their employees and agents, and others employed as to the Apartment Complex in a manner which complies in all respects with the BBVA Loan and the Plans and Specifications;

keep, or cause to be kept, accounts and cost records as to the construction of the Apartment Complex;

maintain, or cause to be maintained, at its expense, all office and accounting facilities and equipment necessary to adequately perform the foregoing functions;

make available to the Company, during normal business hours and upon the Company’s written request, copies of all material contracts and subcontracts;
(o) deliver to the Company the ALTA As-Built Survey and “as-built” drawings of the Apartment Complex construction;

(p) cause the General Contractor to provide and periodically update an Apartment Complex construction time schedule which coordinates and integrates Architect’s services with construction schedules;

(q) cause the General Contractor to investigate and recommend a schedule for purchase by the Company of all materials and equipment requiring long lead time procurement, coordinate the schedule with Architect and expedite and coordinate delivery of such purchases;

(r) cause the General Contractor to prepare pre-qualification criteria for bidders interested in participating in the construction of the Apartment Complex, establish bidding schedules and conduct pre-bid conferences to familiarize bidders with the bidding documents and management techniques with any special systems, materials or methods;

(s) cause the General Contractor to receive bids, prepare bid analyses and make recommendations to the Company for award of contracts or rejection of bids;

(t) coordinate the work of Architect to complete the Apartment Complex in accordance with the objectives as to cost, time and quality, and provide sufficient personnel at the Apartment Complex with authority to achieve such objectives;

(u) cause the General Contractor to provide a detailed schedule of realistic activity sequences and durations, allocation of labor and materials and processing of shop drawings and samples;

(v) provide regular monitoring of the schedule as construction progresses, identify potential variances between scheduled and the probable Substantial Completion Date, review the schedule for work not started or incomplete, recommend to the Partnership Adjustments in the schedule to meet the probable Substantial Completion Date, provide summary reports of such monitoring, and document all changes in the schedule;

(w) recommend courses of action to the Company when requirements of subcontracts are not being fulfilled;

(x) revise and refine the approved estimate of construction cost, incorporate changes as they occur, and develop cash flow reports and forecasts as needed;

(y) provide regular monitoring of the approved estimate of construction cost, show actual costs for activities in process and estimates for uncompleted tasks, identify variances between actual and budgeted or estimated costs and advise the Company whenever projected Costs exceed budgets or estimates;

(z) cause the General Contractor to develop and implement a system for review and processing of change orders as to construction of the Apartment Complex;
(aa) develop and implement a procedure for the review and processing of applications by subcontractors for progress and final payments;

(bb) in collaboration with Architect, establish and implement procedures for expediting the processing and approval of shop drawings and samples; and

(cc) record the progress of the Apartment Complex and submit written progress reports to the Company and Architect, including the percentage of completion and the number and amounts of change orders.

Notwithstanding the foregoing, the Developer shall not provide any services which are the sole responsibility of the Managing Member, including, without limitation, the following: (i) organization of the Company and negotiation of any sale of a Company Interest; (ii) obtaining permanent financing for the Apartment Complex; and (iii) the acquisition and preparation of the Land prior to commencing construction of the Apartment Complex.

3. Development Fee.

(a) For services performed and to be performed under Sections 1 and 2 of this Agreement, the Company shall pay the Developer a Development Fee in the aggregate amount of One Million Forty Thousand Fifth-Six Dollars ($1,040,056) as its sole compensation for the performance of its services under and in connection with this Agreement. Payment of the Development Fee shall be subject to the terms and conditions of the Operating Agreement. Subject to the terms of the Operating Agreement, the Company shall pay the Development Fee as follows: (i) $245,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid solely from the Cash Flow of the Company available pursuant to Section 14.1(a) of the Operating Agreement, from Cost Savings pursuant to Section 14.2, and from proceeds of the dissolution and liquidation of the Company pursuant to Section 17.2(b)(ii)(D) of the Operating Agreement (the “Deferred Development Fee”); (ii) $250,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid at the time the Investor Member makes the First Installment, (iii) $250,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid at the time the Investor Member makes the Third Installment, (iv) $250,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid at the time the Investor Member makes the Fourth Installment, (v) $50,000 (of which 60% shall be paid to Saigebrook and 40% shall be paid to O-SDA) of the Development Fee shall be paid at the time the Investor Member makes the Fifth Installment. The Development Fee, including but not limited to any Deferred Development Fee, shall be paid 60% to Saigebrook and 40% to O-SDA, on a pro rata basis.

(b) Notwithstanding the foregoing, if, at any time prior to the payment of the Development Fee in full, including the Deferred Development Fee, there are Development Deficits required to be paid to Saigebrook and O-SDA by the Managing Member pursuant to Section 8.1(b) of the Operating Agreement, the Developer and the Company agree that the Managing Member shall have the right, with the Consent of the Investor Member, to elect to fund such Development Deficits by causing the Company and the Developer to change some or all of the cash portion of the Development Fee that would otherwise be paid to Saigebrook and
O-SDA in accordance with Sections 3(a)(ii) through (v) above (but in no event to exceed the lesser of $[572,717] or the unpaid cash portion of the Development Fee) into Deferred Development Fee (a “DDF Election”); provided, the Investor Member shall Consent to such deferral if the Investor Member determines, in its sole discretion, that all of the Deferred Development Fee (including any additional deferral to pay Development Costs) can be repaid by the Company through distributions from the cash flow waterfall under Section 14.1(a) within thirteen years after the Placed in Service Date, further provided that such Consent shall not be required if the Deferred Development Fee is not necessary to be included in the Eligible Basis in order to generate the Projected Housing Tax Credits and the Investor Member’s Capital Account is expected to remain positive throughout the period of eleven (11) taxable years beginning with the first taxable year of the Credit Period. Any Deferred Development Fee resulting from a DDF Election shall be paid in accordance with Section 3(a)(i) hereof and the payments to Saigebrook, O-SDA shall be adjusted pro rata. In no event shall the total amount of the Development Fee be increased as a result of such DDF Election.

(c) No interest shall accrue on the outstanding Deferred Development Fee (including, without limitation, any Deferred Development Fee resulting from a DDF Election). All payments made to the Deferred Development Fee shall be applied to the outstanding balance of the Deferred Development Fee until the Deferred Development Fee is paid in full. Any outstanding balance shall be payable by the earlier of thirteen (13) years following the Placed in Service Date or the date of liquidation of the Company.

(d) Notwithstanding the timing of the payment of the Capital Contributions of the Investor Member, in any event the Company shall pay the entire earned and accrued amount of the Development Fee (other than the Deferred Development Fee including, without limitation, any Deferred Development Fee resulting from a DDF Election) within three (3) years from the date of this Agreement.

(e) For those services performed on or before the Closing Date, as set forth in Section 2 hereof, twenty percent (20%) of the Development Fee shall be deemed earned as of such date. The balance of the Development Fee shall be earned during construction proportionate to the percentage of completion of construction, with the entire Development Fee earned upon issuance of certificates of occupancy for all buildings in the Apartment Complex.

4. **Developer Guaranty of Costs of Construction.** The Developer warrants that the aggregate costs to the Company for the items includable in Development as identified on the Development Budget shall not exceed the aggregate amounts for such items reflected on the Development Budget (the “Developer Cost Guaranty”). If the aggregate costs to the Company for the items includable in Development Costs exceed the aggregate amount for such items reflected in the Development Budget and such excess costs cannot be funded by Permitted Sources, including DDF Election, the Developer shall pay such excess when and as incurred. Any amounts paid by the Developer pursuant to this Section 4 shall not be repaid by the Company, shall not be credited to the Capital Amount of any Member, or otherwise change the interest of any Person in the Company, but shall be bound by the Developer under the terms of this Agreement.
5. **Withholding of Fee Payments.** If (a) the Developer or the Managing Member, or any successor Managing Member, shall not have substantially complied with any material provisions under this Agreement and the Operating Agreement, (b) an Event of Default has occurred under the Operating Agreement, (c) any financing commitment of any Lender or any agreement entered into by the Company for financing related to the Apartment Complex shall have terminated prior to its respective termination date(s), or (d) foreclosure proceedings have been commenced against the Apartment Complex, or against any apartment complex owned by an Affiliated Entity, then the Developer shall be in default of this Agreement, and the Company shall withhold payment of any installment of the fee payable to the Developer pursuant to Section 3 of this Agreement. All amounts so withheld by the Company under this Section 5 shall be promptly released to the Developer only after the Developer has cured the default justifying the withholding, as demonstrated by evidence reasonably acceptable to the Investor Member. Either Saigebrook or O-SDA shall be entitled to effect such cure on behalf of the Developer.

6. **Assignment of Fees.** The Developer shall not assign, pledge or otherwise encumber, for security or otherwise, the Development Fee set forth above to be made by the Company, or any portion(s) thereof or any right(s) of the Developer thereto, without the Consent of the Investor Member.

7. **Reserved.**

8. **Successors and Assigns.** This Agreement shall be binding on the parties hereto, their heirs, successors and assigns. However, this Agreement may not be assigned by any party hereto without the Consent of the Investor Member, nor may it be terminated without the Consent of the Investor Member.

9. **Termination.** If the Managing Member withdraws from the Company for any reason whatsoever, including the removal of the Managing Member pursuant to Section 7.2 of the Operating Agreement, this Agreement shall terminate effective on the date of such withdrawal (an “Early Termination”) unless the Company and the Investor Member otherwise elect in writing. If an Early Termination occurs, then Developer shall not be entitled to any payments of the Development Fee and the Developer shall forfeit as additional damages any Development Fee which has not been paid as of the date of such Early Termination. If an Early Termination occurs, the Developer shall remain liable for all damages, liabilities and claims (“Claims”) arising under or in connection with this Agreement which are based on acts or omissions prior to the date of such termination, including Claims which do not become manifest until after the date of such termination. The Developer shall have no right to terminate this Agreement without the Consent of the Company and the Investor Member, which Consent may be withheld in the sole discretion of any party. The Developer shall have no right to terminate this Agreement without the Consent of the Company and the Investor Member and both Saigebrook and O-SDA, which Consent may be withheld in the sole discretion of any party.

10. **No Lien Filings.** The Developer hereby represents, warrants and covenants that neither it nor its Affiliates shall file a mechanic’s lien, materialmen’s lien or other lien against the Apartment Complex or any other assets of the Company, and hereby waives and releases any right it may have or may hereafter acquire to file such a lien against the Apartment Complex or any other assets of the Company. The Developer shall indemnify and hold harmless the
Company and the Investor Member from any losses, damages, and/or liabilities, to or as a result of a breach of this provision.

11. **Separability of Provisions.** Each provision of this Agreement shall be considered separable and if for any reason any provision which is not essential to the effectuation of the basic purposes of this Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement which are valid.

12. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

13. **Waiver of Jury Trial.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS DEVELOPMENT AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

14. **No Continuing Waiver.** The waiver by any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

15. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of Texas.

16. **Third Party Beneficiary.** The Investor Member is a third party beneficiary of this Agreement, and the Company and the Developer hereby expressly agree that any amendment to this Agreement shall not be effective unless and until same is Consented to by the Investor Member.

*(SIGNATURES APPEAR ON THE FOLLOWING PAGE)*
IN WITNESS WHEREOF, the parties have caused this Development Agreement to be duly executed as of the date first written above.

COMPANY:

CANOVA PALMS, LLC,
a Texas limited liability company

By: Saigebrook Canova, LLC,
a Texas limited liability company
Its: Managing Member

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: 
Name: Lisa M. Stephens
Title: Manager

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: 
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: 
Name: Megan D. Lasch
Title: Managing Member
IN WITNESS WHEREOF, the parties have caused this Development Agreement to be duly executed as of the date first written above.

COMPANY:

CANOVA PALMS, LLC,
a Texas limited liability company

By: Saigebrook Canova, LLC,
a Texas limited liability company
Its: Managing Member

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: __________________________
Name: Lisa M. Stephens
Title: Manager

DEVELOPER:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: __________________________
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: __________________________
Name: Megan D. Lasch
Title: Managing Member
EXHIBIT F

GUARANTY AGREEMENT
GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (this “Guaranty”), made as of February 1, 2019, is by SAIGEBROOK CANOVA, LLC, a Texas limited liability company (“Co-Managing Member”), O-SDA CANOVA, LLC, a Texas limited liability company (“Administrative Member”), SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook Development”), O-SDA INDUSTRIES, LLC, a Texas limited liability company (“O-SDA Developer”), Lisa M. Stephens, individually and Megan D. Lasch, individually, (jointly and severally Co-Managing Member, Administrative Member, Saigebrook Development, O-SDA Developer, Lisa M. Stephens and Megan D. Lasch are individually and collectively referred to herein as the “Guarantors”), each of whose address is set forth below, for the benefit of HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436.

A. Co-Managing Member and Administrative Member are the managing members of Canova Palms, LLC, a Texas limited liability company (the “Company”).

B. The Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”). Capitalized terms used herein and not defined shall have the meanings given them in the Operating Agreement.

C. The Developer and the Company have entered into that certain Development Agreement dated as of the date hereof (the “Development Agreement”).

D. The Investor Member has been requested to enter into the Operating Agreement and the Company with the Managing Member.

E. Each Guarantor is, or is an Affiliate of, the Managing Member and/or the Developer, and believes it shall substantially benefit, directly or indirectly, from the Investor Member entering into the Operating Agreement and the Company with the Managing Member.

F. As a condition to entering into the Operating Agreement and the Company, the Investor Member has required the Guarantors to jointly and severally guarantee to the Investor Member certain of the obligations of the Managing Member under the Operating Agreement, of the Developer under the Development Agreement and certain other items as herein set forth.

NOW, THEREFORE, in order to induce the Investor Member to enter into the Operating Agreement and the Company in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Guarantor, in his, her or its respective individual and/or fiduciary capacity, hereby jointly and severally covenants and agrees as follows:

1. Each Guarantor irrevocably and unconditionally fully guarantees the due, prompt and complete performance of each and every one of the following obligations: (a) the payment and performance by the Managing Member of each and every obligation of the Managing Member due under Sections 4.2(d), 5.2(i), 5.2(j), 5.2(cc), 5.8(a), 5.8(c), 5.10(b), 5.10(d), 7.2(b)(iv), 8.1, 8.2, 8.3, and 8.4 of the Operating Agreement; (b) the payment and performance by the Managing Member of each and every obligation of the Managing Member under the Managing Member...
Pledge; and (c) the due, prompt and complete payment of all costs and expenses (including, without limitation, reasonable attorneys’ fees) incurred by the Investor Member in collection of the enforcement of this Guaranty against the Guarantors (the obligations described in this Paragraph 1 are hereinafter collectively referred to as the “Indebtedness”).

2. Each Guarantor hereby grants to the Investor Member, in the sole discretion of the Investor Member, and without notice to any Guarantor, the power and authority to deal in any lawful manner with the Indebtedness and the other obligations guaranteed hereby, and without limiting the generality of the foregoing, further power and authority, from time to time:

(a) to renew, compromise, extend, accelerate or otherwise change the time or place of payment of or to otherwise change the terms of the Indebtedness;

(b) to modify or to waive any of the terms of the Operating Agreement, the Development Agreement and/or any other obligations guaranteed hereby;

(c) to take and hold security for the payment of the Indebtedness and/or performance of the other obligations guaranteed hereby and to impair, exhaust, exchange, enforce, waive or release any such security;

(d) to direct the order or manner of sale of any such security as the Investor Member, in its sole discretion, may determine;

(e) to grant any indulgence, forbearance or waiver with respect to the Indebtedness or any of the other obligations guaranteed hereby;

(f) to release or waive rights against any one or more Guarantors without releasing or waiving any rights against any other Guarantor; and/or

(g) to agree to any valuation by the Investor Member of any collateral securing payment of any of the Indebtedness in any proceedings under the United States Bankruptcy Code concerning the Investor Member or the Guarantors.

The liability of each Guarantor hereunder shall not be affected, impaired or reduced in any way by any action taken by the Investor Member under the foregoing provisions or any other provision hereof, or by any delay, failure or refusal of the Investor Member to exercise any right or remedy either may have against the Managing Member or any other person, firm or corporation, including other guarantors, if any, liable for all or any part of the Indebtedness or any of the other obligations guaranteed hereby.

3. Prior to Completion, the Guarantors will maintain collectively at least $1,000,000 in Liquid Assets. From the date of Completion through and including the Rental Achievement, the Guarantors will maintain collectively at least $500,000 in Liquid Assets. The Managing Member shall Notify the Investor Member whenever the requirements of this Section 3 are not satisfied.
4. On or before ninety (90) days after the expiration of each fiscal year of each Guarantor, such Guarantor shall send to the Investor Member copies of the balance sheet and income statement of such Guarantor for such fiscal year.

5. The Guarantors agree that if any of the Indebtedness is not fully and timely paid or performed according to the tenor thereof, whether by acceleration or otherwise, the Guarantors shall immediately upon receipt of written demand therefor from the Investor Member pay all of the Indebtedness hereby guaranteed in like manner as if the Indebtedness constituted the direct and primary obligation of the Guarantors. The Guarantors shall not have any right of subrogation as a result of any payment hereunder or any other payment made by the Guarantors or a Guarantor on account of the Indebtedness, and each Guarantor hereby waives, releases and relinquishes any claim based on any right of subrogation, any claim for unjust enrichment or any other theory that would entitle a Guarantor to a claim against the Managing Member based on any payment made hereunder or otherwise on account of the Indebtedness until the Indebtedness is paid in full.

6. This Guaranty and the obligations of the Guarantors hereunder shall be continuing and irrevocable until the Indebtedness has been satisfied in full. Notwithstanding the foregoing or anything else set forth herein, and in addition thereto, if at any time all or any part of any payment received by the Investor Member from a Guarantor under or with respect to this Guaranty is or must be rescinded or returned for any reason whatsoever (including, without limitation, determination that said payment was a voidable preference or fraudulent transfer under insolvency, bankruptcy or reorganization laws), then Guarantors’ obligations hereunder shall, to the extent of the payment rescinded or returned, be deemed to have continued in existence, notwithstanding such previous receipt of payment by the Investor Member, and Guarantors’ obligations hereunder shall continue to be effective or be reinstated as to such payment, all as though such previous payment to the Investor Member had never been made. The provisions of the foregoing sentence shall survive termination of this Guaranty, and shall remain a valid and binding obligation of each Guarantor until satisfied.

7. Each Guarantor hereby waives notice of acceptance of this Guaranty by the Investor Member, and this Guaranty shall immediately be binding upon each Guarantor. Any Guarantor who executes this Agreement shall be fully bound hereby regardless of whether or not any other Guarantor subsequently executes this Guaranty.

8. Each Guarantor hereby waives and agrees not to assert or take advantage of:

(a) any right to require the Managing Member or the Company to proceed against any other person or to proceed against or exhaust any security held by the Managing Member or the Company at any time or to pursue any other remedy in the Managing Member’s or Company’s power before proceeding against any one or more Guarantors hereunder;

(b) any right to require the Investor Member to proceed against the Managing Member or any other person or to proceed against or exhaust any security held by the Investor Member at any time or to pursue any other remedy in the power of the Investor Member before proceeding against any one or more Guarantors hereunder;
(c) the defense of the statute of limitations in any action hereunder or in any action for the collection of the Indebtedness or the performance of any other obligations guaranteed hereby;

(d) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of the Investor Member to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(e) demand, presentment for payment, notice of non-payment, protest, notice of protest and all other notices of any kind, including, without limitation, notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of the Investor Member or any endorser or creditor of either the Investor Member or any Guarantor or on the part of any other person whomsoever under this or any other instrument in connection with any obligation or evidence of indebtedness held by the Investor Member or in connection with the Indebtedness;

(f) any defense based upon an election of remedies by the Investor Member, and until the Indebtedness is paid in full, the right of Guarantors to proceed against the Investor Member for reimbursement, or both, or if contrary to the express agreement of the parties;

(g) any election by the Investor Member to exercise any right or remedy it may have against the Company or any security held by the Investor Member, including, without limitation, the right to foreclose upon any such security by judicial or non-judicial sale, without affecting or impairing in any way the liability of Guarantors hereunder, except to the extent the Indebtedness has been paid, and until the Indebtedness is paid in full, any default arising out of the absence, impairment or loss of any right of reimbursement, contribution or subrogation or any other right or remedy of the Guarantors against the Company or any such security whether resulting from such election by the Investor Member or otherwise. The Guarantors understand that if all or any part of the liability of the Company to the Investor Member for the Indebtedness is secured by real property the Guarantors shall be liable for the full amount of their liability hereunder, notwithstanding foreclosure on such real property by trustee sale or any other reason impairing the Guarantors’ right to proceed against the Company; and

(h) all duty or obligation on the part of the Investor Member to perfect, protect, not impair, retain or enforce any security for the payment of the Indebtedness or performance of any of the other obligations guaranteed hereby.

9. Until the Indebtedness is paid in full, all existing and future indebtedness of the Managing Member to the Guarantors or to any person controlled or owned in whole or in part by any of the Guarantors and, the right of the Guarantors to withdraw or to cause or permit any person controlled or owned in whole or in part by any of the Guarantors to withdraw any capital invested by any Guarantor or such person in the Managing Member, is hereby subordinated to the Indebtedness at any time after a default exists under the Indebtedness. Furthermore, at any time after a default exists under the Indebtedness, without the prior written Consent of the Investor Member, such subordinated indebtedness shall not be paid and such capital shall not be withdrawn in whole or in part nor shall any Guarantor accept or cause or permit any person to
controlled or owned in whole or in part by a Guarantor to accept any payment of or on account of any such subordinated indebtedness or as a withdrawal of capital. Any payment received by the Guarantors in violation of this Guaranty shall be received by the person to whom paid in trust for the Investor Member, and Guarantors shall cause the same to be paid to the Investor Member immediately on account of the Indebtedness. No such payment shall reduce or affect in any manner the liability of the Guarantors under this Guaranty.

10. The amount of each Guarantor’s liability and all rights, powers and remedies of the Investor Member hereunder shall be cumulative and not alternative and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to the Investor Member under the Operating Agreement, any document or agreement relating in any way to the terms and provisions thereof or otherwise by law. With respect to each Guarantor, this Guaranty is in addition to and exclusive of the guaranty of any other Guarantor executing this Guaranty or any other person or entity which guarantees the Indebtedness and/or the other obligations guaranteed hereby.

11. The liability of each Guarantor under this Guaranty shall be an absolute, direct, immediate and unconditional guarantee of payment and not of collectability. The obligations of each Guarantor hereunder are independent of the obligations of the Managing Member or any other party which may be initially or otherwise responsible for performance or payment of the obligations hereunder guaranteed and each other Guarantor, and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted against any one or more Guarantors, whether or not the Managing Member is joined therein or a separate action or actions are brought against the Managing Member. The Investor Member may maintain successive actions for other defaults. The Investor Member’s rights hereunder shall not be exhausted by its exercise of any of their rights or remedies or by any such action or by any number of successive actions until and unless the Indebtedness has been paid in full.

12. The Investor Member, in its sole discretion, may at any time enter into agreements with the Managing Member or with any other person to amend, modify or change the Operating Agreement or any document or agreement relating in any way to the terms and provisions thereof, or may at any time waive or release any provision or provisions thereof and, with reference thereto, may make and enter into all such agreements as the Investor Member may deem proper or desirable, without any notice or further assent from any Guarantor and without in any manner impairing or affecting this Guaranty or any of the rights of the Investor Member or each Guarantor’s obligations hereunder.

13. The Guarantors hereby agree to pay to the Investor Member, upon demand, reasonable attorneys’ fees and all costs and other expenses which the Investor Member expends or incurs in collecting or compromising the Indebtedness or in enforcing this Guaranty against each Guarantor whether or not suit is filed, including, without limitation, all costs, attorneys’ fees and expenses incurred by the Investor Member in connection with any insolvency, bankruptcy, reorganization, arrangement or other similar proceedings involving a Guarantor which in any way affect the exercise by the Investor Member of its rights and remedies hereunder. Any and all such costs, attorneys’ fees and expenses not so paid shall bear interest at an annual interest rate equal to the lesser of (i) 18%, or (ii) the highest rate permitted by applicable law, from the date incurred by the Investor Member until paid by the Guarantors.
14. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

15. No provision of this Guaranty or right of the Investor Member hereunder can be waived nor can any Guarantor be released from such Guarantor’s obligations hereunder except by a writing duly executed by the Investor Member. This Guaranty may not be modified, amended, revised, revoked, terminated, changed or varied in any way whatsoever except by the express terms of a writing duly executed by the Investor Member.

16. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The word “person” as used herein shall include any individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever.

17. If any or all of the Indebtedness is assigned by the Investor Member, this Guaranty shall automatically be assigned therewith in whole or in part, as applicable, without the need of any express assignment and when so assigned, each Guarantor shall be bound as set forth herein to the assignee(s) without in any manner affecting such Guarantor’s liability hereunder for any part of the Indebtedness retained by the Investor Member.

18. Each Guarantor is jointly and severally liable with each other Guarantor.

19. Co-Managing Member’s Employer Identification Number is 45-3062708. Administrative Member’s Employer Identification Number is 80-0641068. Saigebrook Development’s Employer Identification Number is 45-3062708. O-SDA Developer’s Employer Identification Number is 80-0641068. Lisa M. Stephens’ and Megan D. Lasch’s Social Security Numbers have been provided to the Investor Member.

20. This Guaranty shall inure to the benefit of and bind the heirs, legal representatives, administrators, executors, successors and assigns of the Investor Member and Guarantors.

21. This Guaranty shall be governed by and construed in accordance with the laws of the State of Texas without regard to principles of conflicts of law, except to the extent that any of such laws may now or hereafter be preempted by Federal law, in which case, such Federal law shall so govern and be controlling. In any action brought under or arising out of this Guaranty, each Guarantor hereby consents to the jurisdiction of any competent court within the State of Texas and consents to service of process by any means authorized by the laws of such state. Except as provided in any other written agreement now or at any time hereafter in force between the Investor Member and any Guarantor, this Guaranty shall constitute the entire agreement of Guarantors with the Investor Member with respect to the subject matter hereof, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon the Investor Member or any Guarantor unless expressed herein.

22. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by depositing same
with Federal Express for next business day delivery or by depositing same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

Investor Member: HCP-ILP, LLC
15910 Ventura Boulevard, Suite 1100
Encino, California 91436
Attention: Jeffrey N. Weiss

Guarantors:
Saigebrook Canova, LLC
220 Adams Drive Ste. 280 #138
Weatherford, Texas 76086
Attention: Lisa Stephens

O-SDA Canova, LLC
5714 Sam Houston Circle
Austin, Texas 78731
Attention: Megan D. Lasch

Saigebrook Development, LLC
220 Adams Drive Ste. 280 #138
Weatherford, Texas 76086
Attention: Lisa Stephens

O-SDA Industries, LLC
5714 Sam Houston Circle
Austin, Texas 78731
Attention: Megan D. Lasch

Lisa M. Stephens
689 FM 3028
Millsap, Texas 76066

Megan D. Lasch
5714 Sam Houston Circle
Austin, Texas 78731

All notices, demands and requests shall be effective upon such personal delivery or upon being deposited with Federal Express or in the United States mail as required above. However, with respect to notices, demands or requests so deposited with Federal Express or in the United States mail, the time period in which a response to any such notice, demand or request must be given shall commence to run from the next business day following any such deposit with Federal Express or, in the case of a deposit in the United States mail as provided above, the date on the return receipt of the notice, demand or request reflecting the date of delivery or rejection of the same by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto at least 30 days’ written
notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

23. Each Guarantor hereby agrees that this Guaranty, the Indebtedness and all other obligations guaranteed hereby shall remain in full force and effect at all times hereinafter until paid and/or performed in full notwithstanding any action or undertakings by, or against, the Investor Member, any Guarantor, and/or any partner and/or member in the Investor Member in any proceeding in the United States Bankruptcy Court, including, without limitation, any proceeding relating to valuation of collateral, election or imposition of secured or unsecured claim status upon claims by the Investor Member pursuant to any Chapter of the Bankruptcy Code or the Rules of Bankruptcy Procedure as same may be applicable from time to time.

24. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS GUARANTY, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS GUARANTY OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

25. Any married person who signs this Guaranty hereby agrees that recourse may be had against his or her separate property for all of his or her obligations.

26. This Guaranty may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, with the same effect as if all parties hereto had signed the same signature page. Any signature page of this Guaranty may be detached from any counterpart of this Guaranty without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Guaranty identical in form hereto but having attached to it one or more additional signature pages. Execution by any Guarantor shall bind such Guarantor regardless of whether any one or more other Guarantors execute this Guaranty.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

GUARANTORS:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF [county]

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Lisa M. Stephens, as Manager of Saigebrook Development, LLC, managing member of Saigebrook Canova, LLC.

WITNESS my hand and official seal.

My commission expires: 03-25-21

JEFF PACKARD
Notary Public

Signature Page to Guaranty Agreement
Canova Palms, LLC
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF [Signature]

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Lisa M. Stephens, as Manager of Saigebrook Development, LLC.

Witness my hand and notarial seal.

My commission expires: 03-25-21

[Signature]
Notary Public
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

LISA M. STEPHENS, an individual

ACKNOWLEDGMENT

STATE OF TEXAS )
COUNTY OF __________ ) ss.

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Lisa M. Stephens, an individual.

WITNESS my hand and official seal.

My commission expires: 03-25-21

Notary Public

JEFF PACKARD
Notary ID #12281069
My Commission Expires March 25, 2021
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: [Signature]
Name: Megan D. Lasch
Title: Managing Member

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF Travis

) ss.

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Megan D. Lasch, as Managing Member of O-SDA Industries, LLC, the Sole Member of O-SDA Canova, LLC.

WITNESS my hand and official seal.

My commission expires: 08/12/2022

Notary Public
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: Megan D. Lasch
Name: Megan D. Lasch
Title: Managing Member

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF Travis

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Megan D. Lasch, as Managing Member of O-SDA Industries, LLC, sole member of O-SDA Canova, LLC.

WITNESS my hand and official seal.

My commission expires: 08/12/2022

Notary Public

Marissa C. Peterson

MARISSA C. PETERSON
MY COMMISSION EXPIRES
08/12/2022
NOTARY ID: 12499900-1
IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty as of the day and year first above written.

MEGAN D. LASCH, an individual

[Signature]

ACKNOWLEDGMENT

STATE OF TEXAS )
COUNTY OF Travis ) ss.

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by Megan D. Lasch.

WITNESS my hand and official seal.

My commission expires: 08/12/2022

[Notary Seal]

MARISSA C. PETERSON
MY COMMISSION EXPIRES
08/12/2022
NOTARY ID: 12499900-1

Notary Public
SPOUSAL CONSENT TO GUARANTY

I acknowledge that I am the spouse of Lisa M. Stephens, a guarantor who signed that certain Guaranty Agreement (the “Guaranty Agreement”), dated as of February 1, 2019 for the benefit of HCP-ILP, LLC, a Nevada limited liability company. I acknowledge that I have read the Guaranty Agreement and know its contents. I am aware that the Guaranty Agreement may affect community property, and I hereby consent to the terms of the Guaranty Agreement and agreed to be bound by the terms thereof. I hereby waive any right that I may have to set aside the Guaranty Agreement.

Dated: As of 2/2019

[Signature]
Print Name of Spouse

[Signature]
Signature of Spouse
SPOUSAL CONSENT TO GUARANTY

I acknowledge that I am the spouse of Megan D. Lasch, a guarantor who signed that certain Guaranty Agreement (the “Guaranty Agreement”), dated as of February 1, 2019 for the benefit of HCP-ILP, LLC, a Nevada limited liability company. I acknowledge that I have read the Guaranty Agreement and know its contents. I am aware that the Guaranty Agreement may affect community property, and I hereby consent to the terms of the Guaranty Agreement and agreed to be bound by the terms thereof. I hereby waive any right that I may have to set aside the Guaranty Agreement.

Dated: As of 2.2.19

Josh Lasch

Print Name of Spouse

Signature of Spouse
EXHIBIT G-1

PLEDGE AND SECURITY AGREEMENT

(CO-MANAGING MEMBER)
PLEDGE AND SECURITY AGREEMENT

(Co-Managing Member)

THIS PLEDGE AND SECURITY AGREEMENT (this “Agreement”) is made as of February 1, 2019 by SAIGEBROOK CANOVA, LLC, a Texas limited liability company (“Saigebrook”), whose address is 220 Adams Drive Ste. 280 #138, Weatherford, Texas 76086 (the “Debtor”), for the benefit of HCP-ILP, LLC, a Nevada limited liability company (the “Secured Party”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436, Attention: Jeffrey N. Weiss.

A. Debtor is the managing member and Secured Party is the investor member in Canova Palms, LLC, a Texas limited liability company (the “Company”), and the Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”). Capitalized terms not otherwise defined herein shall have the definitions given them in the Operating Agreement.

B. Saigebrook Development, LLC, a Florida limited liability company and O-SDA Industries, LLC, a Texas limited liability company (collectively, the “Developer”), and the Company have entered into that certain Development Agreement dated as of February 1, 2019 (the “Development Agreement”), pursuant to which the Developer has been appointed to render certain services in connection with its supervising and overseeing the development of the “Apartment Complex” (as defined therein). Developer is an Affiliate of the Debtor.

C. In order to secure: (a) the full payment and performance by Debtor of all of Debtor’s obligations, duties, expenses and liabilities under or in connection with the Operating Agreement, as the Operating Agreement may be now or hereafter amended, modified or restated; and (b) the full payment and performance by the Developer of all of the Developer’s obligations, duties, expenses and liabilities under or in connection with the Development Agreement, as the Development Agreement may be now or hereafter amended, modified or restated (such obligations, duties, expenses and liabilities described in clauses (a) and (b) above are collectively referred to herein as the “Obligations”), Debtor is entering into this Agreement for the benefit of Secured Party.

NOW, THEREFORE, in order to induce Secured Party to enter into the Operating Agreement with the Debtor, and in consideration of the recitals, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions.

(a) “Collateral” shall consist of all of the personal property of Debtor, wherever located, and whether now owned or hereafter acquired, including accounts, chattel paper, inventory, equipment, instruments (including promissory notes), investment property, documents, deposit accounts, letter of credit rights, general intangibles (including payment intangibles), and supporting obligations and including, without limitation, the following specific items of personal property:
(i) All of Debtor’s right, title and interest in the Company, whether now owned or hereafter acquired, including, without limitation, its general limited liability company interest in the Company and its right to receive distributions, allocations and payments under the Operating Agreement, as the Operating Agreement may be modified from time to time with the consent of Secured Party;

(ii) All fees and charges to be paid by the Company to Debtor, whether paid or unpaid, whether now owned or hereafter acquired, and whether arising under the Operating Agreement, or otherwise, including, without limitation, the MM Incentive Management Fee;

(iii) All indebtedness of the Company to Debtor of any kind or description, including, without limitation, Debtor’s right to receive payment of Operating Deficit Loans or other loans to the Company; and

(iv) To the extent not listed above as original collateral, all products and proceeds, whether cash proceeds or noncash proceeds, of any and all of the foregoing.

(b) “Event of Default” shall mean an event of default described in Paragraph 8 herein.

2. Pledge of Collateral and Grant of Security Interest. Debtor does hereby unconditionally and irrevocably assign, pledge, convey, transfer, deliver, set over and grant unto Secured Party, its successors and assigns, as security for Debtor’s complete and timely payment and performance of the Obligations, a continuing first priority security interest under the Uniform Commercial Code of the State of Texas in the Collateral. Debtor agrees, upon request, to deliver any other documents which Secured Party may reasonably request from time-to-time to further evidence, perfect or secure the liens and security interests created by this Agreement. Debtor acknowledges that Secured Party shall prepare and file UCC Financing Statements in the appropriate jurisdictions with respect to the Collateral and consents to such filing.

3. Delivery to Secured Party.

(a) Debtor agrees to execute and to cause all other necessary parties, and any successors and assigns thereof, to execute and deliver to Secured Party such other agreements, instruments and documentation as Secured Party may reasonably request from time to time to effect the conveyance, transfer, and grant to Secured Party of each and all of Debtor’s right, title and interest in and to the Collateral as security for the Obligations.

(b) Concurrently with the execution of this Agreement, Debtor shall cause the managing member and the investor member of the Company to execute the Consent and Waiver in the form attached hereto as Exhibit A (the “Consent”) evidencing the Consent of the managing member and the investor member to the assignment of Debtor’s limited liability company interests and its agreement to be bound by Paragraph 4 of this Agreement, and covenants to execute, if required by Secured Party, an amendment to the Agreement in such form as Secured Party may require to reflect the substitution of Secured Party in place of Debtor as a managing member in the Company. Debtor further agrees to execute and to cause the other members of the Company to execute and deliver to Secured Party such other agreements, instruments and...
documentation as Secured Party may reasonably request from time to time to effectuate the conveyance, transfer, assignment and grant to Secured Party of all of Debtor’s right, title and interest in and to the Collateral and to evidence the substitution of Secured Party in place of Debtor as a managing member in the Company.

4. **Proceeds and Products of the Collateral.**

   (a) Unless and until there occurs an Event of Default, Secured Party agrees to forbear in exercising its right to receive all benefits pertaining to the Collateral, and Debtor shall be permitted to exercise all rights and to receive all benefits of the Collateral, including, without limitation, the right to exercise all voting, approval, consent and similar rights of Debtor pertaining to the Collateral, payments due under, proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral and retain and enjoy the same, provided, however, that Debtor shall not cast any vote or give any approval, consent, waiver or ratification or take any action which would be inconsistent with or violate any provision of this Agreement.

   (b) Debtor acknowledges and agrees with Secured Party, that unless Secured Party otherwise consents, in Secured Party’s sole discretion, Debtor shall not exercise any voting, approval, consent or other rights with respect to the Collateral at any time (i) after the occurrence of an Event of Default, and (ii) delivery of notice from Secured Party instructing Debtor not to exercise any such voting, approval, consent or other rights with respect to the Collateral; provided, however, that Debtor shall exercise any such right it may have under the Operating Agreement with respect to the business affairs of the Company as is reasonably necessary to protect and preserve the Collateral.

   (c) Upon or at any time after the occurrence of an Event of Default, Secured Party, at its option to be exercised in its sole discretion, may exercise all rights and remedies granted under this Agreement, including, without limitation, the right to require the obligors under the Collateral to make all payments due under and to pay all proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral to Secured Party. Upon the giving of any such notice, the security constituted by this Agreement shall become immediately enforceable by Secured Party, without any presentment, further demand, protest or other notice of any kind, all of which are hereby expressly and irrevocably waived by Debtor. Debtor hereby authorizes and directs each respective obligor under the agreements constituting the Collateral, upon receipt of written notice from Secured Party of an Event of Default by Debtor hereunder, to assign, set over, transfer, distribute, pay and deliver any and all Collateral or said payments, proceeds or products of the Collateral to Secured Party, at such address as Secured Party may direct, at such time and in such manner as Collateral and such payments, proceeds and products of the Collateral would otherwise be distributed, transferred, paid or delivered to Debtor. The respective obligors under the agreements constituting the Collateral shall be entitled to conclusively rely on such notice and make all such assignments and transfers of the Collateral and all such payments with respect to the Collateral and pay all such proceeds and products of the Collateral to Secured Party and shall have no liability to Debtor for any loss or damage Debtor may incur by reason of said reliance.

5. **No Assumption.** Notwithstanding any of the foregoing, whether or not an Event of Default has occurred, and whether or not Secured Party elects to foreclose on its security
interest in the Collateral as set forth herein, neither the execution of this Agreement, receipt by Secured Party of any of Debtor’s right, title and interest in and to the Collateral and the payments, proceeds and products of the Collateral, now or hereafter due to Debtor from any obligor of the Collateral, nor Secured Party’s foreclosure of its security interest in the Collateral, shall in any way be deemed to obligate Secured Party to assume any of Debtor’s obligations, duties, expenses or liabilities under the Collateral or any agreements constituting the Collateral, as presently existing or as hereafter amended, or under any and all other agreements now existing or hereafter drafted or executed (collectively, “Debtor’s Liabilities”), unless Secured Party otherwise agrees to assume any or all of Debtor’s Liabilities in writing. In the event of foreclosure by Secured Party of its security interest in the Collateral, Debtor shall remain bound and obligated to perform its Debtor’s Liabilities and Secured Party shall not be deemed to have assumed any of Debtor’s Liabilities, except as provided in the preceding sentence. If the entity or person acquiring the Collateral at a foreclosure sale elects to assume Debtor’s Liabilities, such assignee shall agree to be bound by the terms and provisions of the applicable agreement.

6. Indemnification. Debtor hereby agrees to indemnify, defend and hold Secured Party, its successors and assigns harmless from and against any and all damages, losses, claims, costs or expenses (including reasonable attorneys’ fees) and any other liabilities whatsoever that Secured Party or its successors or assigns may incur by reason of this Agreement or by reason of any assignment by Debtor of Debtor’s right, title and interest in and to any or all of the Collateral.

7. Representations, Warranties and Covenants. In addition to the representations made by Debtor in the Operating Agreement, Debtor makes the following representations and warranties, which shall be deemed to be continuing representations and warranties in favor of Secured Party, and covenants and agrees to perform all acts necessary to maintain the truth and correctness, in all material respects, of the following:

(a) Debtor owns the Collateral free and clear of all claims, liens or encumbrances.

(b) Debtor has delivered to Secured Party true and complete copies of the Operating Agreement and any other agreements pertinent to the Collateral, and such agreements are currently in full force and effect and have not been amended or modified except as disclosed to Secured Party in writing.

(c) Debtor has the full right and title to its interest in the Collateral and has the full power, legal right and authority to pledge, convey, transfer and assign such interest. None of the Collateral is subject to any existing or subsequent assignment, claim, lien, pledge, transfer or other security interest of any character, or to any attachment, levy, garnishment or other judicial process or to any claim for set-off, counterclaim, deduction or discount. Debtor shall not, without the prior written consent of Secured Party, which consent may be granted or denied in Secured Party’s sole discretion, further convey, transfer, set over or pledge to any party any of its interests in the Collateral. Debtor agrees to (i) warrant and defend its title to the Collateral and the security interest created by this Agreement against all claims of all persons (other than Secured Party and persons claiming through Secured Party), and (ii) maintain and preserve the Collateral and such security interests.
(d) Debtor’s Employer Identification Number is 45-3062708, and its principal place of business is located at 220 Adams Drive Ste. 280 #138, Weatherford, Texas 76086.

(e) Debtor agrees that it shall not, without at least thirty (30) days’ prior written notification to Secured Party, move or otherwise change its principal place of business or state of formation.

(f) Debtor shall not exercise any voting rights, or give any approvals, consents waiver or other ratifications in respect to the Collateral which would violate or contravene, or which would cause or otherwise authorize Debtor to violate or contravene, any provision of this Agreement.

(g) This Agreement and consummation of the transactions contemplated herein are not in conflict with and will not result in a breach of any of the terms, provisions or conditions of any other agreement or instrument to which Debtor may be bound, including, without limitation, the organizational documents for Debtor, or of any order, judgment, law, rule or regulation of any court or governmental body or administrative agency applicable to Debtor.

8. **Event of Default.** Each of the following shall constitute an Event of Default hereunder:

(a) An Event of Default (as defined in the Operating Agreement) has occurred under the Operating Agreement or the Development Agreement and such default shall not have been cured within any applicable grace period provided therein; or

(b) Any warranty, representation or statement of Debtor in this Agreement proves to have been false in any material respect when made or furnished; or

(c) There occurs the issuance of a writ, order of attachment or garnishment with respect to any of the Collateral and such writ, order of attachment or garnishment is not dismissed and removed within fifteen (15) days thereafter; or

(d) A material breach or violation of any covenant or agreement contained herein has occurred, which is not cured within ten (10) days after notice has been given to Debtor by Secured Party.

Any Event of Default under this Agreement shall be an event of default by Debtor under the Agreement.

9. **Remedies.**

(a) Upon the occurrence of an Event of Default, Secured Party may, by giving notice of such Event of Default, at its option, do any one or more of the following:

   (i) Declare all of the Obligations secured hereby to be immediately due and payable, whereupon all unpaid principal and interest on said Obligations and other amounts declared due and payable shall become immediately due and payable without presentment, demand, protest or notice of any kind; and
(ii) Take possession of all or any of the Collateral, collect, and apply against the Obligations, all payments due, proceeds, whether cash proceeds or noncash proceeds, and products from any obligor under the agreements constituting the Collateral, that would otherwise be paid to Debtor; and

(iii) Either personally, or by means of a court appointed receiver, take possession of all or any of the Collateral and exclude therefrom Debtor and all others claiming under Debtor, and thereafter exercise all rights and powers of Debtor with respect to the Collateral or any part thereof. If Secured Party demands, or attempts to take possession of any of the Collateral in the exercise of any rights under this Agreement, Debtor promises and agrees to promptly turn over and deliver complete possession thereof to the Secured Party; and

(iv) Without notice to or demand upon Debtor, make such payments and do such acts as Secured Party may deem necessary to protect its security interest in the Collateral, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith; and

(v) Require Debtor to take all actions necessary to deliver such Collateral to Secured Party, or an agent or representative designated by it. Secured Party, and its agents and representatives, shall have the right to enter upon any or all of Debtor’s premises and property to exercise Secured Party’s rights hereunder; and

(vi) Foreclose upon this Agreement as herein provided or in any manner permitted by law, and exercise any and all of the rights and remedies conferred upon Secured Party by the Operating Agreement, or in any other document executed by Debtor in connection with the Obligations secured hereby, either concurrently or in such order as Secured Party may determine; and sell or cause to be sold in such order as Secured Party may determine, as a whole or in such parcels as Secured Party may determine, the Collateral, without affecting in any way the rights or remedies to which Secured Party may be entitled under the other such instruments; and

(vii) Sell or otherwise dispose of the Collateral at public sale, without having the Collateral at the place of sale, and upon terms and in such manner as Secured Party may determine. Secured Party may be a purchaser at any sale; and

(viii) Exercise any remedies of Secured Party under the Uniform Commercial Code of the State of Texas or any other applicable law; and

(ix) Exercise any remedies available to Secured Party under the Agreement, including, without limitation, the removal of Debtor as a Managing Member of the Company and exercise of any rights of offset in favor of Secured Party as a managing member of the Company; and

(x) Notwithstanding anything to the contrary contained in this Agreement, at any time after an Event of Default, Secured Party may, by delivering written notice to the Company and to Debtor, succeed, or designate its nominee or designee to succeed,
to all right, title and interest of Debtor (including, without limitation, the right, if any, to vote on
or take any action with respect to Company matters) as a managing member of the Company in
respect of the Collateral. Debtor hereby irrevocably authorizes and directs the Company on
receipt of any such notice (a) to deem and treat Secured Party or such nominee or designee in all
respects as a managing member (and not merely an assignee of a managing member) of the
Company, entitled to exercise all the rights, powers and privileges (including the right to vote on
or take any action with respect to Company matters pursuant to the Operating Agreement, to
receive all distributions, to be credited with the capital account and to have all other rights,
powers and privileges appertaining to the Collateral to which Debtor would have been entitled
had the Collateral not been transferred to Secured Party or such nominee or designee), and (b) to
file an amended certificate of Company, if required, admitting Secured Party or such nominee or
designee as managing member of the Company in place of Debtor; and

(xi) The rights granted to Secured Party under this Agreement are of a
special, unique, unusual and extraordinary character. The loss of any of such rights cannot
reasonably or adequately be compensated by way of damages in any action at law, and any
material breach by Debtor of any of Debtor’s covenants, agreements or obligations under this
Agreement will cause Secured Party irreparable injury and damage. In the event of any such
breach, Secured Party shall be entitled, as a matter of right, to injunctive relief or other equitable
relief in any court of competent jurisdiction to prevent the violation or contravention of any of
the provisions of this Agreement or to compel compliance with the terms of this Agreement by
Debtor. Secured Party is absolutely and irrevocably authorized and empowered by Debtor to
demand specific performance of each of the covenants and agreements of Debtor in this
Agreement. Debtor hereby irrevocably waives any defense based on the adequacy of any
remedy at law which might otherwise be asserted by Debtor as a bar to the remedy of specific
performance in any action brought by Secured Party against Debtor to enforce any of the
covenants or agreements of Debtor in this Agreement.

(b) Unless the Collateral is perishable or threatens to decline speedily in value
or is of a type customarily sold on a recognized market, Secured Party shall give Debtor at least
ten (10) days’ prior written notice of the time and place of any public sale of the Collateral
subject to this Agreement or other intended disposition thereof to be made. Such notice shall be
conclusively deemed to have been delivered to Debtor at the address set forth in Paragraph 7(d)
of this Agreement, unless Debtor shall Notify Secured Party in writing of its change of its
principal place of business and provide Secured Party with the address of its new principal place
of business.

(c) The proceeds of any sale under Paragraph 9(a) above shall be applied as
follows:

(i) To the repayment of the costs and expenses of retaking, holding
and preparing for the sale and the selling of the Collateral (including actual legal expenses and
attorneys’ fees) and the discharge of all assessments, encumbrances, charges or liens, if any, on
the Collateral prior to the lien hereof (except any taxes, assessments, encumbrances, charges or
liens subject to which such sale has been made);
(ii) To the payment of the whole amount then due and unpaid of the Obligations;

(iii) To the payment of all other amounts then secured hereby; and

(iv) The aggregate surplus, if any, shall be paid to Debtor in a lump sum, without recourse to Secured Party, or as a court of competent jurisdiction may direct.

(d) Secured Party has the right to enforce one or more remedies under this Agreement and under the Operating Agreement, successively or concurrently, and such action shall not operate to estop or prevent Secured Party from pursuing any further remedy which it may have, and any repossession or retaking or sale of the Collateral pursuant to the terms hereof shall not operate to release Debtor until full payment of any deficiency has been made in cash.

(e) DEBTOR ACKNOWLEDGES THAT SECURED PARTY MAY BE UNABLE TO EFFECT A PUBLIC SALE OF ALL OR ANY PART OF THE COLLATERAL AND MAY BE COMPELLED TO RESORT TO ONE OR MORE PRIVATE SALES TO A RESTRICTED GROUP OF PURCHASERS WHO WILL BE OBLIGATED TO AGREE, AMONG OTHER THINGS, TO ACQUIRE THE COLLATERAL FOR THEIR OWN ACCOUNT, FOR INVESTMENT AND NOT WITH A VIEW TO THE DISTRIBUTION OR RESALE THEREOF. DEBTOR FURTHER ACKNOWLEDGES THAT ANY SUCH PRIVATE SALES MAY BE AT PRICES AND ON TERMS LESS FAVORABLE THAN THOSE OF PUBLIC SALES, AND AGREES THAT SUCH PRIVATE SALES SHALL BE DEEMED TO HAVE BEEN MADE IN A COMMERCIALLY REASONABLE MANNER AND THAT SECURED PARTY HAS NO OBLIGATION TO DELAY SALE OF ANY COLLATERAL TO PERMIT THE ISSUER THEREOF TO REGISTER IT FOR PUBLIC SALE UNDER THE SECURITIES ACT OF 1933. DEBTOR AGREES THAT SECURED PARTY SHALL BE PERMITTED TO TAKE SUCH ACTIONS AS SECURED PARTY DEEMS REASONABLY NECESSARY IN DISPOSING OF THE COLLATERAL TO AVOID CONDUCTING A PUBLIC DISTRIBUTION OF SECURITIES IN VIOLATION OF THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE, AS NOW ENACTED OR AS THE SAME MAY IN THE FUTURE BE AMENDED, AND ACKNOWLEDGES THAT ANY SUCH ACTIONS SHALL BE COMMERCIALY REASONABLE. IN ADDITION, DEBTOR AGREES TO EXECUTE, FROM TIME TO TIME, ANY AMENDMENT TO THIS AGREEMENT OR OTHER DOCUMENT AS SECURED PARTY MAY REASONABLY REQUIRE TO EVIDENCE THE ACKNOWLEDGMENTS AND CONSENTS OF DEBTOR SET FORTH IN THIS PARAGRAPH.

10. Right to Make Distributions. Except upon the occurrence and during the continuance of an Event of Default (without regard to any cure period), Debtor shall have the right without the consent of Secured Party to make distributions to its members (“Permitted Distributions”) of proceeds of any distributions and payments received by Debtor from the Company or from any capital contributions of its members. Any such Permitted Distributions shall be free and clear of the lien created by this Agreement.
11. Attorneys’ Fees. Debtor agrees to pay to Secured Party, without demand, reasonable attorneys’ fees and all costs and other expenses which Secured Party expends or incurs in collecting any amounts payable by Debtor hereunder or in enforcing this Agreement against Debtor whether or not suit is filed.

12. Further Documentation. Debtor hereby agrees to execute, from time to time, one or more financing statements and such other instruments as may be required to perfect the security interest created hereby, including any continuation or amendments of such financing statements, and pay the cost of filing or recording the same in the public records specified by Secured Party.

13. Waiver and Estoppel. Debtor represents and acknowledges that it knowingly waives each and every one of the following rights, and agrees that it will be estopped from asserting any argument to the contrary: (a) any promptness in making any claim or demand hereunder; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of Debtor or the failure to file or enforce a claim against Debtor’s estate (in administration, bankruptcy or any other proceeding); (c) any defense based upon an election of remedies by Secured Party which destroys or otherwise impairs any or all of the Collateral; (d) the right of Debtor to proceed against Secured Party or any other person, for reimbursement; (e) all duty or obligation of Secured Party to perfect, protect, retain or enforce any security for the payment of amounts payable by Debtor hereunder; and (f) any defense based on modification of the indebtedness secured hereby.

14. Waiver of Jury Trial. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

15. No Continuing Waiver. No delay or failure on the part of Secured Party in the exercise of any right or remedy against Debtor or any other party against whom Secured Party may have any rights, shall operate as a waiver of any agreement or obligation contained herein, and no single or partial exercise by Secured Party of any rights or remedies hereunder shall preclude other or further exercise thereof or other exercise of any other right or remedy whether
contained in this Agreement or in any of the other documents regarding the Obligations, including, without limitation, the Operating Agreement. No waiver of the rights of Secured Party hereunder or in connection herewith and no release of Debtor shall be effective unless in writing executed by Secured Party. No actions of Secured Party permitted under this Agreement shall in any way impair or affect the enforceability of any agreement or obligation contained herein.

16. **Independent Obligations.** The obligations of Debtor are independent of the obligations of any other party which may be initially or otherwise responsible for performance or payment of the Obligations, and a separate action or actions for payment, damages or performance may be brought and prosecuted by Secured Party against Debtor, individually, for the full amount of the Obligations then due and payable, whether or not an action is brought against any other party, whether or not Secured Party is involved in any proceedings and whether or not Secured Party or Debtor or other person is joined in any action or proceedings.

17. **No Offset Rights of Debtor.** No lawful act of commission or omission of any kind or at any time upon the part of Debtor shall in any way affect or impair the rights of Secured Party to enforce any right, power or benefit under this Agreement, and no set-off, recoupment, counterclaim, claim, reduction or diminution of any obligation or any defense of any kind or nature which Debtor has or may have against any Secured Party or against any other party shall be available against Secured Party in any suit or action brought by Secured Party to enforce any right, power or benefit under this Agreement.

18. **Power of Attorney.** Debtor hereby appoints Secured Party as its attorney-in-fact to execute and file on its behalf any financing statements, continuation statements or other documentation required to perfect or continue the security interest created hereby. This power, being coupled with an interest, shall be irrevocable until all amounts secured hereby have been paid, satisfied and discharged in full.

19. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO AGREE THAT IN THE EVENT OF DEFAULT, THIS AGREEMENT MAY BE ENFORCED IN ANY COURT OF COMPETENT JURISDICTION IN THE STATE OF TEXAS AND ANY STATE IN WHICH ALL OR ANY PART OF THE COLLATERAL IS LOCATED AND THEY DO HEREBY SUBMIT TO THE JURISDICTION OF ANY AND ALL SUCH COURTS REGARDLESS OF THEIR PRINCIPAL PLACE OF BUSINESS OR WHERE THIS AGREEMENT MAY BE EXECUTED.

20. **Successors and Assigns.** All agreements, covenants, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

21. **Notices.** Whenever any party hereto shall desire to, or be required to, give or serve any notice, demand, request or other communication with respect to this Agreement, each such notice, demand, request or communication shall be in writing and shall be effective only if the same is delivered by personal service (including, without limitation, courier or express service) or mailed certified or registered mail, postage prepaid, return receipt requested, or sent
by electronic mail to the parties at the addresses and email addresses shown throughout this Agreement or such other addresses which the parties may provide to one another in accordance herewith. If notice is sent to Secured Party, a copy of such notice shall also be given to Matthew W. Mullen, Esq., Nixon Peabody LLP, 799 9th Street NW, Suite 500, Washington, DC 20001-5327; Email: mmullen@nixonpeabody.com. Notices delivered personally will be effective upon delivery to an authorized representative of the party at the designated address; notices sent by mail in accordance with the above paragraph will be effective upon execution by the addressee of the Return Receipt Requested.

22. **Consent of Debtor.** Debtor consents to the exercise by Secured Party of any rights of Debtor in accordance with the provisions of this Agreement.

23. **Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

24. **Amendment.** This Agreement may be modified or rescinded only by a writing expressly relating to this Agreement and signed by all of the parties.

25. **Termination.** This Agreement shall terminate, and shall be of no further force or effect, upon the earlier to occur of the repayment in full of the Obligations of Debtor or upon the mutual consent of Debtor and Secured Party.

**(SIGNATURE APPEARS ON THE FOLLOWING PAGE)**
IN WITNESS WHEREOF, Debtor has executed this Pledge and Security Agreement as of the date first above written.

DEBTOR:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company

Its: Managing Member

By: 
Name: Lisa M. Stephens
Title: Manager
EXHIBIT A
TO
PLEDGE AND SECURITY AGREEMENT
(CO-MANAGING MEMBER)
CONSENT AND AGREEMENT OF MEMBERS
CONSENT TO SECURITY INTEREST AND AGREEMENT
OF MEMBERS OF
CANOVA PALMS, LLC, A TEXAS LIMITED LIABILITY COMPANY

The undersigned, being all the members of Canova Palms, LLC, a Texas limited liability company (the “Company”), hereby represent and certify to HCP-ILP, LLC, a Nevada limited liability company (“Secured Party”), as follows:

Each has received notice from Secured Party that Secured Party has a security interest in the following: 100% of the Limited Liability Company Interest in the Company owned by Saigebrook Canova, LLC, a Texas limited liability company and O-SDA Industries, LLC, a Texas limited liability company (“Debtor”), and registered to Debtor (the “Collateral”).

1. Other than the notice from Secured Party referred to above, the undersigned has not received any notice from any entity or person claiming an adverse claim against, lien on or security interest in the Collateral.

2. The security interest of Secured Party referred to above was duly registered in the books and records of the Company effective February 1, 2019.

3. Interests in the Company are not represented in any certificate, instrument or document, and such interest may be assigned, transferred or pledged without the party receiving such assignment, transfer or pledge taking physical possession of any certificate, instrument or document.

4. The Members hereby consent to the execution and delivery of the Pledge and Security Agreement by Debtor and agree hereby to be bound by Paragraph 4 thereof to assign, set over, transfer, distribute, pay and deliver the Collateral and any and all payments, proceeds or products due to Debtor under the Collateral to Secured Party.

5. The Members hereby consent to the admission of Secured Party, its nominee, designee or any person acquiring its interest under the Pledge and Security Agreement, as a managing member of the Company upon receipt of notice by Secured Party of an Event of Default by Debtor thereunder, and agree that Secured Party or such nominee, designee or person acquiring Secured Party’s interest thereunder shall not be deemed to have assumed any of Debtor’s liability by virtue of such admission as the managing member of the Company.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: [Signature]
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

**CO-MANAGING MEMBER:**

**SAIGEBROOK CANOVA, LLC,**

a Texas limited liability company

By: Saigebrook Development, LLC,

a Florida limited liability company

Its: Managing Member

By: ________________________________
Name: Lisa M. Stephens
Title: Manager

**ADMINISTRATIVE MEMBER:**

**O-SDA CANOVA, LLC,**

a Texas limited liability company

By: O-SDA Industries, LLC,

a Texas limited liability company

Its: Sole Member

By: ________________________________
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

INVESTOR MEMBER:

HCP-ILP, LLC,
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company
Its: Manager

By: [Signature]
Name: Jeffrey M. Weiss
Title: President
EXHIBIT G-2

PLEDGE AND SECURITY AGREEMENT

(Administrative Member)
PLEDGE AND SECURITY AGREEMENT

(Administrative Member)

THIS PLEDGE AND SECURITY AGREEMENT (this “Agreement”) is made as of February 1, 2019 by O-SDA Canova, LLC, a Texas limited liability company ("O-SDA"), whose address is 5714 Sam Houston Circle, Austin, Texas 78731 (the “Debtor”), for the benefit of HCP-ILP, LLC, a Nevada limited liability company (the “Secured Party”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436, Attention: Jeffrey N. Weiss.

A. Debtor is the administrative member and Secured Party is the investor member in Canova Palms, LLC, a Texas limited liability company (the “Company”), and the Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”). Capitalized terms not otherwise defined herein shall have the definitions given them in the Operating Agreement.

B. Saigebrook Development, LLC, a Florida limited liability company and O-SDA Industries, LLC, a Texas limited liability company (collectively, the “Developer”), and the Company have entered into that certain Development Agreement dated as of February 1, 2019 (the “Development Agreement”), pursuant to which the Developer has been appointed to render certain services in connection with its supervising and overseeing the development of the “Apartment Complex” (as defined therein). Developer is an Affiliate of the Debtor.

C. In order to secure: (a) the full payment and performance by Debtor of all of Debtor’s obligations, duties, expenses and liabilities under or in connection with the Operating Agreement, as the Operating Agreement may be now or hereafter amended, modified or restated; and (b) the full payment and performance by the Developer of all of the Developer’s obligations, duties, expenses and liabilities under or in connection with the Development Agreement, as the Development Agreement may be now or hereafter amended, modified or restated (such obligations, duties, expenses and liabilities described in clauses (a) and (b) above are collectively referred to herein as the “Obligations”), Debtor is entering into this Agreement for the benefit of Secured Party.

NOW, THEREFORE, in order to induce Secured Party to enter into the Operating Agreement with the Debtor, and in consideration of the recitals, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions.

(a) “Collateral” shall consist of all of the personal property of Debtor, wherever located, and whether now owned or hereafter acquired, including accounts, chattel paper, inventory, equipment, instruments (including promissory notes), investment property, documents, deposit accounts, letter of credit rights, general intangibles (including payment intangibles), and supporting obligations and including, without limitation, the following specific items of personal property:
Administrative Member Pledge and Security Agreement

(i) All of Debtor’s right, title and interest in the Company, whether now owned or hereafter acquired, including, without limitation, its general limited liability company interest in the Company and its right to receive distributions, allocations and payments under the Operating Agreement, as the Operating Agreement may be modified from time to time with the consent of Secured Party;

(ii) All fees and charges to be paid by the Company to Debtor, whether paid or unpaid, whether now owned or hereafter acquired, and whether arising under the Operating Agreement, or otherwise, including, without limitation, the MM Incentive Management Fee;

(iii) All indebtedness of the Company to Debtor of any kind or description, including, without limitation, Debtor’s right to receive payment of Operating Deficit Loans or other loans to the Company; and

(iv) To the extent not listed above as original collateral, all products and proceeds, whether cash proceeds or noncash proceeds, of any and all of the foregoing.

(b) “Event of Default” shall mean an event of default described in Paragraph 8 herein.

2. Pledge of Collateral and Grant of Security Interest. Debtor does hereby unconditionally and irrevocably assign, pledge, convey, transfer, deliver, set over and grant unto Secured Party, its successors and assigns, as security for Debtor’s complete and timely payment and performance of the Obligations, a continuing first priority security interest under the Uniform Commercial Code of the State of Texas in the Collateral. Debtor agrees, upon request, to deliver any other documents which Secured Party may reasonably request from time-to-time to further evidence, perfect or secure the liens and security interests created by this Agreement. Debtor acknowledges that Secured Party shall prepare and file UCC Financing Statements in the appropriate jurisdictions with respect to the Collateral and consents to such filing.

3. Delivery to Secured Party.

(a) Debtor agrees to execute and to cause all other necessary parties, and any successors and assigns thereof, to execute and deliver to Secured Party such other agreements, instruments and documentation as Secured Party may reasonably request from time to time to effect the conveyance, transfer, and grant to Secured Party of each and all of Debtor’s right, title and interest in and to the Collateral as security for the Obligations.

(b) Concurrently with the execution of this Agreement, Debtor shall cause the managing member and the investor member of the Company to execute the Consent and Waiver in the form attached hereto as Exhibit A (the “Consent”) evidencing the Consent of the managing member and the investor member to the assignment of Debtor’s limited liability company interests and its agreement to be bound by Paragraph 4 of this Agreement, and covenants to execute, if required by Secured Party, an amendment to the Agreement in such form as Secured Party may require to reflect the substitution of Secured Party in place of Debtor as a managing member in the Company. Debtor further agrees to execute and to cause the other members of the Company to execute and deliver to Secured Party such other agreements, instruments and
4. **Proceeds and Products of the Collateral.**

   (a) Unless and until there occurs an Event of Default, Secured Party agrees to forbear in exercising its right to receive all benefits pertaining to the Collateral, and Debtor shall be permitted to exercise all rights and to receive all benefits of the Collateral, including, without limitation, the right to exercise all voting, approval, consent and similar rights of Debtor pertaining to the Collateral, payments due under, proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral and retain and enjoy the same, provided, however, that Debtor shall not cast any vote or give any approval, consent, waiver or ratification or take any action which would be inconsistent with or violate any provision of this Agreement.

   (b) Debtor acknowledges and agrees with Secured Party, that unless Secured Party otherwise consents, in Secured Party’s sole discretion, Debtor shall not exercise any voting, approval, consent or other rights with respect to the Collateral at any time (i) after the occurrence of an Event of Default, and (ii) delivery of notice from Secured Party instructing Debtor not to exercise any such voting, approval, consent or other rights with respect to the Collateral; provided, however, that Debtor shall exercise any such right it may have under the Operating Agreement with respect to the business affairs of the Company as is reasonably necessary to protect and preserve the Collateral.

   (c) Upon or at any time after the occurrence of an Event of Default, Secured Party, at its option to be exercised in its sole discretion, may exercise all rights and remedies granted under this Agreement, including, without limitation, the right to require the obligors under the Collateral to make all payments due under and to pay all proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral to Secured Party. Upon the giving of any such notice, the security constituted by this Agreement shall become immediately enforceable by Secured Party, without any presentment, further demand, protest or other notice of any kind, all of which are hereby expressly and irrevocably waived by Debtor. Debtor hereby authorizes and directs each respective obligor under the agreements constituting the Collateral, upon receipt of written notice from Secured Party of an Event of Default by Debtor hereunder, to assign, set over, transfer, distribute, pay and deliver any and all Collateral or said payments, proceeds or products of the Collateral to Secured Party, at such address as Secured Party may direct, at such time and in such manner as Collateral and such payments, proceeds and products of the Collateral would otherwise be distributed, transferred, paid or delivered to Debtor. The respective obligors under the agreements constituting the Collateral shall be entitled to conclusively rely on such notice and make all such assignments and transfers of the Collateral and all such payments with respect to the Collateral and pay all such proceeds and products of the Collateral to Secured Party and shall have no liability to Debtor for any loss or damage Debtor may incur by reason of said reliance.

5. **No Assumption.** Notwithstanding any of the foregoing, whether or not an Event of Default has occurred, and whether or not Secured Party elects to foreclose on its security documentation as Secured Party may reasonably request from time to time to effectuate the conveyance, transfer, assignment and grant to Secured Party of all of Debtor’s right, title and interest in and to the Collateral and to evidence the substitution of Secured Party in place of Debtor as a managing member in the Company.
interest in the Collateral as set forth herein, neither the execution of this Agreement, receipt by
Secured Party of any of Debtor’s right, title and interest in and to the Collateral and the
payments, proceeds and products of the Collateral, now or hereafter due to Debtor from any
obligor of the Collateral, nor Secured Party’s foreclosure of its security interest in the Collateral,
shall in any way be deemed to obligate Secured Party to assume any of Debtor’s obligations,
duties, expenses or liabilities under the Collateral or any agreements constituting the Collateral,
as presently existing or as hereafter amended, or under any and all other agreements now existing
or hereafter drafted or executed (collectively, “Debtor’s Liabilities”), unless Secured Party
otherwise agrees to assume any or all of Debtor’s Liabilities in writing. In the event of
foreclosure by Secured Party of its security interest in the Collateral, Debtor shall remain bound
and obligated to perform its Debtor’s Liabilities and Secured Party shall not be deemed to have
assumed any of Debtor’s Liabilities, except as provided in the preceding sentence. If the entity
or person acquiring the Collateral at a foreclosure sale elects to assume Debtor’s Liabilities, such
assignee shall agree to be bound by the terms and provisions of the applicable agreement.

6. Indemnification. Debtor hereby agrees to indemnify, defend and hold Secured
Party, its successors and assigns harmless from and against any and all damages, losses, claims,
costs or expenses (including reasonable attorneys’ fees) and any other liabilities whatsoever that
Secured Party or its successors or assigns may incur by reason of this Agreement or by reason of
any assignment by Debtor of Debtor’s right, title and interest in and to any or all of the
Collateral.

7. Representations, Warranties and Covenants. In addition to the representations
made by Debtor in the Operating Agreement, Debtor makes the following representations and
warranties, which shall be deemed to be continuing representations and warranties in favor of
Secured Party, and covenants and agrees to perform all acts necessary to maintain the truth and
correctness, in all material respects, of the following:

(a) Debtor owns the Collateral free and clear of all claims, liens or
encumbrances.

(b) Debtor has delivered to Secured Party true and complete copies of the
Operating Agreement and any other agreements pertinent to the Collateral, and such agreements
are currently in full force and effect and have not been amended or modified except as disclosed
to Secured Party in writing.

(c) Debtor has the full right and title to its interest in the Collateral and has the
full power, legal right and authority to pledge, convey, transfer and assign such interest. None of
the Collateral is subject to any existing or subsequent assignment, claim, lien, pledge, transfer or
other security interest of any character, or to any attachment, levy, garnishment or other judicial
process or to any claim for set-off, counterclaim, deduction or discount. Debtor shall not,
without the prior written consent of Secured Party, which consent may be granted or denied in
Secured Party’s sole discretion, further convey, transfer, set over or pledge to any party any of its
interests in the Collateral. Debtor agrees to (i) warrant and defend its title to the Collateral and
the security interest created by this Agreement against all claims of all persons (other than
Secured Party and persons claiming through Secured Party), and (ii) maintain and preserve the
Collateral and such security interests.
(d) Debtor’s Employer Identification Number is 80-0641068, and its principal place of business is located at 5714 Sam Houston Circle, Austin, Texas 78731, Austin, Texas 78731.

(e) Debtor agrees that it shall not, without at least thirty (30) days’ prior written notification to Secured Party, move or otherwise change its principal place of business or state of formation.

(f) Debtor shall not exercise any voting rights, or give any approvals, consents waiver or other ratifications in respect to the Collateral which would violate or contravene, or which would cause or otherwise authorize Debtor to violate or contravene, any provision of this Agreement.

(g) This Agreement and consummation of the transactions contemplated herein are not in conflict with and will not result in a breach of any of the terms, provisions or conditions of any other agreement or instrument to which Debtor may be bound, including, without limitation, the organizational documents for Debtor, or of any order, judgment, law, rule or regulation of any court or governmental body or administrative agency applicable to Debtor.

8. Event of Default. Each of the following shall constitute an Event of Default hereunder:

(a) An Event of Default (as defined in the Operating Agreement) has occurred under the Operating Agreement or the Development Agreement and such default shall not have been cured within any applicable grace period provided therein; or

(b) Any warranty, representation or statement of Debtor in this Agreement proves to have been false in any material respect when made or furnished; or

(c) There occurs the issuance of a writ, order of attachment or garnishment with respect to any of the Collateral and such writ, order of attachment or garnishment is not dismissed and removed within fifteen (15) days thereafter; or

(d) A material breach or violation of any covenant or agreement contained herein has occurred, which is not cured within ten (10) days after notice has been given to Debtor by Secured Party.

Any Event of Default under this Agreement shall be an event of default by Debtor under the Agreement.

9. Remedies.

(a) Upon the occurrence of an Event of Default, Secured Party may, by giving notice of such Event of Default, at its option, do any one or more of the following:

(i) Declare all of the Obligations secured hereby to be immediately due and payable, whereupon all unpaid principal and interest on said Obligations and other
amounts declared due and payable shall become immediately due and payable without presentment, demand, protest or notice of any kind; and

(ii) Take possession of all or any of the Collateral, collect, and apply against the Obligations, all payments due, proceeds, whether cash proceeds or noncash proceeds, and products from any obligor under the agreements constituting the Collateral, that would otherwise be paid to Debtor; and

(iii) Either personally, or by means of a court appointed receiver, take possession of all or any of the Collateral and exclude therefrom Debtor and all others claiming under Debtor, and thereafter exercise all rights and powers of Debtor with respect to the Collateral or any part thereof. If Secured Party demands, or attempts to take possession of any of the Collateral in the exercise of any rights under this Agreement, Debtor promises and agrees to promptly turn over and deliver complete possession thereof to the Secured Party; and

(iv) Without notice to or demand upon Debtor, make such payments and do such acts as Secured Party may deem necessary to protect its security interest in the Collateral, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith; and

(v) Require Debtor to take all actions necessary to deliver such Collateral to Secured Party, or an agent or representative designated by it. Secured Party, and its agents and representatives, shall have the right to enter upon any or all of Debtor’s premises and property to exercise Secured Party’s rights hereunder; and

(vi) Foreclose upon this Agreement as herein provided or in any manner permitted by law, and exercise any and all of the rights and remedies conferred upon Secured Party by the Operating Agreement, or in any other document executed by Debtor in connection with the Obligations secured hereby, either concurrently or in such order as Secured Party may determine; and sell or cause to be sold in such order as Secured Party may determine, as a whole or in such parcels as Secured Party may determine, the Collateral, without affecting in any way the rights or remedies to which Secured Party may be entitled under the other such instruments; and

(vii) Sell or otherwise dispose of the Collateral at public sale, without having the Collateral at the place of sale, and upon terms and in such manner as Secured Party may determine. Secured Party may be a purchaser at any sale; and

(viii) Exercise any remedies of Secured Party under the Uniform Commercial Code of the State of Texas or any other applicable law; and

(ix) Exercise any remedies available to Secured Party under the Agreement, including, without limitation, the removal of Debtor as a Managing Member of the Company and exercise of any rights of offset in favor of Secured Party as a managing member of the Company; and
(x) Notwithstanding anything to the contrary contained in this Agreement, at any time after an Event of Default, Secured Party may, by delivering written notice to the Company and to Debtor, succeed, or designate its nominee or designee to succeed, to all right, title and interest of Debtor (including, without limitation, the right, if any, to vote on or take any action with respect to Company matters) as a managing member of the Company in respect of the Collateral. Debtor hereby irrevocably authorizes and directs the Company on receipt of any such notice (a) to deem and treat Secured Party or such nominee or designee in all respects as a managing member (and not merely an assignee of a managing member) of the Company, entitled to exercise all the rights, powers and privileges (including the right to vote on or take any action with respect to Company matters pursuant to the Operating Agreement, to receive all distributions, to be credited with the capital account and to have all other rights, powers and privileges appertaining to the Collateral to which Debtor would have been entitled had the Collateral not been transferred to Secured Party or such nominee or designee), and (b) to file an amended certificate of Company, if required, admitting Secured Party or such nominee or designee as managing member of the Company in place of Debtor; and

(xi) The rights granted to Secured Party under this Agreement are of a special, unique, unusual and extraordinary character. The loss of any of such rights cannot reasonably or adequately be compensated by way of damages in any action at law, and any material breach by Debtor of any of Debtor’s covenants, agreements or obligations under this Agreement will cause Secured Party irreparable injury and damage. In the event of any such breach, Secured Party shall be entitled, as a matter of right, to injunctive relief or other equitable relief in any court of competent jurisdiction to prevent the violation or contravention of any of the provisions of this Agreement or to compel compliance with the terms of this Agreement by Debtor. Secured Party is absolutely and irrevocably authorized and empowered by Debtor to demand specific performance of each of the covenants and agreements of Debtor in this Agreement. Debtor hereby irrevocably waives any defense based on the adequacy of any remedy at law which might otherwise be asserted by Debtor as a bar to the remedy of specific performance in any action brought by Secured Party against Debtor to enforce any of the covenants or agreements of Debtor in this Agreement.

(b) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party shall give Debtor at least ten (10) days’ prior written notice of the time and place of any public sale of the Collateral subject to this Agreement or other intended disposition thereof to be made. Such notice shall be conclusively deemed to have been delivered to Debtor at the address set forth in Paragraph 7(d) of this Agreement, unless Debtor shall Notify Secured Party in writing of its change of its principal place of business and provide Secured Party with the address of its new principal place of business.

(c) The proceeds of any sale under Paragraph 9(a) above shall be applied as follows:

(i) To the repayment of the costs and expenses of retaking, holding and preparing for the sale and the selling of the Collateral (including actual legal expenses and attorneys’ fees) and the discharge of all assessments, encumbrances, charges or liens, if any, on
the Collateral prior to the lien hereof (except any taxes, assessments, encumbrances, charges or liens subject to which such sale has been made);

(ii) To the payment of the whole amount then due and unpaid of the Obligations;

(iii) To the payment of all other amounts then secured hereby; and

(iv) The aggregate surplus, if any, shall be paid to Debtor in a lump sum, without recourse to Secured Party, or as a court of competent jurisdiction may direct.

(d) Secured Party has the right to enforce one or more remedies under this Agreement and under the Operating Agreement, successively or concurrently, and such action shall not operate to estop or prevent Secured Party from pursuing any further remedy which it may have, and any repossession or retaking or sale of the Collateral pursuant to the terms hereof shall not operate to release Debtor until full payment of any deficiency has been made in cash.

(e) DEBTOR ACKNOWLEDGES THAT SECURED PARTY MAY BE UNABLE TO EFFECT A PUBLIC SALE OF ALL OR ANY PART OF THE COLLATERAL AND MAY BE COMPELLED TO RESORT TO ONE OR MORE PRIVATE SALES TO A RESTRICTED GROUP OF PURCHASERS WHO WILL BE OBLIGATED TO AGREE, AMONG OTHER THINGS, TO ACQUIRE THE COLLATERAL FOR THEIR OWN ACCOUNT, FOR INVESTMENT AND NOT WITH A VIEW TO THE DISTRIBUTION OR RESALE THEREOF. DEBTOR FURTHER ACKNOWLEDGES THAT ANY SUCH PRIVATE SALES MAY BE AT PRICES AND ON TERMS LESS FAVORABLE THAN THOSE OF PUBLIC SALES, AND AGREES THAT SUCH PRIVATE SALES SHALL BE DEEMED TO HAVE BEEN MADE IN A COMMERCIALLY REASONABLE MANNER AND THAT SECURED PARTY HAS NO OBLIGATION TO DELAY SALE OF ANY COLLATERAL TO PERMIT THE ISSUER THEREOF TO REGISTER IT FOR PUBLIC SALE UNDER THE SECURITIES ACT OF 1933. DEBTOR AGREES THAT SECURED PARTY SHALL BE PERMITTED TO TAKE SUCH ACTIONS AS SECURED PARTY DEEMS REASONABLY NECESSARY IN DISPOSING OF THE COLLATERAL TO AVOID CONDUCTING A PUBLIC DISTRIBUTION OF SECURITIES IN VIOLATION OF THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE, AS NOW ENACTED OR AS THE SAME MAY IN THE FUTURE BE AMENDED, AND ACKNOWLEDGES THAT ANY SUCH ACTIONS SHALL BE COMMERCIALLY REASONABLE. IN ADDITION, DEBTOR AGREES TO EXECUTE, FROM TIME TO TIME, ANY AMENDMENT TO THIS AGREEMENT OR OTHER DOCUMENT AS SECURED PARTY MAY REASONABLY REQUIRE TO EVIDENCE THE ACKNOWLEDGMENTS AND CONSENTS OF DEBTOR SET FORTH IN THIS PARAGRAPH.

10. Right to Make Distributions. Except upon the occurrence and during the continuance of an Event of Default (without regard to any cure period), Debtor shall have the right without the consent of Secured Party to make distributions to its members (“Permitted Distributions”) of proceeds of any distributions and payments received by Debtor from the
Company or from any capital contributions of its members. Any such Permitted Distributions shall be free and clear of the lien created by this Agreement.

11. **Attorneys’ Fees.** Debtor agrees to pay to Secured Party, without demand, reasonable attorneys’ fees and all costs and other expenses which Secured Party expends or incurs in collecting any amounts payable by Debtor hereunder or in enforcing this Agreement against Debtor whether or not suit is filed.

12. **Further Documentation.** Debtor hereby agrees to execute, from time to time, one or more financing statements and such other instruments as may be required to perfect the security interest created hereby, including any continuation or amendments of such financing statements, and pay the cost of filing or recording the same in the public records specified by Secured Party.

13. **Waiver and Estoppel.** Debtor represents and acknowledges that it knowingly waives each and every one of the following rights, and agrees that it will be estopped from asserting any argument to the contrary: (a) any promptness in making any claim or demand hereunder; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of Debtor or the failure to file or enforce a claim against Debtor’s estate (in administration, bankruptcy or any other proceeding); (c) any defense based upon an election of remedies by Secured Party which destroys or otherwise impairs any or all of the Collateral; (d) the right of Debtor to proceed against Secured Party or any other person, for reimbursement; (e) all duty or obligation of Secured Party to perfect, protect, retain or enforce any security for the payment of amounts payable by Debtor hereunder; and (f) any defense based on modification of the indebtedness secured hereby.

14. **Waiver of Jury Trial.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

15. **No Continuing Waiver.** No delay or failure on the part of Secured Party in the exercise of any right or remedy against Debtor or any other party against whom Secured Party
may have any rights, shall operate as a waiver of any agreement or obligation contained herein, and no single or partial exercise by Secured Party of any rights or remedies hereunder shall preclude other or further exercise thereof or other exercise of any other right or remedy whether contained in this Agreement or in any of the other documents regarding the Obligations, including, without limitation, the Operating Agreement. No waiver of the rights of Secured Party hereunder or in connection herewith and no release of Debtor shall be effective unless in writing executed by Secured Party. No actions of Secured Party permitted under this Agreement shall in any way impair or affect the enforceability of any agreement or obligation contained herein.

16. Independent Obligations. The obligations of Debtor are independent of the obligations of any other party which may be initially or otherwise responsible for performance or payment of the Obligations, and a separate action or actions for payment, damages or performance may be brought and prosecuted by Secured Party against Debtor, individually, for the full amount of the Obligations then due and payable, whether or not an action is brought against any other party, whether or not Secured Party is involved in any proceedings and whether or not Secured Party or Debtor or other person is joined in any action or proceedings.

17. No Offset Rights of Debtor. No lawful act of commission or omission of any kind or at any time upon the part of Debtor shall in any way affect or impair the rights of Secured Party to enforce any right, power or benefit under this Agreement, and no set-off, recoupment, counterclaim, claim, reduction or diminution of any obligation or any defense of any kind or nature which Debtor has or may have against any Secured Party or against any other party shall be available against Secured Party in any suit or action brought by Secured Party to enforce any right, power or benefit under this Agreement.

18. Power of Attorney. Debtor hereby appoints Secured Party as its attorney-in-fact to execute and file on its behalf any financing statements, continuation statements or other documentation required to perfect or continue the security interest created hereby. This power, being coupled with an interest, shall be irrevocable until all amounts secured hereby have been paid, satisfied and discharged in full.

19. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO AGREE THAT IN THE EVENT OF DEFAULT, THIS AGREEMENT MAY BE ENFORCED IN ANY COURT OF COMPETENT JURISDICTION IN THE STATE OF TEXAS AND ANY STATE IN WHICH ALL OR ANY PART OF THE COLLATERAL IS LOCATED AND THEY DO HEREBY SUBMIT TO THE JURISDICTION OF ANY AND ALL SUCH COURTS REGARDLESS OF THEIR PRINCIPAL PLACE OF BUSINESS OR WHERE THIS AGREEMENT MAY BE EXECUTED.

20. Successors and Assigns. All agreements, covenants, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

21. Notices. Whenever any party hereto shall desire to, or be required to, give or serve any notice, demand, request or other communication with respect to this Agreement, each
such notice, demand, request or communication shall be in writing and shall be effective only if the same is delivered by personal service (including, without limitation, courier or express service) or mailed certified or registered mail, postage prepaid, return receipt requested, or sent by electronic mail to the parties at the addresses and email addresses shown throughout this Agreement or such other addresses which the parties may provide to one another in accordance herewith. If notice is sent to Secured Party, a copy of such notice shall also be given to Matthew W. Mullen, Esq., Nixon Peabody LLP, 799 9th Street NW, Suite 500, Washington, DC 20001-5327; Email: mmullen@nixonpeabody.com. Notices delivered personally will be effective upon delivery to an authorized representative of the party at the designated address; notices sent by mail in accordance with the above paragraph will be effective upon execution by the addressee of the Return Receipt Requested.

22. **Consent of Debtor.** Debtor consents to the exercise by Secured Party of any rights of Debtor in accordance with the provisions of this Agreement.

23. **Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

24. **Amendment.** This Agreement may be modified or rescinded only by a writing expressly relating to this Agreement and signed by all of the parties.

25. **Termination.** This Agreement shall terminate, and shall be of no further force or effect, upon the earlier to occur of the repayment in full of the Obligations of Debtor or upon the mutual consent of Debtor and Secured Party.

**(SIGNATURE APPEARS ON THE FOLLOWING PAGE)**
IN WITNESS WHEREOF, Debtor has executed this Pledge and Security Agreement as of the date first above written.

DEBTOR:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: [Signature]
Name: Megan D. Dasch
Title: Managing Member
EXHIBIT A
TO
PLEDGE AND SECURITY AGREEMENT
(ADMINISTRATIVE MEMBER)
CONSENT AND AGREEMENT OF MEMBERS
CONSENT TO SECURITY INTEREST AND AGREEMENT
OF MEMBERS OF
CANOVA PALMS, LLC, A TEXAS LIMITED LIABILITY COMPANY

The undersigned, being all the members of Canova Palms, LLC, a Texas limited liability company (the “Company”), hereby represent and certify to HCP-ILP, LLC, a Nevada limited liability company (“Secured Party”), as follows:

Each has received notice from Secured Party that Secured Party has a security interest in the following: 100% of the Limited Liability Company Interest in the Company owned by Saigebrook Canova, LLC, a Texas limited liability company and O-SDA Industries, LLC, a Texas limited liability company (“Debtor”), and registered to Debtor (the “Collateral”).

1. Other than the notice from Secured Party referred to above, the undersigned has not received any notice from any entity or person claiming an adverse claim against, lien on or security interest in the Collateral.

2. The security interest of Secured Party referred to above was duly registered in the books and records of the Company effective February 1, 2019.

3. Interests in the Company are not represented in any certificate, instrument or document, and such interest may be assigned, transferred or pledged without the party receiving such assignment, transfer or pledge taking physical possession of any certificate, instrument or document.

4. The Members hereby consent to the execution and delivery of the Pledge and Security Agreement by Debtor and agree hereby to be bound by Paragraph 4 thereof to assign, set over, transfer, distribute, pay and deliver the Collateral and any and all payments, proceeds or products due to Debtor under the Collateral to Secured Party.

5. The Members hereby consent to the admission of Secured Party, its nominee, designee or any person acquiring its interest under the Pledge and Security Agreement, as a managing member of the Company upon receipt of notice by Secured Party of an Event of Default by Debtor thereunder, and agree that Secured Party or such nominee, designee or person acquiring Secured Party’s interest thereunder shall not be deemed to have assumed any of Debtor’s liability by virtue of such admission as the managing member of the Company.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By:  Saigebrook Development, LLC,
a Florida limited liability company
Its:  Managing Member

By:
Name: Lisa M. Stephens
Title: Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By:  O-SDA Industries, LLC,
a Texas limited liability company
Its:  Sole Member

By:
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC.
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: _____________________________
Name: Lisa M. Stephens
Title: Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: _____________________________
Name: Megan D. Lasch
Title: Managing Member

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have executed this Consent to Security Interest and Agreement of Members of Canova Palms, LLC as of the date first above written.

INVESTOR MEMBER:

HCP-ILP, LLC,
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company
Its: Manager

By: ____________________________
Name: Jeffrey N. Weiss
Title: President

4826-0680-0520 Final

Signature Page to Consent to Managing Member Pledge
Canova Palms, LLC
EXHIBIT H
PLEDGE AND SECURITY AGREEMENT
(DEVELOPER)
PLEDGE AND SECURITY AGREEMENT

(Developer)

THIS PLEDGE AND SECURITY AGREEMENT (this “Agreement”) is made as of February 1, 2019, by SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Saigebrook”) and O-SDA Industries, LLC, a Texas limited liability company (“O-SDA” and together with Saigebrook, the “Debtor”), whose addresses are set forth below, for the benefit of the HCP-ILP, LLC, a Nevada limited liability company (the “Secured Party”), whose address is 15910 Ventura Boulevard, Suite 1100, Encino, California 91436, Attention: Jeffrey N. Weiss.

A. Saigebrook Canova, LLC, a Texas limited liability company (the “Co-Managing Member”), is the co-managing member, O-SDA Canova, LLC, a Texas limited liability company (the “Administrative Member”) is the administrative member and Secured Party is the investor member in Canova Palms, LLC, a Texas limited liability company (the “Company”), and the Company is governed by its First Amended and Restated Operating Agreement dated as of February 1, 2019 (the “Operating Agreement”). Capitalized terms not otherwise defined herein shall have the definitions given them in the Operating Agreement.

B. The Company and Debtor have entered into that certain Development Agreement (the “Development Agreement”) dated of even date herewith, wherein, among other things, the Company agrees to pay Debtor a Development Fee under the terms of the Development Agreement (the “Development Fee”).

C. In order to secure the full payment and performance by: (a) Debtor of all of Debtor’s obligations, duties, expenses and liabilities under or in connection with the Development Agreement as the Development Agreement may be now or hereafter amended, modified or restated; and (b) the Managing Member of all of the Managing Member’s obligations, duties, expenses and liabilities under or in connection with the Operating Agreement and the Managing Member Pledge, as the Operating Agreement and the Managing Member Pledge may be now or hereafter amended, modified or restated (such obligations, duties, expenses and liabilities set forth in clauses (a) and (b) hereof and all other sums of any kind which may or shall become due thereunder are collectively referred to herein as the “Obligations”), Debtor is entering into this Agreement for the benefit of Secured Party.

NOW, THEREFORE, in order to induce Secured Party to enter into the Operating Agreement with the Managing Member, and in consideration of the recitals, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions.

   (a) “Collateral” shall mean the following:

      (i) Any and all fees and charges to be paid by the Company to Debtor, whether paid or unpaid, whether now owned or hereafter acquired, and whether arising under the
Operating Agreement, the Development Agreement, or otherwise, including, without limitation, the Development Fee; and

(ii) All proceeds, whether cash proceeds or noncash proceeds, and products of any and all of the foregoing.

(b) “Event of Default” shall mean an event of default described in Paragraph 8 herein.

2. Pledge of Collateral and Grant of Security Interest. Debtor does hereby unconditionally and irrevocably assign, pledge, convey, transfer, deliver, set over and grant unto Secured Party, its successors and assigns, as security for Debtor’s, the Company’s and the Managing Member’s complete and timely payment and performance of the Obligations, a continuing first priority security interest under the Uniform Commercial Code of the State of Texas in the Collateral and Debtor agrees, upon request, to deliver any other documents which Secured Party may reasonably request from time-to-time to further evidence, perfect or secure the liens and security interests created by this Agreement. Debtor acknowledges that Secured Party shall prepare and file UCC Financing Statements suitable for filing in the appropriate jurisdictions with respect to the Collateral and consents to such filing.

3. Delivery to Secured Party. Debtor agrees to execute and to cause all other necessary parties, and any successors and assigns thereof, to execute and deliver to Secured Party such other agreements, instruments and documentation as Secured Party may reasonably request from time to time to effect the conveyance, transfer, and grant to Secured Party of each and all of Debtor’s right, title and interest in and to the Collateral as security for the Obligations.

4. Proceeds and Products of the Collateral.

(a) Unless and until there occurs an Event of Default, Secured Party agrees to forbear in exercising its right to receive all benefits pertaining to the Collateral, and Debtor shall be permitted to exercise all rights and to receive all benefits of the Collateral, including, without limitation, the right to exercise all voting, approval, consent and similar rights of Debtor pertaining to the Collateral, payments due under, proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral and retain and enjoy the same, provided, however, that Debtor shall not cast any vote or give any approval, consent, waiver or ratification or take any action which would be inconsistent with or violate any provision of this Agreement.

(b) Debtor acknowledges and agrees with Secured Party, that unless Secured Party otherwise consents, in Secured Party’s sole discretion, Debtor shall not exercise any voting, approval, consent or other rights with respect to the Collateral at any time (i) after the occurrence of an Event of Default, and (ii) delivery of notice from Secured Party instructing Debtor not to exercise any such voting, approval, consent or other rights with respect to the Collateral; provided, however, that Debtor shall exercise any such right it may have under the Development Agreement as is reasonably necessary to protect and preserve the Collateral.

(c) Upon or at any time after the occurrence of an Event of Default, Secured Party, at its option to be exercised in its sole discretion, may exercise all rights and remedies granted under this Agreement, including, without limitation, the right to require the obligors
under the Collateral to make all payments due under and to pay all proceeds, whether cash proceeds or noncash proceeds, and products of the Collateral to Secured Party. Upon the giving of any such notice, the security constituted by this Agreement shall become immediately enforceable by Secured Party, without any presentment, further demand, protest or other notice of any kind, all of which are hereby expressly and irrevocably waived by Debtor. Debtor hereby authorizes and directs each respective obligor under the agreements constituting the Collateral, that upon receipt of written notice from Secured Party of an Event of Default by Debtor hereunder, to assign, set over, transfer, distribute, pay and deliver any and all Collateral or said payments, proceeds or products of the Collateral to Secured Party, at such address as Secured Party may direct, at such time and in such manner as Collateral and such payments, proceeds and products of the Collateral would otherwise be distributed, transferred, paid or delivered to Debtor. The respective obligors under the agreements constituting the Collateral shall be entitled to conclusively rely on such notice and make all such assignments and transfers of the Collateral and all such payments with respect to the Collateral and pay all such proceeds and products of the Collateral to Secured Party and shall have no liability to Debtor for any loss or damage Debtor may incur by reason of said reliance.

5. **No Assumption.** Notwithstanding any of the foregoing, whether or not an Event of Default has occurred, and whether or not Secured Party elects to foreclose on its security interest in the Collateral as set forth herein, neither the execution of this Agreement, receipt by Secured Party of any of Debtor’s right, title and interest in and to the Collateral and the payments, proceeds and products of the Collateral, nor hereafter due to Debtor from any obligor of the Collateral, nor Secured Party’s foreclosure of its security interest in the Collateral, shall in any way be deemed to obligate Secured Party to assume any of Debtor’s obligations, duties, expenses or liabilities under the Collateral or any agreements constituting the Collateral, as presently existing or as hereafter amended, or under any and all other agreements now existing or hereafter drafted or executed (collectively, “Debtor’s Liabilities”), unless Secured Party otherwise agrees to assume any or all of Debtor’s Liabilities in writing. In the event of foreclosure by Secured Party of its security interest in the Collateral, Debtor shall remain bound and obligated to perform its Debtor’s Liabilities and Secured Party shall not be deemed to have assumed any of Debtor’s Liabilities, except as provided in the preceding sentence. If the entity or person acquiring the Collateral at a foreclosure sale elects to assume Debtor’s Liabilities, such assignee shall agree to be bound by the terms and provisions of the applicable agreement.

6. **Indemnification.** Debtor hereby agrees to indemnify, defend and hold Secured Party, its successors and assigns harmless from and against any and all damages, losses, claims, costs or expenses (including reasonable attorneys’ fees) and any other liabilities whatsoever that Secured Party or its successors or assigns may incur by reason of this Agreement or by reason of any assignment by Debtor of Debtor’s right, title and interest in and to any or all of the Collateral.

7. **Representations, Warranties and Covenants.** In addition to the representations, warranties and covenants made by the Debtor in the Development Agreement, the Debtor makes the following representations and warranties, which shall be deemed to be continuing representations and warranties in favor of Secured Party, and covenants and agrees to perform all acts necessary to maintain the truth and correctness, in all material respects, of the following
(provided that, each such representation, warranty, and covenant is made by Saigebrook and O-SDA only as to itself and not the other Debtor):

(a) Debtor owns the Collateral free and clear of any and all claims, liens or encumbrances.

(b) Debtor has delivered to Secured Party true and complete copies of the Development Agreement and any other agreements pertinent to the Collateral, and such agreements are currently in full force and effect and have not been amended or modified except as disclosed to Secured Party in writing.

(c) Debtor has the full right and title to its interest in the Collateral and has the full power, legal right and authority to pledge, convey, transfer and assign such interest. None of the Collateral is subject to any existing or subsequent assignment, claim, lien, pledge, transfer or other security interest of any character, or to any attachment, levy, garnishment or other judicial process or to any claim for set-off, counterclaim, deduction or discount. Debtor shall not, without the prior written consent of Secured Party, which consent may be granted or denied in Secured Party’s sole discretion, further convey, transfer, set over or pledge to any party any of its interests in the Collateral. Debtor agrees to (i) warrant and defend its title to the Collateral and the security interest created by this Agreement against all claims of all persons (other than Secured Party and persons claiming through Secured Party), and (ii) maintain and preserve the Collateral and such security interests.

(d) Saigebrook’s Employer Identification Number is 45-3062708, and its principal place of business is located at 412 W 3rd Street, Suite 1504, Austin, Texas 78701. O-SDA’s Employer Identification Number is 80-0641068, and its principal place of business is located at 5714 Sam Houston Circle, Austin, Texas 78731.

(e) Debtor agrees that it shall not, without at least thirty (30) days’ prior written notification to Secured Party, move or otherwise change its principal place of business or state of formation.

(f) Debtor shall not exercise any voting rights, or give any approvals, consents waiver or other ratifications in respect to the Collateral which would violate or contravene, or which would cause or otherwise authorize Debtor to violate or contravene, any provision of this Agreement.

(g) This Agreement and consummation of the transactions contemplated herein are not in conflict with and will not result in a breach of any of the terms, provisions or conditions of any other agreement or instrument to which Debtor may be bound, including, without limitation, the organizational documents for Debtor, or of any order, judgment, law, rule or regulation of any court or governmental body or administrative agency applicable to Debtor.

8. Event of Default. Each of the following shall constitute an Event of Default hereunder:
(a) An event of default has occurred under the Development Agreement or the Operating Agreement, and such default shall not have been cured within any applicable grace period provided therein; or

(b) Any warranty, representation or statement of Debtor in this Agreement proves to have been false in any material respect when made or furnished; or

(c) There occurs the issuance of a writ, order of attachment or garnishment with respect to any of the Collateral and such writ, order of attachment or garnishment is not dismissed and removed within fifteen (15) days thereafter; or

(d) A material breach or violation of any covenant or agreement contained herein has occurred, which is not cured within ten (10) days after notice has been given to Debtor by Secured Party.

9. Remedies.

(a) Upon the occurrence of an Event of Default, Secured Party may, by giving notice of such Event of Default, at its option, do any one or more of the following:

(i) Declare all of the Obligations secured hereby to be immediately due and payable, whereupon all unpaid principal and interest on said Obligations and other amounts declared due and payable shall become immediately due and payable without presentment, demand, protest or notice of any kind; and

(ii) Take possession of all or any of the Collateral, collect, and apply against the Obligations, all payments due, proceeds, whether cash proceeds or noncash proceeds, and products from any obligor under the agreements constituting the Collateral, that would otherwise be paid to Debtor; and

(iii) Either personally, or by means of a court appointed receiver, take possession of all or any of the Collateral and exclude therefrom Debtor and all others claiming under Debtor, and thereafter exercise all rights and powers of Debtor with respect to the Collateral or any part thereof. If Secured Party demands, or attempts to take possession of any of the Collateral in the exercise of any rights under this Agreement, Debtor promises and agrees to promptly turn over and deliver complete possession thereof to the Secured Party; and

(iv) Without notice to or demand upon Debtor, make such payments and do such acts as Secured Party may deem necessary to protect its security interest in the Collateral, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith; and

(v) Require Debtor to take all actions necessary to deliver such Collateral to Secured Party, or an agent or representative designated by it. Secured Party, and its agents and representatives, shall have the right to enter upon any or all of Debtor’s premises and property to exercise the Secured Party’s rights hereunder; and
(vi) Foreclose upon this Agreement as herein provided or in any manner permitted by law, and exercise any and all of the rights and remedies conferred upon Secured Party by the Development Agreement or the Operating Agreement, or in any other document executed by Debtor in connection with the Obligations secured hereby, either concurrently or in such order as Secured Party may determine; and sell or cause to be sold in such order as Secured Party may determine, as a whole or in such parcels as Secured Party may determine, the Collateral, without affecting in any way the rights or remedies to which Secured Party may be entitled under the other such instruments; and

(vii) Sell or otherwise dispose of the Collateral at public sale, without having the Collateral at the place of sale, and upon terms and in such manner as Secured Party may determine. Any Secured Party may be a purchaser at any sale; and

(viii) Exercise any remedies of Secured Party under the Uniform Commercial Code of the State of Florida, Uniform Commercial Code of the State of Texas or any other applicable law; and

(ix) The rights granted to Secured Party under this Agreement are of a special, unique, unusual and extraordinary character. The loss of any of such rights cannot reasonably or adequately be compensated by way of damages in any action at law, and any material breach by Debtor of any of Debtor’s covenants, agreements or obligations under this Agreement will cause Secured Party irreparable injury and damage. In the event of any such breach, Secured Party shall be entitled, as a matter of right, to injunctive relief or other equitable relief in any court of competent jurisdiction to prevent the violation or contravention of any of the provisions of this Agreement or to compel compliance with the terms of this Agreement by Debtor. Secured Party is absolutely and irrevocably authorized and empowered by Debtor to demand specific performance of each of the covenants and agreements of Debtor in this Agreement. Debtor hereby irrevocably waives any defense based on the adequacy of any remedy at law which might otherwise be asserted by Debtor as a bar to the remedy of specific performance in any action brought by Secured Party against Debtor to enforce any of the covenants or agreements of Debtor in this Agreement.

(b) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party shall give Debtor at least ten (10) days’ prior written notice of the time and place of any public sale of the Collateral subject to this Agreement or other intended disposition thereof to be made. Such notice shall be conclusively deemed to have been delivered to Debtor at the address set forth in Paragraph 7(d) of this Agreement, unless Debtor shall Notify Secured Party in writing of its change of its principal place of business and provide Secured Party with the address of its new principal place of business.

(c) The proceeds of any sale under Paragraph 9(a) above shall be applied as follows:

(x) To the repayment of the costs and expenses of retaking, holding and preparing for the sale and the selling of the Collateral (including actual legal expenses and attorneys’ fees) and the discharge of all assessments, encumbrances, charges or liens, if any, on
the Collateral prior to the lien hereof (except any taxes, assessments, encumbrances, charges or liens subject to which such sale has been made);

(x) To the payment of the whole amount then due and unpaid of the Obligations;

(xi) To the payment of all other amounts then secured hereby; and

(xiii) The aggregate surplus, if any, shall be paid to Debtor in a lump sum, without recourse to Secured Party, or as a court of competent jurisdiction may direct.

(d) Secured Party has the right to enforce one or more remedies hereunder and/or under the Development Agreement, successively or concurrently, and such action shall not operate to estop or prevent Secured Party from pursuing any further remedy which it may have, and any repossession or retaking or sale of the Collateral pursuant to the terms hereof shall not operate to release Debtor until full payment of any deficiency has been made in cash.

(e) DEBTOR ACKNOWLEDGES THAT SECURED PARTY MAY BE UNABLE TO EFFECT A PUBLIC SALE OF ALL OR ANY PART OF THE COLLATERAL AND MAY BE COMPELLED TO RESORT TO ONE OR MORE PRIVATE SALES TO A RESTRICTED GROUP OF PURCHASERS WHO WILL BE OBLIGATED TO AGREE, AMONG OTHER THINGS, TO ACQUIRE THE COLLATERAL FOR THEIR OWN ACCOUNT, FOR INVESTMENT AND NOT WITH A VIEW TO THE DISTRIBUTION OR RESALE THEREOF. DEBTOR FURTHER ACKNOWLEDGES THAT ANY SUCH PRIVATE SALES MAY BE AT PRICES AND ON TERMS LESS FAVORABLE THAN THOSE OF PUBLIC SALES, AND AGREES THAT SUCH PRIVATE SALES SHALL BE DEEMED TO HAVE BEEN MADE IN A COMMERCIALMELY REASONABLE MANNER AND THAT SECURED PARTY HAS NO OBLIGATION TO DELAY SALE OF ANY COLLATERAL TO PERMIT THE ISSUER THEREOF TO REGISTER IT FOR PUBLIC SALE UNDER THE SECURITIES ACT OF 1933. DEBTOR AGREES THAT SECURED PARTY SHALL BE PERMITTED TO TAKE SUCH ACTIONS AS SECURED PARTY DEEMS REASONABLY NECESSARY IN DISPOSING OF THE COLLATERAL TO AVOID CONDUCTING A PUBLIC DISTRIBUTION OF SECURITIES IN VIOLATION OF THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE, AS NOW ENACTED OR AS THE SAME MAY IN THE FUTURE BE AMENDED, AND ACKNOWLEDGES THAT ANY SUCH ACTIONS SHALL BE COMMERCIALMELY REASONABLE. IN ADDITION, DEBTOR AGREES TO EXECUTE, FROM TIME TO TIME, ANY AMENDMENT TO THIS AGREEMENT OR OTHER DOCUMENT AS SECURED PARTY MAY REASONABLY REQUIRE TO EVIDENCE THE ACKNOWLEDGMENTS AND CONSENTS OF DEBTOR SET FORTH IN THIS PARAGRAPH.

10. Attorneys’ Fees. Debtor agrees to pay to Secured Party, without demand, reasonable attorneys’ fees and all costs and other expenses which Secured Party expends or incurs in collecting any amounts payable by Debtor hereunder or in enforcing this Agreement against Debtor, whether or not suit is filed.
11. **Further Documentation.** Debtor hereby agrees to execute, from time to time, one or more financing statements and such other instruments as may be required to perfect the security interest created hereby, including any continuation or amendments of such financing statements, and pay the cost of filing or recording the same in the public records specified by Secured Party.

12. **Waiver and Estoppel.** Debtor represents and acknowledges that it knowingly waives each and every one of the following rights, and agrees that it will be estopped from asserting any argument to the contrary: (a) any promptness in making any claim or demand hereunder; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of Debtor or the failure to file or enforce a claim against Debtor’s estate (in administration, bankruptcy or any other proceeding); (c) any defense based upon an election of remedies by Secured Party which destroys or otherwise impairs any or all of the Collateral; (d) the right of Debtor to proceed against Secured Party or any other person, for reimbursement; (e) all duty or obligation of Secured Party to perfect, protect, retain or enforce any security for the payment of amounts payable by Debtor hereunder; and (f) any defense based on modification of the indebtedness secured hereby.

13. **Waiver of Jury Trial.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE AMENDMENT HEREOF, OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

14. **No Continuing Waiver.** No delay or failure on the part of Secured Party in the exercise of any right or remedy against Debtor or any other party against whom Secured Party may have any rights, shall operate as a waiver of any agreement or obligation contained herein, and no single or partial exercise by Secured Party of any rights or remedies hereunder shall preclude other or further exercise thereof or other exercise of any other right or remedy whether contained in this Agreement or in any of the other documents regarding the Obligations, including, without limitation, the Development Agreement and the Operating Agreement. No waiver of the rights of Secured Party hereunder or in connection herewith and no release of Debtor shall be effective unless in writing executed by Secured Party. No actions of Secured
Party permitted under this Agreement shall in any way impair or affect the enforceability of any agreement or obligation contained herein.

15. **Independent Obligations.** The obligations of Debtor are independent of the obligations of any other party which may be initially or otherwise responsible for performance or payment of the Obligations, and a separate action or actions for payment, damages or performance may be brought and prosecuted by Secured Party against Debtor, individually, for the full amount of the Obligations then due and payable, whether or not an action is brought against any other party, whether or not Secured Party is involved in any proceedings and whether or not Secured Party or Debtor or other person is joined in any action or proceedings.

16. **No Offset Rights of Debtor.** No lawful act of commission or omission of any kind or at any time upon the part of Debtor shall in any way affect or impair the rights of Secured Party to enforce any right, power or benefit under this Agreement, and no set-off, recoupment, counterclaim, claim, reduction or diminution of any obligation or any defense of any kind or nature which Debtor has or may have against Secured Party or against any other party shall be available against Secured Party in any suit or action brought by Secured Party to enforce any right, power or benefit under this Agreement.

17. **Power of Attorney.** Debtor hereby appoints Secured Party as its attorney-in-fact to execute and file on its behalf any financing statements, continuation statements or other documentation required to perfect or continue the security interest created hereby. This power, being coupled with an interest, shall be irrevocable until all amounts secured hereby have been paid, satisfied and discharged in full.

18. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO AGREE THAT IN THE EVENT OF DEFAULT, THIS AGREEMENT MAY BE ENFORCED IN ANY COURT OF COMPETENT JURISDICTION IN THE STATE OF TEXAS, AND ANY STATE IN WHICH ALL OR ANY PART OF THE COLLATERAL IS LOCATED AND THEY DO HEREBY SUBMIT TO THE JURISDICTION OF ANY AND ALL SUCH COURTS REGARDLESS OF THEIR PRINCIPAL PLACE OF BUSINESS OR WHERE THIS AGREEMENT MAY BE EXECUTED.

19. **Successors and Assigns.** All agreements, covenants, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

20. **Notices.** Whenever any party hereto shall desire to, or be required to, give or serve any notice, demand, request or other communication with respect to this Agreement, each such notice, demand, request or communication shall be in writing and shall be effective only if the same is delivered by personal service (including, without limitation, courier or express service) or mailed certified or registered mail, postage prepaid, return receipt requested, or sent by electronic mail to the parties at the addresses and email addresses shown throughout this Agreement or such other addresses which the parties may provide to one another in accordance herewith. If notice is sent to Secured Party, a copy of such notice shall also be given to to Matthew W. Mullen, Esq., Nixon Peabody LLP, 799 9th Street NW, Suite 500, Washington, DC
21. **Consent of Debtor.** Debtor consents to the exercise by Secured Party of any rights of Debtor in accordance with the provisions of this Agreement.

22. **Severability.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

23. **Amendment.** This Agreement may be modified or rescinded only by a writing expressly relating to this Agreement and signed by all of the parties.

24. **Termination.** This Agreement shall terminate, and shall be of no further force or effect, upon the earlier to occur of the repayment in full of the Obligations of Debtor or upon the mutual consent of Debtor and Secured Party.

25. **Expenses.** Debtor shall pay all reasonable out-of-pocket fees and charges incurred by Secured Party in connection with this Agreement and the documents entered into in connection therewith, including, without limitation, reasonable attorneys’ fees incurred by Secured Party.

**(SIGNATURE APPEARS ON THE FOLLOWING PAGE)**
IN WITNESS WHEREOF, Debtor has executed this Pledge and Security Agreement as of the date first above written.

DEBTOR:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: __________________________
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: __________________________
Name: Megan D. Lasch
Title: Managing Member
IN WITNESS WHEREOF, Debtor has executed this Pledge and Security Agreement as of the date first above written.

DEBTOR:

SAIGEBROOK DEVELOPMENT, LLC,
a Florida limited liability company

By: ____________________________
Name: Lisa M. Stephens
Title: Manager

O-SDA INDUSTRIES, LLC,
a Texas limited liability company

By: ____________________________
Name: Megan D. Lasch
Title: Managing Member
EXHIBIT I

MANAGEMENT AGREEMENT

[To be attached at the full funding of the First Installment.]
[SCHEDULE III TO EXHIBIT I]
MANAGEMENT AGREEMENT

MANAGEMENT PLAN

[To be attached at the full funding of the First Installment.]
SCHEDULE [___] TO EXHIBIT I
MANAGEMENT AGREEMENT

FORM OF LEASE DOCUMENTS

[To be attached at the full funding of the First Installment.]
Apartment Lease Contract

This is a binding contract. Read carefully before signing.

Date of Lease Contract

Moving in—General Information

1. Parties. This Lease Contract ("Lease") is between you, the resident(s) (list all people signing the Lease): 

and us, the owner: La Ventana Apartments

(name of apartment community or title holder). You are renting Apartment No.,

(street address):  

(city, state, zip code):  79931

2. Occupants. The apartment will be occupied only by you and (list all other occupants not signing the Lease):  

3. Lease Term. The initial term of the Lease begins on the day of , (month), (year), and ends at midnight the day of , (month), (year). After this, the Lease will automatically renew month-to-month unless either party gives at least 60 days written notice of termination or intention to move out as required by Par. 36. The number of days in a month is 30 days.

4. Security Deposit. The total security deposit for all residents is $ (check one): $ or $ does not include an animal deposit. Any animal deposit will be designated in an animal addendum. Security deposit refund and any deduction terminations will be by (check one): one check jointly payable to all tenants and mailed to any one resident is chosen, or one check payable to and mailed to (specific name of one resident). If neither option is checked here, the second applies. Any resident, occupant, or spouse who, according to a remaining resident's affidavit, has permanently moved out or is under court order not to enter the apartment, is at (our option) no longer entitled to occupancy, keys, or other access devices.

5. Keys, Move-Out, and Furniture. You'll be given (check one): 2 apartment keys, mailbox key(s), and other access devices

Before moving out, you must give our representative advance written move-out notice as stated in Par. 36. The move-out date in your notice (check one): must be the last day of the month, or (check one): must be the exact day designated in your notice if neither option is checked here, the second applies. If you fail to do so, a late fee will be charged to your security deposit.

6. Rent and Charges. You will pay $ per month for rent in advance and without demand (check one): at the onsite manager's office, through our online payment site

Pronounced rent of $ is due on the (check one): last day of each month or (check one): 1st month's rent on the (check one): 1st month

You must pay your rent on or before the 1st day of each month (due date). There is no grace period. Cash is not acceptable without prior written permission. You cannot withhold or offset rent unless authorized by law. We may, at our option, require at any time that you pay rent and other sums in cash, certified or cashier's check, money order, or one-month check rather than multiple checks. If you don't pay all rent on or before the day of the month, you'll pay an initial late charge of $, plus a daily late charge of $ per day after that date until the amount due is paid in full. Daily late charges cannot exceed 15 days for any single month's rent. We won't impose late charges until at least the third day of the month. You'll also pay a charge of $ for each returned check or returned electronic payment, plus initial and daily late charges, until we receive acceptable payment. If you don't pay rent on time, you'll be in default and subject to all remedies under state law and this Lease. If you violate the animal restrictions of Par. 27 or other animal rules, you'll pay an initial charge of $ per animal (not to exceed $100 per animal) and a daily charge of $ per animal (not to exceed $10 per day) from the date the animal was brought into your apartment until it is removed. We'll have all other remedies for such violations.

7. Utilities and Services. We'll pay for the following items, if checked: gas, water, sewer, electricity, trash/recycling, cable/satellite, master antenna, internet, stormwater drainage, other

You'll pay for all other utilities and services, related deposits, and any charges or fees on such utilities and services during your Lease term. See Par. 11 for other related provisions regarding utilities and services.

8. Insurance. Our insurance doesn't cover the loss of or damage to your personal property. You are required to buy and maintain renter's or liability insurance (check one): or (check one): not to buy renter's or liability insurance. If neither option is checked, insurance is not required but is strongly recommended. Even if not required, we urge you to get your own insurance for losses due to theft, fire, water, pipe leaks, and similar occurrences. Renter's Insurance does not cover losses due to a flood. Information on renter's insurance is available from the Texas Department of Insurance.

9. Special Provisions. The following or attached special provisions and any addenda or written rules furnished to you at or before any time will become a part of this Lease and will supersed any conflicting provisions of this printed Lease form.

10. Unlawful Early Move-Out and Reletting Charge. 10.1 Responsibility. You'll be responsible for a reletting charge of $ (not to exceed 50% of the highest monthly rent during the Lease term) if you fail to move in, or fail to give written move-out notice as required in Par. 36. 10.2 Move-out without paying rent in full for the entire lease term or renewal period. 10.3 Move-out at your demand because of your default; or (B) are judicially evicted. The reletting charge is not a cancellation fee and does not release you from your obligations under this Lease. See the next section.

Initial of the Representative: ____________________________

泰州 Apartment Association

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10.2 Not a Release. The reletting charge is neither a lease cancellation nor a buy-out fee. It is a liquidated amount covering only part of our damages—for our time, effort, and expenses in finding and procuring a replacement resident. These damages are uncertain and hard to ascertain—particularly those relating to inconvenience, paperwork, scheduling, showing apartments, utilities, for showing, checking prospects, overhead, marketing costs, and broker-service fees. You agree that the reletting charge is a reasonable estimate of our damages and that the charge is due whether or not our reletting attempts succeed. If no amount is stipulated, you must pay our actual reletting costs as far as they can be determined. The reletting charge doesn't release you from continued liability for future or past due rent, charges for cleaning, repairing, repainting, or dealing with unreturned keys or other sums due.


11.1 What We Provide. Texas Property Code secs. 92.132, 92.133, and 92.134 require, with some exceptions, that we provide at no cost to you when occupancy begins: (A) a window lock on each window; (B) a doorstop (peephole) on each exterior door; (C) a pin lock on each sliding door; (D) either a door-handles latch or a security bar on each sliding door; (E) a keyless bolt locking device (deadbolt) on each exterior door; and (F) either a keyed deadbolt lock or a keyed deadbolt lock on one entry door. Keyless locks will be rekeyed after the prior resident moves out. The rekeying will be done either before you move in or within 7 days after you move in, as required by law. If we fail to install or rekey security devices as required by law, you have the right to do so and deduct the reasonable cost from your next rent payment under Texas Property Code, sec. 92.136. You may deactivate or not install keyless bolt locking devices on your doors if (A) you are an occupant in the dwelling is over 55 or disabled, and (B) the requirements of Texas Property Code sec. 92.136(c) or (f) are satisfied.

11.2 Who Pays What. We’ll pay for missing security devices that are required by law. You’ll Pay for: (A) rekeying or replacing locks after the prior resident moved out; and (B) repairs or replacements because of misuse or damage by you or your family, your occupants, your guests, or your subtenants. You must pay immediately after the work is done unless state law authorizes advance payment. You must also pay in advance for any additional or changed security devices you request.

12. Other Utilities and Services. Television channels that are provided may be changed during the Lease term if the change applies to all residents. You may use utilities only for normal household purposes and must not waste them. If your electricity is interrupted, you must use only battery-operated lighting (no flames). You must not allow any utilities (other than cable or Internet) to be cut off or switched off for any reason—including disconnection for not paying your bills—until the Lease term or renewal period ends. If a utility is submetered or prorated by an allocation formula, we’ll attach an addendum to this Lease in compliance with state-agency rules. If a utility is individuality metered, it must be connected in your name and you must notify the provider of your move-out date so the meter can be read. If you delay getting it turned off in your name by the tenant’s last date or cause it to be transferred back into our name before you surrender the apartment, you’ll be liable for a $50.00 charge (not to exceed $50 per violation), plus the actual or estimated cost of the utilities used while the utility should have been connected in your name. If you’re in an area open to competition and your apartment is individually metered, you may choose or change your service provider at any time. If you qualify, your provider will be the same as ours, unless you choose a different provider. If you choose or change your provider, you must give us written notice. You must pay all applicable provider fees, including any fees to change service back from our name after you move out.

Special Provisions and "What If" Clauses


13.1 Damage in the Apartment Community. You must promptly pay or reimburse us for loss, damage, consequential damages, government fines or charges, or cost of repairs in the apartment community because of a Lease or rules violation, improper use negligence, other conduct by you, your invitees, your occupants, or your guests; or any other cause not due to our negligence or fault as allowed by law, except for damages by act of God to the extent they couldn’t be mitigated by your action or inaction.

13.2 Indemnification by You. You’ll defend, indemnify and hold us harmless from all liability that arises from your conduct or that of your invitees, your occupants, your guests, or any representatives who at your request perform services not contemplated in this Lease.

13.3 Damage and Wastewater Stoppage. Unless damage or wastewater stoppage is due to your negligence, we’re not liable for—and you must pay for—repairs, replacements, and damage of the following kind if occurring during the Lease term or renewal period: (A) damage to doors, windows, or screens; (B) damage from water or sewage stoppage caused by improper objects in lines exclusive of yours; and (C) damage from wastewater stoppage caused by improper objects in lines exclusive of yours apartment.

13.4 No Waiver. We may require payment at any time, including advance payment to repair damage that you are liable for. Delay in demanding sums you owe is not a waiver.


14.1 Lien Against Your Property for Rent. All property in the apartment (unless exempt under Texas Property Code sec. 92.138) is subject to a contractual lien to secure payment of delinquent rent (except as prohibited by Texas Government Code sec. 2256.7239, for owners supported by housing tax-credit allocations). For this purpose, “apartment” excludes common areas but includes the interior living areas, and exterior shutters, balconies, garages, and any storerooms for your exclusive use.

14.2 Removal After We Exercise Lien for Rent. If your rent is delinquent, our representative may peacefully enter the apartment, and remove and store all property subject to lien. All property in the apartment is presumed to be yours unless otherwise proved. After the property is removed, we’ll write a notice of entry and leave a copy in your proper place in the apartment—including a list of items removed, the amount of delinquent rent due, and the person, address, and telephone number of the person to contact. The notice must also state that the property will be promptly relocated where the delinquent rent is fully paid.

14.3 Removal After Surrender, Abandonment, or Eviction. We, or officers, may remove or store all property remaining in the apartment or in common areas (including any vehicles you or any occupant or guest owns or uses if you’re judicially evicted or if you surrender or abandon the apartment). See definitions in Par. 4(i).

14.4 Storage.

(A) No duty. We’ll store property removed under a contractual lien. We may— but we have no duty to—store property removed after judicial eviction, surrender, or abandonment of the apartment.

(B) No liability. We’re not liable for casualty loss, damage, or theft caused by property removed under a contractual lien.

(C) Charges you pay. You must pay reasonable charges for our packing, removing, storing, and selling of property.

(D) Our lien. We have a lien on all property removed and stored after surrender, abandonment, or judicial eviction for all sums you owe, with one exception: our lien on property listed under Texas Property Code sec. 92.137(c) is limited to charges for packing, removing, and storing.

14.5 Redemption.

(A) Property on which we have a lien. If we seize and store property under a contractual lien for rent as authorized by law, you may redeem the property by paying all delinquent rent due at the time of seizure. Before a 30-day notice under Par. 14.6(c) is given, before you seek redemption, you must redeem only by paying the delinquent rent plus our reasonable charges for packing, removing, and storing.

(B) Property removed after surrender, abandonment, or judicial eviction. If we’re removed and stored property after surrender, abandonment, or judicial eviction, you may redeem only by paying all sums you owe, including rent, late charges, reletting charges, storage charges, damages, etc.

(C) Place and payment for return. We may return redeemed property at the place of storage, the management office, or the apartment (at our option). We may require payment by cash, money order, or certified check.

14.6 Disposition or Sale.

(A) Our options. Except for vehicles and property removed after the death of a sole resident, we may throw away or give to a charitable organization all personal property that is
(I) left in the apartment after surrender or abandonment; or
(II) left outside more than 1 hour after work of possession is executed, following judicial eviction.

(B) Animals. An animal removed after surrender, abandonment, or eviction may be killed and turned over to a local authority, humane society, or similar organization.

(C) Sale or property. Property not thrown away or given to charity may be disposed of by sale, which must be held no sooner than 30 days after written notice of the date, time, and place of sale is sent by both regular mail and certified mail (return receipt requested) to your last known address. The notice must itemize the amounts you owe and provide the name, address, and phone number of the person to contact about the sale, the amount owed, and your right to redeem the property. The sale may be public or private and is subject to any third-party ownership or lien claims. The property is subject to the highest cash bidder; and may be in bulk, in batches, or by item-by-item. If the proceeds from the sale are more than you owe, the excess amount must be mailed to you at your last known address within 30 days after sale:

15. Failing to Pay First Month's Rent. If you don't pay the first month's rent, we may evict you immediately without warning. After the initial lease term ends, all future rent for the lease term will be automatically calculated without notice and become due immediately. We also may end your right of occupancy and receive damages, interest on rent, relocation fees, attorney's fees, court costs, and other lawful charges. Our rights, remedies, and duties under Par. 10 and 32 apply to acceleration under this paragraph.

16. Rent Increases and Lease Changes. No rent increases or lease changes are allowed for the current lease term, except for those allowed by special provisions in Par. 9, by written agreement signed by you and us, or by reasonable changes of apartment rules allowed under Par. 19, or for changes that become effective when the lease term or renewal period ends, or automatically continue month-to-month with the increased rent or lease changes. The new modified lease will begin on the date stated in the notice (without needing your signature) unless you give us written move-out notice under Par. 36. The written move-out notice under Par. 36 applies only to the end of the current lease or renewal period.

17. Delay of Occupancy.

17.1 Lease Remains in Force. We are not responsible for any delay of your occupancy caused by construction, repairs, clearing, or a previous tenant's occupying the apartment until the lease is in force and you're subject to:
(A) abatement of rent on a daily basis during delay.
(B) your right to terminate the lease in writing as set forth below:

17.2 Your Termination Rights. Termination notice must be in writing. After termination, you are entitled only to refund of any deposits and any rent you paid. Termination or lease termination does not apply if you are cleaning or repairs that don't prevent you from moving into the apartment.

17.3 Notice of Delay. If there is a delay of your occupancy and we have not given you notice of delay as set forth immediately below, you may terminate this Lease up to the date when the apartment is ready for occupancy, but not later:
(a) if you give written notice to any of your occupants within 7 days after receiving written notice, the apartment is ready for occupancy, and you terminate the lease and move in, you terminate the lease within 30 days after receiving written notice.
(b) if we give you any written notice before the date the lease begins and the notice states that a construction delay is expected and that the apartment will be ready for you to occupy on a specific date, you may terminate the lease within 30 days after receiving written notice, but not later. The readiness date stated in the written notice becomes the new effective lease date for all purposes. This new date can't be moved to an earlier date unless we and you agree in writing.

18. Disclosure of Information. If someone requests information about you or your rental history for law enforcement, government, or business purposes, we may provide it. At our request, any utility provider may give us information about pending or actual connections or disconnections of utility service to your apartment.

While You’re Living in the Apartment


19.1 Generally. Our rules are considered part of this Lease. You, your occupants, and your guests must comply with all written apartment rules and community policies, including instructions for care of our property. We may require:
(A) the use of patios, balconies, and garages; (B) the conduct of furniture movers and delivery persons; and (C) activities in common areas that may make reasonable changes to written rules, and those rules can become effective immediately if the rules are distributed and applicable to all units in the apartment community and do not change the dollar amount on pages 1 or 2 of this Lease.

19.2 Some Specifics. Your apartment and other areas reserved for your use must be kept clean. Trash must be disposed of at least weekly in appropriate receptacles in accordance with local ordinances. Parking areas may be used for a fee for entry or exit. Any swimming pools, saunas, spas, tennis courts, exercise rooms, storage areas, laundry rooms, and similar areas must be used in accordance with apartment rules and posted signs.

19.3 Limitations on Conduct. Glass containers are prohibited in or near pools and all other common areas. Within the apartment community, you, your occupants, and your guests must not use candles or kerosene lamps or heaters without our prior written approval. You, your occupants, and your guests must not solicit business or contributions. Conducting any kind of business (including child care services) in your apartment or in the apartment community is prohibited—except that any lawful business conducted “at home” by computer, mail, or telephone is prohibited if customers, clients, patients, or other business associates do not come to your apartment for business purposes.

19.4 Exclusion of Persons. We may exclude from the apartment community any guests or others who, in our judgment, have violated our rules, or disturbing other residents, neighbors, visitors, or owner representatives. We may also exclude from any outside area or common area anyone who refuses to show photo identification or refuses to identify himself or herself as a resident, an occupant, or a guest of a specific resident in the community.

19.5 Notice of Convictions and Registration. You must notify us within 15 days of any charge to your credit card or of any conviction of any felony, or of any misdemeanor involving a controlled substance, violence against another person, or destruction of property. You must also notify us within 15 days if you or any of your occupants registers as a sex offender. Informing us of a criminal conviction or sex-offender registration doesn’t waive any rights we may have against you.

20. Prohibited Conduct. You, your occupants, and your guests may not engage in the following activities:
(a) criminal conduct; manufacturing, delivering, or possessing a controlled substance or drug paraphernalia; engaging in or threatening violence; possessing a weapon prohibited by state law;一类 activity in the apartment community; displaying or possessing a gun, knife, or other weapon in the common area in a way that may alarm others; (b) behaving in a loud or obnoxious manner; (c) disturbing or threatening the rights, comfort, health, safety, or convenience of others (including our agents and employees) or in the apartment community; (d) disrupting our business operations; (e) storing anything in closets containing gas appliances; (f) tampering with utilities or telecommunications; (g) bringing hazardous materials into the apartment community; (h) using windows for entry or exit; (i) heating the apartment with a gas-operated cooking stove or oven; or (j) injuring our reputation by making bad faith allegations against us to others.

21. Parking. We may regulate the time, manner, and location of parking in the garage, driveway, or on the premises.

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22. Release of Resident.

22.1 Generally, You may have the right under Texas law to terminate the Lease early in certain situations involving family violence, certain sexual offenses, or stalking. Otherwise, unless you’re entitled to terminate this Lease under Par. 8, 17, 23, 31, or 36, you won’t be released from this Lease for any reason—including voluntary or involuntary school withdrawal or transfer, voluntary or involuntary job transfer, marriage, separation, divorce, reconciliation, loss of consents, loss of employment, bad health, property purchase, or death.

22.2 Death of Sole Resident. If you are the sole resident and die during the Lease term, an authorized representative of your estate may terminate the Lease without penalty by giving at least 30 days’ written notice. Your estate will be liable for paying rent until the latter of (A) the termination date or (B) removal of all persons from the apartment. Your estate will also be liable for all changes and damages until the apartment is vacated, and any removal or storage costs.


23.1 Termination Rights. You may have the right under Texas law to terminate the Lease if you are in the military, on active duty, or are commissioned in the U.S. Armed Forces. You also may terminate the Lease if (a) you are (i) a member of the U.S. Armed Forces or Reserves on active duty, or (ii) a member of the National Guard called to active duty for more than 30 days in response to a national emergency declared by the President; or (b) you (i) receive orders for a permanent change of station, or (ii) receive notice to deploy with a military unit as an individual in support of a military operation for 90 days or more, or (iii) are released or reassigned from active duty.

23.2 How to Terminate Under This Par. 23. You must furnish a copy of your military orders, such as permanent-change-of-station orders, call-up orders, or deployment orders (or letter equivalent). Military permission for base housing doesn’t constitute a permanent-change-of-station order. You must deliver to in your written termination notice, after which the Lease will be terminated under this military clause, 30 days after the date your new rental payment is due. After your move-out, we’ll return your security deposit, less lawful deductions.

23.3 Who May Be Released. For the purposes of this Lease, orders described in (a) under Par. 23.1 above will release only the residents who qualify under both (a) and (b) above and receive the orders during the Lease term, plus that resident’s spouse or legal dependents living in the resident’s household. A dependent who is not the spouse or dependent of a military resident cannot terminate under this military clause.

24. Your Representations. Unless you state otherwise in Par. 8, you represent when signing this Lease that (a) you do not already have deployment or change-of-station orders.

25. Condition of the Premises and Alterations.

25.1 As-Is. We disclaim all implied warranties. You accept the apartment, furniture, and furnishings as is, except for conditions materially affecting the health or safety of ordinary persons. You’ll be given an Inventory & Condition form on or before move-in. Within 30 days after move-in, if you note on the form any defects or damage, sign the form, and return it to us. Otherwise, everything will be considered to be in a clean, safe, and good working condition.
25.3 Standards and Improvements. You must use customary diligence in maintaining the apartment and not damaging or littering the common areas. Unless authorized by law or by us in writing, you must not do any repairs, painting, wallpapering, carpeting, electrical changes, or otherwise alter our property. No holes or stickers are allowed inside or outside the apartment. Unless not required by state or local law, we will permit a reasonable number of small nail holes for hanging pictures on sheetrock walls and grooves of wood-paneled walls. No water furniture, washing machines, extra phone or television outlets, alarm systems, or lock changes, additions, or remodeling is permitted unless allowed by law or we’ve consented in writing. You may install a satellite dish or antenna lease addendum, which complies with reasonable restrictions allowed by federal law. You must notify, damage, or remove our property, including alarm systems, detection devices, furnaces, telephones and television wiring, screens, locks, and security devices. When you move in, we’ll supply light bulbs for fixtures we furnish, including exterior fixtures operated inside the apartment after that, you’ll replace them at your expense with bulbs of the same type and wattage. Your improvements to the apartment (made with or without our consent) become our unless we agree otherwise in writing.

25.4 Fair Housing. We are committed to the principles of fair housing. In accordance with fair-housing laws, we make reasonable accommodations to our rules, policies, practices, or services. We’ll allow reasonable modifications or exceptions allowed by these laws to give disabled persons access to and use of this apartment community. We may require you to sign an addendum regarding the implementation of any accommodations or modifications, as well as your notice of your request or application, if any.

26. Requests, Repairs, and Malfunctions.

26.1 Written Requests Required. If you or any occupant needs to send a notice or request—for example, for repairs, installations, services, ownership disclosure, or security-related issues—it must be written, signed, and delivered to our designated representative (in accordance with the terms of your lease). We may forward any notice or request that we receive to the responsible party, if we feel it necessary. You must only send written requests, to your representative immediately.

26.2 Required Notifications. You must promptly notify us in writing of water leaks, mold, electrical problems, malfunctioning lights, broken or missing locks or latches, and other conditions that pose a hazard to property, health, or safety.

26.3 Utilities. We may charge or install utility lines or equipment serving the apartment if the work is done reasonably without substantially increasing your utility costs. We may turn off equipment and interrupt utilities so needed to avoid property damage or to perform work. Utilities malfunction or are damaged by fire, water, or similar cause, you must notify our representative immediately.

26.4 Air-Conditioning and Other Equipment. Air-conditioning problems are normally not emergencies. If an air-conditioning or other equipment malfunctions, you must notify us as soon as possible on a business day. We will act with customary diligence to make repairs and reconstructions, taking into consideration when casualty-insurance proceeds are received. Your rent will not be abated in whole or in part.

26.5 Our Right to Terminate. If we believe that fire or catastrophe damage is substantial, or that performance of needed repairs poses a danger to you, we may terminate this Lease by giving you at least 30 days’ written notice of termination. If we are demolishing your apartment or closing it and it will no longer be used for residential purposes for at least 120 days. If the lease is terminated, we will refund prepaid rent and all deposits, less lawful deductions. We may also remove personal property if it causes a health or safety hazard.

27. Animals.

27.1 No Animals Without Consent. No animals (including mammals, reptiles, birds, fish, rodents, amphibians, arachnids, and insects) are allowed, even temporarily, anywhere in the apartment or apartment community unless we’ve given written permission. If we allow an animal, you must sign a separate animal addendum and, except as set forth in the addendum, pay an animal deposit. An animal deposit is considered a general security deposit.

The animal addendum includes information governing animals, including service or assistance animals. We authorize an assistant or support animal for a disabled person without requiring an animal deposit. We may require verification of your disability and the need for such an animal. You must not feed stray or wild animals.

27.2 Violations of Animal Policies. (A) Charges for violations. If you or any guest or occupant violates animal restrictions (with or without our consent), you’ll be subject to changes, damages, evictions, and other remedies provided in this lease, if an animal in your home or in the apartment at any time during your term of occupancy (with or without our consent), we’ll charge you for all cleaning and repair costs, including decontamination, deodorizing, and shampooing, initial and daily animal-violation charges and animal-removal charges are liquidated damages for our time, inconvenience, and overhead (unless you have a lease or leasehold interest in the property at the time of animal restrictions and rules).

(B) Removal and return of animal. We may remove an unauthorized animal by (1) leaving, in a conspicuous place in the apartment, a written notice of our intent to remove the animal within 24 hours; and (2) following the procedures of Sub. 28. We may keep or kennel the animal, or turn it over to a humane society, local authority or rescue organization. When keeping or kenneling an animal, we won’t be liable for loss, harm, or death to the animal unless we knew or should have known such harm or death was likely to occur. You must pay for the animal’s reasonable care and kenneling charges. We’ll return the animal to you upon request. If it has not already been turned over to a humane society, local authority or rescue organization.

We have no lien on the animal for any purpose.

28. When We May Enter. If you or any guest or occupant is present on the premises, our representatives, contractors, law officers, government representatives, lenders, appraisers, prospective residents or buyers, insurance agents, persons whom you authorize under your rental application, or our representatives may peaceably enter the apartment at reasonable times for reasonable business purposes. If nobody is in the apartment, then any person may enter peacefully and at reasonable times by duplicate key or master key or by breaking a window or other means when necessary for reasonable business purposes if written notice of the entry is left in a conspicuous place in the apartment immediately after the entry.

29. Multiple Residents. Each resident is jointly and severally liable for all Lease obligations. If you or any guest or occupant violates the Lease or rules, all residents are considered to have violated the Lease. Our notices and notices (including, if applicable) to any resident constitute notice to all residents and occupants. Notices and requests from any resident or occupant constitute notice from all residents. Your notice of lease termination may be given by only one resident. In eviction suits, each resident is considered the agent of all other residents in the apartment for service of process. Any resident who defaults under this Lease will indemnify the nondefaulting residents and their guarantors.

30. Replacements.

30.1 When Allowed. A replacement resident must meet the requirements of the lease.iv If a replacement resident finds a replacement resident acceptable to us before moving out and we expressly consent to the replacement, the new resident, assignment, then:
(a) the departing resident will not be liable to the landlord (b) the landlord will not be liable to the landlord (c) the departing and remaining residents will remain liable to the landlord (d) the departing and remaining residents will remain liable to the landlord (e) the departing and remaining residents will remain liable to the landlord.

30.2 Procedures for Replacement. If we approve a replacement resident, then, at our option: (A) the replacement resident must sign this Lease with or without an increase in the total security deposit or (B) the replacement resident must sign an entirely new Lease. Unless we agree otherwise in writing, the departing resident’s security deposit will automatically transfer to the replacement resident as of the date we approve the departing resident. The departing resident will no longer have a right to the security deposit refund, but will remain liable for the remainder of the original Lease term unless we are otherwise in writing—even if a new Lease is signed.
31. Our Responsibilities.

31.1 Generally. We act with customary diligence to:
(a) keep common areas reasonably clean, subject to 
(Fa. 26);
(b) maintain features, hot water, heating, and air-condi-
tioning equipment;
(c) substantially comply with all applicable laws regarding safety, sanitation, and fair housing; and
(d) make all reasonable repairs, subject to your obligation to pay for damages for which you are liable.

31.2 Your Rights. If any of the above, you may possibly terminate this Lease and exercise other remedies under Texas Property Code Sec. 92.051 by following this procedure:
(a) all rent must be current, and you must make a written request for a repair or remedy, after which we’ll have a reasonable time to repair or remedy.
(b) if we fail to do so, you must make a second written re-
quest for the repair or remedy, to make sure that there has been no miscommunication between us—after which we’ll have a reasonable time to repair or remedy.
(c) if the repair or remedy still hasn’t been accomplished within that reasonable time period, you may immedi-
ately terminate this Lease by giving us a final written notice.
You also may exercise other statutory remedies, includ-
ing those under Texas Property Code Sec. 92.051.

31.3 Request by Mail. Instead of giving the two written re-
quests referred to above, you may give us one request by certi-
ified mail, return receipt requested, or by registered mail—after which we’ll have a reasonable time to repair or remedy.

32. Default by Resident.

32.1 Acts of Default. You’ll be in default if:
(A) you do not pay rent or other amounts you owe;
(B) you or any guest or occupant violates this Lease, apartment rules, or fire, safe-
ty, health, or criminal laws, regardless of whether there is notice or conviction occurs;
(C) you abandon the apartment;
(D) you give incorrect or false answers in a rental application;
(E) if any occupant is arrested, charged, detained, convicted, or given deferred adjudication or pre-
trial diversion for prohibiting offenses involving actual or poten-
tial physical harm to a person, or involving possession, 
manufacture, or delivery of a controlled substance, mari-
juana, or drug paraphernalia, as defined in the Texas Con-
trolled Substances Act, or (F) any sex-related crime, includ-
ing a misdemeanor; or
(G) if you are found to have any illegal drugs or paraphernalia in your apartment, or
(H) you or any occupant, in bad faith, makes an invalid habitability com-
plaint to an official or employee of a utility company or the government.

32.2 Evictions. If you default or fail over, we may end your right of occupancy by giving you at least 24-hour written notice to vacate. Notice may be given by:
(A) regular mail;
(B) certified mail, return receipt required; or
(C) personal delivery.

32.3 Acceleration. Unless we elect not to accelerate rent, all monthly rent due on the first rental term renewal pe-
riod will be accelerated automatically without notice or demand, however, or after acceleration, and will be immedi-
ately due and delinquent if not without written consent:
(A) you move out;
(B) you have not paid all rent due under the lease term or renewal period;
(C) you are in default; or
(D) you are in default after a second written notice of default.

33. Other Important Provisions.

33.1 Representations’ Authority: Waivers; Notice. Our re-
presentations (including management personnel, em-
ployees, and agents) have no authority to waive, amend, or 
terminate this Lease or any part of it unless in writing, and 
no authority to make promises or representations, or 
enter into agreements that impose security duties or other obli-
gations on us or our representatives, unless in writing.

3.2 Miscellaneous. All remedies are cumulative. Exercising one remedy won’t constitute an election or waiver of other

defaults for which we need not give notice. Remaining 
rent will also be accelerated if you’re judicially evicted or
move out when we demand because you’ve defaulted.

Your Initials: ____________  Initials of Our Representative: ____________
remedies. All provisions regarding our non-liability or non-duty apply to our employees, agents, and management companies. No employee, agent, or management company is personally liable for any of our contractual, statutory, or other obligations merely by virtue of acting on our behalf. This Lease binds subsequent owners. This Lease is subordinate to existing and future recorded mortgages, unless the owner's lender chooses otherwise. All Lease obligations must be performed in the county where the apartment is located. Neither an invalid clause nor the omission of initials on any page invalidates this Lease if you have insurance covering the apartment or your personal belongings at the time you or we suffer or allege a loss, and we agree to waive any insurance subrogation rights. All notices and documents may be in English and, at our option, in any other language that you read or speak. The term “including” in this Lease should be interpreted to mean “including but not limited to.”

34. Payments. Payment of each sum due hereunder is an independent covenant. When we receive money, other than those proceeds under Par. 14 or utility payments subject to government regulations, we may apply it at our option and without notice first to any of your unpaid obligations, then to current rent. We may do so regardless of notifications on checks or money orders or at intervals of less than the obligations arose. All sums other than rent are due under our option. After the due date, we do not accept any payments.

35. TAA Membership. We represent that, at the time of signing this Lease, we, the management company representing us, or any locator service that procured you, is a member of a good standing of both the Texas Apartment Association and the affiliated local apartment association for the area where the apartment is located. The member is either an owner-management company or an associate member doing business as a locator service, whose name and address must be disclosed on page 9. First, the following applies: (A) This Lease is voidable at your option to the extent it is unreasonable by us (except for property damages); and (B) you may not recover past or future rent or other charges. The above-referenced apply if both of the following occur: (1) If you request or have moved out, this apartment is opened in a month-to-month basis more than once in the entire membership in TAA and the local association. (2) You are a member of the management company is a member of the TAA and the local association during the third automatic renewal. A signed affidavit from the affiliated local apartment association attesting to nonmembership will also waive the requirement for a written notice. Governmental entities may use TAA forms if it occurs in writing.

36.1 Requirements and Compliance. Your move-out notice doesn’t release you from liability for the full term of the Lease or renewal term. You’ll be liable for the entire Lease term if you move out early except under Par. 9.7, 12, 23, or 31. Your move-out notice must comply with each of the following:
   (a) We must receive advance written notice of your move-out date, prior to surrender of the property by at least the number of days required in Par. 1 and it is in a form similar to the following notice. We did not receive a notice from you. If you give a notice on the first day of the month you intend to move out, it will suffice for move-out on the last day of that month, as long as all other requirements below are met.
   (b) Your move-out notice must be in writing. An oral move-out notice will not be accepted and will not terminate your Lease.
   (c) Your move-out notice must not terminate the Lease sooner than the end of the month the notice is received; and
   (d) If we require you to give us more than 30 days’ written notice to move out before the end of the Lease term, we will give you 1 written reminder not less than 5 days or more than 15 days before your deadline for giving us your written move-out notice. You fail to give a reminder notice, your written move-out notice is rejected.

36.2 Unacceptable Notice. Your notice is not acceptable if it doesn’t comply with all of the above. We recommend that you use our written move-out form to ensure that you provide all the information needed. You must get from us written acknowledgement of your notice, if you fail to give a reminder notice. 30 days’ written notice to move out is required. If we terminate the Lease, we must give you the same notice advance notice—unless you are in default.

37. Move-Out Procedures. The move-out date cannot be changed unless we are both in agreement. You won’t move out before the Lease term or renewal period ends unless all rent for the entire Lease term or renewal period is fully paid in full. If you fail to move out, you’ll be liable for reasonable cleaning charges—including charges for cleaning carpets, draperies, furniture, walls, etc. that are sold below normal wear (theft, wear or selling that occur without negligence, carelessness, accident, or abuse).

38. Cleaning. You must thoroughly clean the apartment, including doors, windows, furniture, bathrooms, kitchen appliances, patios, balconies, garages, parking spaces, and storage rooms. You must follow move-out cleaning instructions if they are provided. If you don’t clean adequately you’ll be liable for reasonable cleaning charges—including charges for cleaning carpets, draperies, furniture, walls, etc. that are sold below normal wear (theft, wear or selling that occur without negligence, carelessness, accident, or abuse).

39. Move-Out Inspection. You should meet with our representative for a move-out inspection. Our representative has the authority to enter and list any deductions for repairs, damages, or charges. Any statements or estimates by us or our representative are subject to our correction, modification, or disapproval before final accounting or refunding.

40. Security Deposit Deductions and Other Charges. You’ll be liable for the following charges, if applicable: unpaid rent; unpaid utilities; un-reimbursed service charges; repairs or damages caused by negligence, carelessness, accident, or abuse, including stickers, scratches, tears, burns, stains, or unapproved holes; replacement cost of our property that was in or attached to the apartment and is missing; replacing dead or missing alarm or detection devices at any time; utilities for repairs or cleaning; trips to the company representative to remove your telephones, Internet, television service, or cable TV service (if you requested or have moved out, if you open the apartment when you or your guest or occupant is missing a key; unreturned keys; missing or burned-out light bulbs; ripple or releasing unauthorized security devices or alarm systems; aged or defective alarms or detectors, false security alarm charges unless due to our negligence; animal-related charges under Par. 6 and 32; government fees or fines against you, possession (by you, your occupants, or your guests) of local ordinances relating to alarms and detectors, false alarms, recycling, or other matters. Rent payment and returned charge checks a charge not to exceed $200 for our time and inconvenience in our lawful removal of a human or any valid reason presented against you plus attorney’s fees, court costs, and King’s actual paid and other sums due under this Lease. You’ll be liable for the following:
   (A) Charges for replacing keys and access devices referenced in Par. 5. If you don’t return them all on or before your actual move-out date.
   (B) Accelerated rent if you’ve violated Par. 32 and (C) a reletting fee if you’ve violated Par. 31.

41. Deposit Return, Surrender, and Abandonment.

41.1 Your Deposit. We’ll apply your security deposit refund (less lawful deductions) and an itemized accounting of any deductions, no later than 30 days after you surrender or abandon the apartment, unless laws provide otherwise.

41.2 Surrender. You have surrendered the apartment at the time you receive an official notice from us that the move-out date has passed and no one is living in the apartment in our reasonable judgment; or (B) the apartment keys and access devices listed in Par. 5 have been returned to us in accordance with Par. 5, unless the move-out notice is rejected.

41.3 Abandonment. You have abandoned the apartment when all of the following are true: (A) everyone appears to have moved out in our reasonable judgment; (B) clothes, furniture, and personal belongings have been substantially removed in our reasonable judgment; (C) you’ve been in default for more than 10 days’ notice, or if you’ve moved out without notice, you’re not the current tenant; and (D) you’re not responsible for 30 days after our notice left on the inside of the main door stating that we consider the apartment abandoned. An apartment is also considered abandoned 30 days after the death of a sole resident.

41.4 The Ending of Your Rights. Surrender, abandonment, or judicial eviction ends your right to the property for all purposes and gives us the right to enter and clean up, make repairs, and evict the apartment. Determine any security deposit deductions, and remove property left in the apartment. Surrender, abandonment, and judicial eviction affect your rights to property left in the apartment (Par. 14), but don’t affect our mitigation obligations (Par. 12).

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SUMMARY OF KEY INFORMATION

The lease will control if there's a conflict with this summary.

- Address:
- Beginning date of Lease (Par. 3)
- Number of days notice to terminate (Par. 3)
- Total security deposit (Par. 4)
- Total monthly rent (Par. 6)
- Late charges if not paid on or before (Par. 6)
- Initial late charge (Par. 6)
- Monthly animal rent (if any)
- Monthly pest control (if any)
- Utilities paid by owner (Par. 7)
- Utility connection charge (Par. 10)
- Agreed reletting charge (Par. 10)
- Special provisions (Par. 9)

Signatures and Attachments

42. Attachments. We will provide you with a copy of the Lease as required by statute. This may be in paper format, in an electronic format if you request it, or by e-mail if we have communicated by e-mail about this Lease. Our rules and community policies, if any, will be attached to the lease and given to you at signing. When an Inventory and Condition Form is completed, both you and we should retain a copy. The items checked below are attached to and become a part of this lease and are binding even if not initialed or signed.

- Access Gate Addendum
- Additional Special Provisions
- Allocation Addendum: (electricity, water, gas, central system costs)
- Animal Addendum
- Apartment Rules or Community Policies
- Arborescent Addendum (if asbestos is present)
- Bed Bug Addendum
- Early Termination Addendum
- Enclosed Garage/Carport or Storage Unit Addendum
- Interior Alarm Addendum
- Inventory & Condition Form
- Lead Hazard Information and Disclosure Addendum
- Lease Contract Guaranty (guarantee, if more than one)
- Legal Description of Apartment (optional, if rental term longer than one year)
- Military IGCA Addendum
- Mold Information and Prevention Addendum
- Move Out Cleaning Instructions
- Notice of Intent to Move Out From Premises
- Parking Permit or Sticker (quantity)
- Rent Collection Addendum
- Renters' or Liability Insurance Addendum
- Repair or Service Request Form
- Satellite Dish or Antenna Addendum
- Security Guidelines Addendum

- PET: Tenant Guide to Water Allocation
- SUB: Submetering Addendum: (electricity, water, gas)
- Other
- Other
- Other

Name, address and telephone number of locator service if applicable must be completed to verify TAA membership under Par. 35:

- After-hours phone number

You are legally bound by this document. Please read it carefully. A facsimile or electronic signature on this Lease is as binding as an original signature. Before submitting a rental application or signing a Lease, you may take a copy of these documents to review and consult with an attorney. Additional provisions or changes may be made in the Lease if agreed to in writing by all parties. You are entitled to receive a copy of this Lease after it is fully signed. Keep it in a safe place.

This lease is the entire agreement between you and us. You are NOT relying on any oral representations.

Resident or Residents (as signed below)

(Name of Resident)

Date signed

Name of Resident

Date signed

Name of Resident

Date signed

Name of Resident

Date signed

Name of Resident

Date signed

Owner or Owner's Representative (signing on behalf of owner)

Address and telephone number of owner's representative for notice purposes

(Always call 911 for police, fire, or medical emergencies)

Date form is filled out (same as on top of page 3)

4826-0680-0520.3 I-22
Lease Contract Addendum for Units Participating in Government Regulated Affordable Housing Programs

Date of Lease: ________________________

1. Addendum. This is an addendum to the Lease Contract (“Lease”) executed by you, the resident(s), on the dwelling you have agreed to rent. That dwelling is:

Apartment/Building: ________________________

(name of apartments)
or other dwelling located at ________________________

(street address of house, duplex, etc.)

City/State where dwelling is located ________________________

2. Participation in Government Program. We, as the owner of the dwelling you are renting, are participating in a government-regulated affordable housing program. This program requires both you and us to verify certain information and to agree to certain provisions contained in this addendum.

3. Accurate Information in Application. By signing this addendum, you are certifying that the information provided in the Rental Application or any Supplemental Rental Application regarding your household annual income is true and accurate.

4. Request(s) for Information. By signing this addendum, you agree that the annual income and other eligibility requirements for participation in this government-regulated affordable housing program are substantial and material obligations under the Lease. Within seven days after our request, you agree to comply with our requests for information regarding annual income and eligibility, including requests by the owner and the appropriate government monitoring agency. These requests to you may be made to you now and any time during the Lease term or renewal period.

5. Failure to Answer or Inaccurate Information May Be Good Cause Grounds for Eviction. If you refuse to answer or do not provide accurate information in response to the requests in Par. 4 above, it may be considered a substantial violation of the Lease and good cause grounds for terminating and/or not renewing the Lease and for an eviction. It makes no difference whether the inaccuracy of the information you furnished was intentional or unintentional.

6. Termination or Non-Renewal of Lease for Housing Tax Credit (HTC) and HOME Program Units. Provisions in Par. 6.6.3 of this Addendum shall apply only to residents living in a dwelling covered by either the HTC program or the HOME program. Par. 6.6.3 of this Addendum also overrides any contrary provisions contained in Par. 32 and Par. 36 of the Lease. We will not evict a resident solely on the basis that the resident is or has been a victim of domestic violence, dating violence, sexual assault or stalking.

6.1 Housing Tax Credit Program. For rental properties participating in the HTC program, IRS Revenue Bulletin 2004-82 provides that a property owner may not evict a resident or terminate a tenancy except for good cause. In addition, for HTC units, we must provide the notice required under Par. 32.2 of the Lease, if evicting during the lease term, or Par. 3 of the Lease, if terminating your residency at the end of an initial or renewal term.

6.2 HOME Program. For rental properties participating in the HOME program, federal regulation 24 CFR 92.253 provides that a property owner may not evict a resident or refuse to renew a Lease except for good cause. In addition, for HOME program units, the property owner must provide a resident with at least 30 days written notice before either seeking an eviction or not renewing a Lease. The written notice must specify the grounds for eviction or nonrenewal of the Lease.

6.3 Good Cause. If challenged by a resident, a court may determine if a property owner has good cause to evict, terminate a tenancy or not renew the Lease. “Good cause” may include, but is not limited to, non-payment of rent, failure to answer or provide accurate information, as required by Par. 4 and 5 of this Addendum, serious or repeated Lease violations, or breaking the law.

7. No Lien or Lockout for Unpaid Sums. For rental properties that are supported by HTC allocations, sec. 2506.6738, Texas Government Code, prohibits such property owners from threatening or conducting a lockout or lien unless allowed by judicial process; necessary to perform repairs or construction work; or responding to an emergency. Personal property of a resident may not be seized or threatened to be seized except by judicial process unless the premises has been abandoned as required by 24 CFR 92.253. This paragraph overrides any contrary provisions contained in Par. 14 or Par. 32 of the Lease.

8. Student Status. By signing this addendum, you agree to notify the owner, in writing, if there are any changes in the student status of any residents (including replacement residents) occupying the dwelling.

9. Conflict with Governing Law. To the extent that any part of your Lease or this addendum conflicts with applicable federal, state, or local laws or regulations, the law or regulation overrides that portion of your Lease or this addendum.

Resident or Residents (all sign below)

<table>
<thead>
<tr>
<th>Name of Resident</th>
<th>Date signed</th>
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</tbody>
</table>

Owner or Owner’s Representative (Sign below)

<table>
<thead>
<tr>
<th>Name of Owner</th>
<th>Date signed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

You are entitled to receive a copy of this Addendum after it is fully signed. Keep it in a safe place.

STI Official/Statewide Form 15-V, Revised January, 2015
Copyright 2015, Texas Apartment Association, Inc.

4826-0680-0520.3
I-23
SCHEDULE [___] TO EXHIBIT I
MANAGEMENT AGREEMENT

REPORTING REQUIREMENTS

The Operations Manager shall prepare and provide in a form approved by the Owner:

a) **Lease-up Monitoring.** Beginning with the Occupancy Commencement Date and ending on the date on which Initial 100% Occupancy occurs, a weekly report:
   
   i) A summarized discussion of activities for the reporting period
   
   ii) Marketing activities to generate interest
   
   iii) Traffic Summary/Traffic stop reports
   
   iv) Vacancy Report and Rent Rolls

b) **Compliance.** On or before the tenth (10th) day of each month beginning with the initial leasing period:
   
   i) A low income housing credit monitoring form, an occupancy/rental report in the form approved by the Investor Member, provided monthly one month in arrears, within ten (10) days of the end of the month being reported

   ii) copies of all initial tenant leases and associated application information, including third party verification information and copy of the audit, for leases entered into or renewed during the preceding month, and as requested copies of all leases other than initial leases and any related back-up documentation.

c) **Monthly Reporting.** Within twenty (20) days after the end of each month, beginning with the initial leasing period of the Apartment Complex, a report containing:
   
   i) A summarized discussion of Apartment Complex operations and activities for the reporting period.

   ii) Financial Statements (unaudited) in Month to Date and Year to Date format:

   (1) Balance Sheet

   (2) Income Statement

   (3) Cash flow statement
(4) Trial Balance in Excel format or equivalent form approved by the Owner

(5) Statements for the reserve account

(6) Complete Detailed General Ledger for the reporting period

(7) Mortgage Statements

iii) A LIHTC Monthly Housing Credit Form

iv) A Rent Roll/Occupancy Report

v) A certification of the Company Manager that Apartment Complex and its tenants are in compliance with all applicable federal, state and local requirements and regulations

vi) All other information, which would be pertinent to the Owner regarding the Apartment Complex activities during the reporting period.

d) **First Year Operations.** Operations Manager shall prepare and provide to Owner a first year (1st) operating budget at least forty-five (45) days prior to the start of occupancy.

e) **Annual Reporting Requirement.**

i) By October 15, of each year an annual pro-forma operating budget or the company for the next year, which budget shall have been prepared by Management Agent.

ii) Capital improvement plan

iii) All other information, which would be pertinent to the Owner regarding the Apartment Complex activities.

Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Operating Agreement.
EXHIBIT J

FORM OF REQUEST FOR PAYMENT
REQUEST FOR PAYMENT

REQUEST NO. __________

DATE: ________________

DRAW #: Amount: $

1. Pursuant to that certain Amended and Restated Operating Agreement dated as of February 1, 2019 and any modifications thereof (the “Agreement”) of Canova Palms, LLC, a Texas limited liability company (the “Company”), between Saigebrook Canova, LLC, a Texas limited liability company (the “Co-Managing Member”), O-SDA Canova, LLC, a Texas limited liability company (the “Administrative Member”), and HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”), the Company hereby requests a Draw of proceeds of [the Loans/Capital Contributions]. The Investor Member has appointed Hunt Capital Partners, LLC, a Delaware limited liability company (“Hunt”), as its agent for reviewing and approving Draw requests.

2. The Company has furnished to Hunt a waiver of liens to date, in form and content approved by Hunt, from the Contractor, and each of the subcontractors who were paid by the Company with the proceeds from all preceding advances, upon request of Hunt.

3. The Managing Member covenants and agrees herewith that:

   (a) Each of the Managing Member and the Company has complied with all duties and obligations required to date to be carried out and performed pursuant to the terms of the Agreement and each Project Document.

   (b) All representations and warranties made in the Agreement are true and correct in all material respects as of the date of this certification (other than representations and warranties made as to a specific date).

   (c) No default or Event of Default has occurred and is continuing under the Agreement or any Project Document.

   (d) The Apartment Complex has not been damaged by fire or other casualty or, in such event, to the extent permitted under the terms and provisions of the Agreement and the Project Documents, the Apartment Complex shall have been fully repaired and restored, or be in the process of being fully repaired and restored, to the state of completion achieved immediately before the casualty.

   (e) All funds previously disbursed have been used solely for the purposes as set forth in the Agreement and the Project Documents.

   (f) All construction prior to the date of this request has been accomplished substantially in accordance with the approved Plans and Specifications.
(g) All sums advanced by Hunt on account of this Draw will be used solely for the purpose of reimbursing the Company for amounts paid by the Company as shown on the documentation provided or as otherwise provided for in the Agreement or Project Documents.

(h) There are no liens outstanding against the Premises or its equipment except as permitted under the Agreement.

(i) The amount of undisbursed funds is sufficient to pay the cost of completing the project in accordance with the approved Plans and Specifications.

4. The terms used herein have the same meaning and definitions as those set forth in the Agreement.

5. The Company certifies that the statements made in this certification and any documents submitted herewith and identified herein are true and has duly caused this certification to be signed on its behalf by the undersigned authorized agent to request disbursements.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS whereof, this Request for Payment is dated as of the date set forth above.

SAIGEBROOK CANOVA, LLC, a Texas limited liability company

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: ______________________________
Name: Lisa M. Stephens
Its: Manager
EXHIBIT L

RESERVED
EXHIBIT M

FORM OF ASSIGNMENT AND ASSUMPTION AND AMENDMENT
ASSIGNMENT AND ASSUMPTION OF LIMITED LIABILITY COMPANY INTERESTS
AND
AMENDMENT TO FIRST AMENDED AND RESTATE OPERATING AGREEMENT
OF
CANOVA PALMS, LLC

This Assignment and Assumption of Limited Liability Company Interests and Amendment to First Amended and Restated Operating Agreement of Canova Palms, LLC (the “Assignment and Assumption Agreement”), dated as of [__________] (the “Assignment Date”), is entered into by and among HCP-ILP, LLC, a Nevada limited liability company (the “Assignor”); Canova Palms, LLC, a Texas limited liability company (the “Company”); Saigebrook Canova, LLC, a Texas limited liability company and O-SDA Canova, LLC, a Texas limited liability company in their capacity as the managing members of the Company (collectively, the “Managing Member”); Hunt Capital Partners Tax Credit Fund _______, LP, a Delaware limited partnership (the “Assignee”); and the Managing Member, in its role as guarantor, Saigebrook Development, LLC, a Florida limited liability company (“Saigebrook Development”), O-SDA Industries, LLC, a Texas limited liability company (“O-SDA Developer”), Lisa M. Stephens, individually and Megan D. Lasch, individually, (jointly and severally Managing Member, Saigebrook Development, O-SDA Developer, Lisa M. Stephens and Megan D. Lasch are individually and collectively referred to herein as the “Guarantors”). The Assignor and Assignee are sometimes referred to together as the “Assigning Parties”; all other parties are sometimes referred to collectively as the “Non-Assigning Parties”.

WHEREAS, the Assignor acquired a Limited Liability Company Interest in the Company (the “ILP Interest”) pursuant to a First Amended and Restated Operating Agreement of the Company dated as of February 1, 2019 (the “Agreement”);

WHEREAS, Section 11.1 of the Agreement permits Assignors to make an assignment of the ILP Interest to Assignee;

WHEREAS, Section 11.2 of the Agreement authorizes the substitution of the Assignee as a Substitute Investor Member;

WHEREAS, the Assignor wishes to assign the ILP Interest to the Assignee, as of the Assignment Date, and the Assignee wishes to accept such assignment of the ILP Interest for the consideration and upon the terms and conditions hereinafter set forth;

WHEREAS, the Assignee is willing to undertake all of the remaining obligations of Assignor under the Agreement (the “Obligations”); and

WHEREAS, the Guarantors entered into that certain Guaranty Agreement dated as of February 1, 2019 (the “Guaranty”) in which they agreed to guarantee certain obligations of the Managing Member under the Agreement;

WHEREAS, the Non-Assigning Parties desire to acknowledge such undertaking of the respective Obligations by the Assignees and to release the Assignors from the Obligations;
NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration hereinafter described, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Capitalized terms used but not defined herein shall have the respective meanings attributed thereto in the Agreement.

2. The Assignor hereby assigns to the Assignee and the Assignee hereby accepts from the Assignor, one hundred percent (100%) of the Assignor’s right, title and interest in and to the ILP Interest. The ILP Interest consists of the Assignor’s entire right to allocations of profits, gain, income or losses and tax credits and all items entering into the computation thereof, and to distributions of cash, however denominated, under the Agreement.

3. In consideration of the assignment effected hereby, the Assignee hereby assumes and agrees to discharge all of the Obligations. In addition, the Assignee shall promptly reimburse the Assignor for all Capital Contributions heretofore made by the Assignor to the Company and for such other expenditures heretofore incurred by the Assignor relating to its acquisition of the ILP Interest as the Assignor and the Assignee shall mutually determine.

4. The Non-Assigning Parties hereby (i) acknowledge the assignment of the ILP Interest and assumption by Assignee of the Obligations pursuant to this Assignment and Assumption Agreement and (ii) release Assignor from all of its respective Obligations. Accordingly, from and after the Assignment Date, the Assignee shall be responsible for all of the Obligations of the Assignor under the Agreement.

5. By its execution hereof, Assignee hereby agrees to become a Substitute Investor Member of the Company and, subject to the foregoing provisions of this Assignment and Assumption Agreement, agrees to be bound (to the same extent as Assignor was bound) by the Project Documents to which the Assignor was a party and by the provisions of the Agreement as they relate to the Assignor or the ILP Interest.

6. Assignee is hereby admitted to the Company as a Substitute Investor Member for all purposes of the Agreement.

7. The Assignor represents, warrants and covenants to the Assignee that (i) the Assignor is the sole owner of the ILP Interest, free and clear of all undisclosed liens, encumbrances, security interests or claims of third parties of any kind or description; (ii) the Assignor has the power and authority to effect the assignment of the ILP Interest as provided herein and such assignment does not violate any law or constitute a default under any agreement to which the Assignor is a party or by which the Assignor is bound; (iii) this Assignment and Assumption Agreement is sufficient in all respects to assign to the Assignee the ILP Interest and (iv) the Assignor will take no action inconsistent with or in derogation of the assignment of the ILP Interest effected hereunder.

8. The Assignee represents, warrants and covenants to the Assignor that the Assignee has the power and authority to acquire the ILP Interest as provided herein and assume the Obligations such acquisition and assumption do not violate any law or constitute a default under any agreement to which the Assignee is a party or by which the Assignee is bound.
9. The Member Information Schedule to the Agreement is deleted in its entirety and the attached Amended Member Information Schedule substituted therefor. From and after the Assignment Date, the attached Amended Member Information Schedule shall be the Member Information Schedule for all purposes of the Agreement.

10. The Guarantors hereby reaffirm and confirm their respective obligations under the Guaranty for the benefit of the Assignee and acknowledge that the Assignee shall succeed to all rights of the Assignor pursuant to the Guaranty.

11. The parties hereto hereby confirm the continuing validity and enforceability of the Agreement, acknowledging that the Assignee shall succeed to all rights and obligations of the Assignor thereunder as of the Assignment Date. This provision shall be construed to amend the Agreement to the extent necessary to reflect the admission of the Assignee to the Company as a Substitute Investor Member and to give effect to the other provisions of this Assignment and Assumption Agreement.

12. The parties agree that the assignment of the ILP Interest, the admission of the Assignee to the Company as a Substitute Investor Member and the other transactions effected hereby shall be effective for all purposes as of the Assignment Date.

13. The parties hereto agree to cooperate in good faith to effect any further amendments to the Agreement or Project Documents and to take such other steps as may be necessary or appropriate in order to more fully reflect and further evidence the assignment of the ILP Interest and the other transactions effected hereby.

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

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, the undersigned have caused this Assignment and Assumption Agreement to be executed and delivered as a sealed instrument as of the Assignment Date.

**ASSIGNOR:**

**HCP-ILP, LLC,**
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company

Its: Manager

By: ___________________________
   Name: Jeffrey N. Weiss
   Title: President

**ASSIGNEE:**

HUNT CAPITAL PARTNERS TAX CREDIT FUND ______, LP, a Delaware limited partnership

By: HCP GP _____, LLC, a Nevada limited liability company, its general partner

By: Hunt Capital Partners, LLC, a Delaware limited liability company, its sole member

By: ___________________________
   Jeffrey N. Weiss, President

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
COMPANY:

CANOVA PALMS, LLC,
a Texas limited liability company

By:  Saigebrook Canova, LLC,
a Texas limited liability company
Its:  Managing Member

By:  Saigebrook Development, LLC,
a Florida limited liability company
Its:  Managing Member

By:  ___________________________
Name:  Lisa M. Stephens
Title:  Manager

CO-MANAGING MEMBER:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By:  Saigebrook Development, LLC,
a Florida limited liability company
Its:  Managing Member

By:  ___________________________
Name:  Lisa M. Stephens
Title:  Manager

ADMINISTRATIVE MEMBER:

O-SDA CANOVA, LLC,
a Texas limited liability company

By:  O-SDA Industries, LLC,
a Texas limited liability company
Its:  Sole Member

By:  ___________________________
Name:  Megan D. Lasch
Title:  Managing Member
# AMENDED MEMBER INFORMATION SCHEDULE
TO THE
FIRST AMENDED AND RESTATED
OPERATING AGREEMENT OF
CANOVA PALMS, LLC

<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Capital Contribution</th>
<th>Taxpayer Identification No.</th>
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</thead>
<tbody>
<tr>
<td>Managing Members:</td>
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<td></td>
</tr>
<tr>
<td>Saigebrook Canova, LLC</td>
<td>$100.00</td>
<td>45-3062708</td>
</tr>
<tr>
<td>220 Adams Drive Ste. 280 #138 Weatherford, Texas 76086</td>
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<tr>
<td>Administrative Member:</td>
<td></td>
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<tr>
<td>O-SDA Canova, LLC</td>
<td>$100.00</td>
<td>80-0641068</td>
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<tr>
<td>5714 Sam Houston Circle Austin, Texas 78731</td>
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<tr>
<td>Investor Member:</td>
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<td></td>
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<tr>
<td>Hunt Capital Partners Tax Credit Fund, LP</td>
<td>$__________</td>
<td>[__________]</td>
</tr>
<tr>
<td>15910 Ventura Boulevard, Suite 1100 Encino, California 91436</td>
<td>(subject to adjustment as provided in the Agreement)</td>
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EXHIBIT N

RESERVED
PURCHASE OPTION AGREEMENT

This Purchase Option Agreement (this “Agreement”) is made and entered into as of this February 1, 2019, by and between Canova Palms, LLC, a Texas limited liability company (“Owner”), Saigebrook Canova, LLC, a Texas limited liability (the “Offeree”), HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”) with reference to the following recitals of fact:

RECATALS:

A. WHEREAS, Owner owns that certain real property located in the City of Irving, State of Texas and more particularly described on Exhibit A attached hereto and incorporated herein by this reference, and owns certain improvements situated thereon, commonly known as “Canova Palms,” a 58-unit low income housing development (collectively, the “Property” or the “Project”);

B. WHEREAS, Owner desires to grant to the Offeree an option to purchase the Property;

C. WHEREAS, the Investor Member is the sole investor member of the Owner and owns a 99.99% investor member interest (the “Interest”) in the Owner;

D. WHEREAS, the Investor Member desires to grant to the Offeree an option to purchase the Interest; and

E. WHEREAS, the parties hereto desire to set forth the terms of the option granted herein from the Owner to the Offeree to purchase the Property.

NOW, THEREFORE, the parties hereto agree as follows:

AGREEMENT:

1. Grant of Option. Owner and Investor Member hereby grants to the Offeree, or its nominee, which nominee may be O-SDA Canova, LLC, a Texas limited liability company (the “Administrative Member”), an option (the “Option”) to purchase the Property or the Interest on the terms and conditions set forth in this Agreement.

2. Term of Option. The term of the Option shall commence on the first day following the expiration of the Compliance Period and shall expire at 11:59 p.m. (Pacific Standard Time) on the last day of the 24th month following its commencement (the “Option Term”); provided, however, that the Option Term shall terminate upon the earlier removal and/or withdrawal of the Offeree as a managing member of the Owner pursuant to the terms of Owner’s First Amended and Restated Operating Agreement of even date herewith (as the same may be amended from time to time, the “Operating Agreement”); further provided, however, that if the Administrative Member remains the administrative member of the Owner pursuant to the terms of the Operating Agreement and is not in default under the Operating Agreement, then the Administrative Member will become the Offeree.
3. **Manner of Exercising Option.** The Offeree may exercise the Option by delivering to the Owner, at any time during the Option Term, written notice of such exercise, provided, however, that the Option may not be exercised if an Event of Default has occurred under the Operating Agreement and has not been cured under any applicable cure period. The notice of exercise shall state that the Option is exercised without condition or qualification.

4. **Purchase Price.**

(a) **Purchase Price for the Project.** The purchase price for the Project pursuant to the Option shall be the greater of the following amounts, subject to the provisos set forth herein below:

(i) **Debt and Taxes.** The sum of (i) the amount of any outstanding indebtedness secured by the Project, which indebtedness may be assumed by the Offeree, if permitted by the lenders associated therewith, (ii) the amount of federal, state and local tax liability that the partners of Owner would incur as a result of such sale, including any tax liability on amounts paid under this clause (ii) and clauses (iii) and (iv) below, (iii) the amount of unreimbursed deficiency in Code Section 42 low income housing tax credits recognized by the Investor Member as an investor member of Owner with respect to the Project as compared to the level agreed to be provided to the Investor Member by the Owner, and (iv) any Tax Credit Shortfall Payments and Asset Management Fees and other indemnification payments otherwise due and owing to the Investor Member under the terms of the Agreement.

(ii) **Fair Market Value.** The fair market value of the Project (without regard to any customary costs) appraised as a low-income housing development to the extent continuation of such use is required under any restrictions applicable to the Project. The fair market value of the Project shall be determined as follows: Owner and the Offeree shall select a mutually acceptable appraiser. In the event the parties are unable to agree upon an appraiser the Owner and the Offeree shall each select an appraiser. For purposes of this subparagraph 4(b), the parties hereto agree that, on behalf of Owner, Investor Member, or a successor investor member in Owner, shall have the right to select the appraiser(s) that Owner is entitled to select hereunder. If the difference between the two appraisals is less than or equal to ten percent (10%) of the lower of the two appraisals, the fair market value shall be the average of the two appraisals. If the difference between the two appraisals is greater than ten percent (10%) of the lower of the two appraisals, then the two appraisers shall jointly select a third appraiser whose determination of fair market value shall be deemed binding on all parties. If the two appraisers are unable jointly to select a third appraiser, either the Owner or the Offeree may, upon written notice to the other, request that the appointment be made by the Case Management Center of the American Arbitration Association for Texas. The Owner and the Offeree shall each pay the costs of an appraiser they each select and shall share the cost equally of any appraiser jointly selected or any third appraiser, including any appraiser chosen by the American Arbitration Association chapter president.

(b) **Purchase Price for the Interest.** The purchase price for the Interest pursuant to the Option shall be equal to (i) what the Investor Member would have received under the Operating Agreement assuming the Project was sold using the purchase price determined by Section 4(a) above.
5. Reserved.

6. Completion of Sale.

   (a) Prior to the close of escrow on the Property following exercise of the Option, the Owner shall cause a title company to issue, upon close of escrow, an ALTA owner’s policy of title insurance dated as of the close of escrow, in an amount equal to the purchase price for the Property, showing title to the Property vested in the Offeree and showing as exceptions all encumbrances of record.

   (b) Escrow for the sale of the Property shall close no earlier than the later of ninety (90) days after Owner’s receipt of the Offeree’s written notice of exercise of the Option, or the last day of the Compliance Period, at which time the purchase price shall be due and payable. The Offeree shall use its best efforts to obtain the consent to the sale of the holders of any mortgages or deeds of trust on the Property, if required. Owner shall convey the Property to the Offeree by means of a grant deed. The costs of such sale shall be apportioned between Owner and the Offeree according to the custom then in effect in Irving, Texas. The following shall apply to the sale of the Property: (i) the sale of the Property shall be on an as-is, where-is basis, without representation or warranty, except such representations or warranties as are customarily included in a grant deed in Texas; and (ii) rents, insurance, taxes and debt service then due and payable shall be apportioned as of the day the grant deed is actually recorded in the official records of Irving, Texas.

7. Quitclaim Deed and Termination of Option. Upon termination of the Option, the Offeree agrees, upon the Owner’s request, to (a) execute and deliver to the Owner a quitclaim deed, releasing all of the Offeree’s right, title and interest in and to the Option within thirty (30) days after termination of the Option Term, and (b) execute, acknowledge and deliver such other documents as may be reasonably required by the Owner’s title company to remove the cloud of the Option from title to the Property.

8. Notices. Notices, demands and communications between the parties shall be in writing and shall be served personally or by depositing the same in the certified United States mail, return receipt requested, post prepaid, and,

if intended for the Owner shall be addressed to:

Canova Palms, LLC
220 Adams Drive Ste. 280 #138
Weatherford, Texas 76086
Attention: Lisa Stephens
Email: lisa@saigebrook.com
with a copy to:

Saigebrook Canova, LLC
220 Adams Drive Ste. 280 #138
Weatherford, Texas 76086
Attention: Lisa Stephens
Email: lisa@saigebrook.com

with a copy to:

Shutts & Bowen LLP
200 South Biscayane Boulevard, Suite 4100
Miami, Florida 33131
Attention: Gary J. Cohen
Email: gcohen@shutts.com

and:

HCP-ILP, LLC
15910 Ventura Boulevard, Suite 1100
Encino, California 91436
Attention: Jeffrey N. Weiss
Email: jeff.weiss@huntcompanies.com

with a copy to:

Nixon Peabody LLP
799 9th Street NW, Suite 500
Washington, DC 20001-5327
Attention: Matthew W. Mullen
Email: mmullen@nixonpeabody.com

if intended for Offeree shall be addressed to:
Saigebrook Canova, LLC  
220 Adams Drive Ste. 280 #138  
Weatherford, Texas 76086  
Attention: Lisa Stephens  
Email: lisa@saigebrook.com

with a copy to:  
Shutts & Bowen LLP  
200 South Biscayane Boulevard, Suite 4100  
Miami, Florida 33131  
Attention: Gary J. Cohen  
Email: gcohen@shutts.com

or to such address as either party may have furnished to the other in writing as a place for the service of notice. Any notice so mailed shall be deemed to have been given on the delivery date, or the date that delivery is refused by the addressee, as shown on the return receipt.

9. **Attorney’s Fees.** In the event of any action or proceeding at law or in equity between any of the parties hereto to enforce any provision of this Agreement or to protect or establish any right or remedy of either party hereunder, the unsuccessful party to the litigation shall pay to the prevailing party all costs and expenses, including, without limitation, reasonable attorneys’ fees incurred therein by the prevailing party, and if the prevailing party recovers judgment in any action or proceeding, the costs, expenses and attorney’s fees shall be included in and as part of the judgment.

10. **Miscellaneous.**

(a) The Owner and the Offeree each represent and warrant that neither has had or will have any dealings with any person, firm, broker or finder in connection with the negotiation of this Agreement and/or the consummation of the transactions contemplated hereby. Each party hereto hereby agrees to indemnify and hold harmless the other party from and against costs, expenses or liabilities for compensation, commissions or charges which may be claimed by any broker, finder or similar party by reason of any actions of the indemnifying party.

(b) The rights and obligations of the Owner and the Offeree under this Agreement shall inure to the benefit of and bind the respective successors and assigns.

(c) The captions used herein are for convenience of reference only and are not part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

(d) Time is of the essence of each and every agreement, covenant and condition of this Agreement.

(e) This Agreement shall be interpreted in accordance with, and governed by, the laws of the State of Texas.
(f) This Agreement constitutes the entire agreement by and among the Owner and the Offeree with respect to the subject matter hereof, and supersedes all prior offers and negotiations, oral and written. This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by the Owner and the Offeree; provided, however, that no amendment or modification shall be effective unless consented to in writing by the Investor Member as the investor member of the Owner.

(g) Owner and the Offeree shall subordinate this Agreement to the lien of any deed of trust necessary to develop the Property.

(h) The parties shall not record this Agreement or a Memorandum of Purchase Option Agreement in the official records of Irving Texas or Texas.

(i) Capitalized terms not otherwise defined herein shall have the meanings set forth in the Operating Agreement.

(SIGNATURES APPEAR ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, Owner and the Offeree have executed this Agreement as of the date first above written.

OWNER:

CANOVA PALMS, LLC,
a Texas limited liability company

By: Saigebrook Canova, LLC,
a Texas limited liability company
Its: Managing Member

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: 
Name: Lisa M. Stephens
Title: Manager

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, Owner and the Offeree have executed this Agreement as of the date first above written.

OFFEREE:

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company

Its: Managing Member

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, Owner and the Offeree have executed this Agreement as of the date first above written.

OWNER:

CANOVA PALMS, LLC,
a Texas limited liability company

By: Saigebrook Canova, LLC,
a Texas limited liability company
Its: Managing Member

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: __________________________
Name: Lisa M. Stephens
Title: Manager

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)
IN WITNESS WHEREOF, Owner and the Offeree have executed this Agreement as of the date first above written.

INVESTOR MEMBER:

HCP-ILP, LLC,
a Nevada limited liability company

By: Hunt Capital Partners, LLC,
a Delaware limited liability company

Its: Manager

By:
Name: Jeffrey A. Weiss
Title: President
EXHIBIT A

LEGAL DESCRIPTION

Tract 1: (Fee Simple)

Being Lot 1, in Block A, of J D I, LLC, ADDITION, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded under cc# 20080220250, Real Property Records, Dallas County, Texas.

Tract 2: (Easement Estate)

Non-Exclusive Access Easement as shown and created on plat across a portion of Lot 2, Block A, of J D I, LLC, ADDITION, an Addition to the City of Irving, Dallas County, Texas, according to the Map thereof recorded under cc# 20080220250, Real Property Records, Dallas County, Texas.
EXHIBIT P

PLANS AND SPECIFICATIONS

[To be attached at the full funding of the First Installment.]
SURVEY RESPONSIBILITIES AND SPECIFICATIONS

1. ____ Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses.

2. ____ Address(es) if disclosed in Record Documents, or observed while conducting the survey.

3. ____ Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by scaled map location and graphic plotting only.

4. ____ Gross land area (and other areas if specified by the client).

5. ____ Reserved.

6. ____ Current zoning classification, as provided by the insurer.
   ____ Current zoning classification and building setback requirements, height and floor space area restrictions as set forth in that classification, as provided by the insurer. If none, so state.

7. ____ Exterior dimensions of all buildings at ground level.
   ____ Square footage of:
   ____ (1) exterior footprint of all buildings at ground level.
   ____ (2) other areas as specified by the client.

8. ____ Measured height of all buildings above grade at a location specified by the Company. If no location is specified, the point of measurement shall be identified.

9. ____ Substantial features observed in the process of conducting the survey (in addition to the improvements and features required above such as parking lots, billboards, signs, swimming pools, landscaped areas, etc.

10. ____ Exterior dimensions of all buildings at ground level.
   ____ Striping, number and type (e.g. handicapped, motorcycle, regular, etc.) of parking spaces in parking areas, lots and structures.

11. ____ Determination of the relationship and location of certain division or party walls designated by the client with respect to adjoining properties (client to obtain necessary permissions). AS APPLICABLE.
   ____ Determination of whether certain walls designated by the Company are plumb (Company to obtain necessary permissions).

12. Location of utilities (representative examples of which are listed below) existing on or serving the surveyed property as determined by:
   ____ (a) Observed evidence.
   ____ (b) Observed evidence together with evidence from plans obtained from utility companies or provided by client, and markings by utility companies and other appropriate sources (with reference as to the source of information).

   - Railroad tracks, spurs and sidings;

   - Manholes, catch basins, valve vaults and other surface indications of subterranean uses;

   - Wires and cables (including their function, if readily identifiable) crossing the surveyed property, and all poles on or within ten feet of the surveyed property. Without expressing a legal opinion as to the ownership or nature of the potential encroachment, the dimensions of all encroaching utility pole cross
members or overhangs; and

- utility company installations on the surveyed property.

12. ____ Governmental Agency survey-related requirements as specified by the Company, such as for HUD surveys, and surveys for leases on Bureau of Land Management managed lands.

13. ____ Names of adjoining owners of platted lands according to current public records.

14. ____ Distance to the nearest intersecting street.

15. ____ Observed evidence of current earth moving work, building construction or building additions.

16. ____ Proposed changes in street right of way lines, if information is available from the controlling jurisdiction. Observed evidence of recent street or sidewalk construction or repairs.

17. ____ Observed evidence of site use as a solid waste dump, sump or sanitary landfill.

18. ____ Location of wetland areas as delineated by appropriate authorities.

19. ____ (a) Locate improvements within any offsite easements or servitudes benefitting the surveyed property that are disclosed in the Record Documents provided to the surveyor and that are observed in the process of conducting the survey. AS APPLICABLE.

20. ____ Professional Liability Insurance policy obtained by the surveyor in the minimum amount of $1MM per occurrence / $2MM aggregate to be in effect throughout the contract term. Certificate of Insurance to be furnished upon request.

21. ____ Surveyor’s Certificate in the form attached.
SURVEYOR’S CERTIFICATE

To:

HCP-ILP LLC, a Nevada limited liability company, its successors and/or assigns and Hunt Capital Partners, LLC, a Delaware limited liability company its successors and/or assigns, Company, Title Company, Etc.…:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1-4, 6(a),(b), 7(a),(b)(1),(c), 8-10, 11, 13, 14, 16-19 and 20 of Table A thereof. The field work was completed on ___________.

Date of Plat or Map: ______

(Surveyor’s signature, printed name and seal with Registration/License Number)
TITLE POLICY REQUIREMENTS

The title policy for the property must be acceptable to the Investor Members and must be in compliance with the following requirements:

1. The Owner’s Title Policy should be an extended coverage ALTA 2006 Owner’s Policy of Title Insurance with all requirements, general exceptions and standard exceptions deleted. The face amount of the policy should be in the amount of the full development budget for the Project (to be provided at a later date). The policy must name the Company as the insured and insure the fee interest in the Property is vested in the name of the Company free and clear of all preexisting liens and encumbrances except those approved by the Company.

2. The title policy must be written on the current standard ALTA owner’s policy form or a similar form approved by the Investor Members. If the property is located in a state in which ALTA forms of coverage are not used or are unacceptable, the title policy shall provide similar coverage.

3. The title policy shall be issued as an extended coverage policy that insures against and/or deletes any pre-printed or standard exceptions.

4. The amount of the title policy must equal the amount of the full development budget as set forth in Exhibit B.

5. The effective date of the title policy shall be no earlier than the Closing Date. Upon the resyndication of the Investor Member’s Interest, the effective date shall be brought down to the date of admission of the substitute Investor Member.

6. Schedule A of the title policy must (a) name as the “Insured” the Company as constituted as of the issuance date of the title policy and as may be reconstituted from time to time, (b) insure that the property is owned solely by the Company, and (c) insure that the Company’s interest in the property is fee simple absolute or a leasehold, as applicable.

7. The legal description of the property described in the title policy must match that shown on the survey of the property and must include any appurtenant easements.

8. If Schedule B of the title policy indicates the presence of any easements that are not found on the survey and identified by recording information, the title policy must provide affirmative insurance against any loss that conflicts with the use or diminishes the value of the improvements resulting from the exercise by the holder of such easement or its right to use or maintain that easement.

9. If the title policy includes any exception for taxes, assessments or other items which may become a lien on the property, it must insure that such taxes, assessments or items are “not yet due and payable.”

10. Any tenant’s rights exception should contain a qualification that such rights are “to leaseholds of parties in possession, as tenants only, under unrecorded leases.”
11. The Owner’s Policy shall include such other endorsements whenever available as follows: (1) ALTA 9 (comprehensive endorsement), (2) Land Same as Survey, (3) Contiguity (if applicable), (4) Access, (5) Tax Lot, (6) Subdivision Map Act, (7) Zoning, (8) Future Improvements/Blanket Easement (similar to CLTA 103.1-06, (9) Mechanic’s Lien, (10) Environmental, (11) Non-imputation (similar to the ALTA 15.1-06 and adding HCP-ILP LLC, a Nevada limited liability company and Hunt Capital Partners, LLC, a Delaware limited liability company to the parties identified as incoming entities), (12) Special Valuation (tax credit benefit or maximum actual loss), (13) Utility facility (14) Fairway (if ALTA 2006 form not used), (15) Street address (if possible), (16) Mineral (if applicable), (17) Arbitration, (18) Sample Datedown (the form of this endorsement, when issued, must bring down the date of the final Policy) and (19) Gap (if applicable).

12. The Policy should reflect that the title is vested as fee simple in Canova Palms, LLC.

13. Prior to the issuance of the title policy, the Investor Members and their legal counsel shall each be provided with recorded copies of all exceptions to title coverage. Upon the issuance of the title policy, each shall be provided with a true, correct and complete copy.
EXHIBIT R

FORM OF PAYMENT CERTIFICATE
PAYMENT CERTIFICATE

SAIGEBROOK CANOVA, LLC, a Texas limited liability company, as the co-managing member of CANOVA PALMS, LLC, a Texas limited liability company, and SAIGEBROOK CANOVA, LLC, a Texas limited liability company ("Co-Managing Member”), O-SDA CANOVA, LLC, a Texas limited liability company ("Administrative Member”), SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company ("Saigebrook Development”), O-SDA INDUSTRIES, LLC, a Texas limited liability company ("O-SDA Developer”), Lisa M. Stephens, individually and Megan D. Lasch, individually, as guarantors, hereby certify to HCP-ILP, LLC, a Nevada limited liability company (the “Investor Member”), with respect to the Investor Member’s _______________ Installment (as that and all other capitalized terms used herein are defined in the First Amended and Restated Operating Agreement of the Company dated as of February 1, 2019 (the “Agreement”)), as follows:

[revise conditions as applicable]

1. The Installment Funding Conditions have been achieved and/or satisfied.

2. The Company is not in default in any of its obligations under the Project Documents to which it is a party, no event has occurred which, with the giving of notice or the passage of time, or both, could constitute a default by the Company under the Project Documents to which it is a party and no Bankruptcy of the Company has occurred.

3. All of the representations and warranties of the Managing Member set forth in the Agreement are true and correct in all respects as of the date hereof as if made thereon.

4. The covenants, duties, and obligations of the Managing Member set forth in the Agreement that are required to have been satisfied on or before the date hereof have been satisfied, and the Managing Member has made all payments for all costs incurred by the Company and there are no unpaid costs or invoices outstanding [except [____________]].[List all unpaid costs/invoices, if none, delete bracketed language.]

5. The Managing Member and Company are still in good standing, are still authorized to engage in the activities as set forth in the Agreement, and except as provided to the Investor Member there have been no changes or amendments to the articles, by-laws, certificates or other organizational documents of the Managing Member or the Company.

6. There has been no material adverse change in the financial condition of any Managing Member or Guarantor.

7. No Managing Member is in default in any of its obligations under the Agreement or any of the Project Documents to which it is a party, no event has occurred which, with the giving of notice or the passage of time, or both, could constitute a default by any Managing Member under the Agreement or any of the Project Documents to which it is a party and no Bankruptcy of any Managing Member has occurred.

8. No Guarantor is in default in any of its obligations under the Agreement or any of the Project Documents to which it is a party, no event has occurred which, with the giving of
None of the Lenders has refused to fund all or any disbursement of its Loan.

The Installments of the Investor Member’s Capital Contribution previously contributed to the Company by the Investor Member, and the proceeds of the loans previously funded to the Company by the Lenders have been applied by the Company in accordance with the Development Budget for the Apartment Complex approved by the Investor Member.

The undersigned is not aware of the existence of any fact or circumstance which makes untrue or misleading in any material respect any of the statements or information provided to the Investor Member in support of the Funding Conditions for the Installment to which this Certificate relates.

There have been no changes or modifications of any kind to the Plans and Specifications, except as disclosed to the Investor Member in writing.

All conditions to the effectiveness of the Carryover Allocation imposed by the Code, the Agency or otherwise, which are required to be satisfied prior to the funding of the Installment to which this Certificate relates, have been satisfied, except for the following:

The Managing Member has fully complied with furnishing the Investor Member any reports or other information required to be provided by the Managing Member pursuant to Article 18 of the Agreement.

(SIGNATURE APPEARS ON THE FOLLOWING PAGE)
This certificate is made on the date hereof to induce the Investor Member to contribute the __________ Installment as set forth in the Agreement.

Dated: ____________________

SAIGEBROOK CANOVA, LLC, a Texas limited liability company

By: Saigebrook Development, LLC, a Florida limited liability company, its managing member

By: ______________________________
Name: Lisa M. Stephens
Its: Manager

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: ______________________________
Name: Lisa M. Stephens
Its: Manager

_________________________________
Lisa M. Stephens, an individual
O-SDA CANOVA, LLC, a Texas limited liability company

By: O-SDA Industries, LLC, a Texas limited liability company, its sole member

By: _________________________________
Name: Megan D. Lasch
Its: Managing Member

O-SDA INDUSTRIES, LLC, a Texas limited liability company

By: _________________________________
Name: Megan D. Lasch
Its: Managing Member

_________________________________
Megan D. Lasch, an individual
EXHIBIT S
FORM OF LIHTC CERTIFICATE
LIHTC CERTIFICATE

THIS CERTIFICATE is made to HCP-ILP, LLC, a Nevada limited liability company, and its successors and assigns (the “Investor Member”) as of February 1, 2019, by Saigebrook Canova, LLC, a Texas limited liability company and O-SDA Canova, LLC, a Texas limited liability company (referred to herein, even if only one, as the “Managing Members”), the managing members of Canova Palms, LLC, a Texas limited liability company (the “Company”), with reference to the following facts:

WHEREAS:

A. The Company is the owner of the Canova Palms apartment complex located at 1717 Irving Blvd., Irving, Dallas County, Texas (the “Apartment Complex”);

B. The Investor Member, organized for the purpose, inter alia, of acquiring limited liability company interests in limited liability companies owning housing projects that qualify for low income housing tax credits (the “Housing Tax Credits”) under Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”), desires to acquire a limited liability company interest (the “Interest”) in the Company; and

C. Counsel to the Investor Member has been requested to render a tax opinion as to the availability of Housing Tax Credits with respect to the Apartment Complex; and

D. All terms not defined herein shall have the meaning set forth in the First Amended and Restated Operating Agreement of the Company dated as of February 1, 2019.

NOW, THEREFORE, to induce the Investor Member to acquire its Interest and to induce counsel to the Investor Member to render a tax opinion as to the availability of Housing Tax Credits with respect to the Apartment Complex, the Managing Member hereby certifies that the following are true, correct and complete on the date hereof and will remain true, correct and complete throughout the Compliance Period and that the Managing Member shall take no action which would make any of the following untrue:

- The Apartment Complex, consisting of one residential building, is comprised of 58 residential rental units (whether or not occupied). The aggregate square footage of the portions of the Apartment Complex is as follows:

<table>
<thead>
<tr>
<th>Type:</th>
<th>Housing Tax Credit Units</th>
<th>Market Rate Apartment Units</th>
<th>Commercial Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of units:</td>
<td>50</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Aggregate square feet:</td>
<td>36,792</td>
<td>6,552</td>
<td>0</td>
</tr>
</tbody>
</table>

- Each of the Housing Tax Credit Units will be occupied by tenants whose income is 60% or less of area median gross income, i.e., a family or individuals whose total income, determined in a manner consistent with the determination of lower income families or individuals under Section 42 of the Code and Section 8 of the United States Housing Act of 1937.
(“Section 8”), does not exceed the amount of income levels set forth in the table below, as may be adjusted in accordance with area median income figures provided by U.S. Department of Housing and Urban Development for future years:

[INSERT INCOME LIMIT TABLE]

Furthermore, five (5) of the Housing Tax Credit Units will be occupied by persons whose incomes are at or below 30% of the established area median gross income, twenty (20) of the Housing Tax Credit Units will be occupied by persons whose incomes are at or below 50% of the established area median gross income and twenty-five (25) of the Housing Tax Credit Units will be occupied by persons whose incomes are at or below 60% of the established area median gross income, in accordance with the requirements of the Project Documents.

There are no tenants as of the Closing because the Apartment Complex has not yet been built.

- There are eight (8) units in the Apartment Complex which are not Housing Tax Credit Units. The units in the Apartment Complex which are not Housing Tax Credit Units are not above the average quality standard of the Housing Tax Credit Units.

- On August 15, 2018, the Apartment Complex was granted a Credit Reservation of Housing Tax Credits for the year 2018 in the amount of $890,850 by the Texas Department of Housing and Community Affairs (the “Agency”), the appropriate “housing credit agency” (as defined in Section 42(h)(7)(A) of the Code) of the State of Texas which is the State having jurisdiction over the Apartment Complex. Effective on December 20, 2018, the Apartment Complex received a Carryover Allocation of Housing Tax Credits for the year 2018 in the amount of $890,850 from the Agency. Such Credit Reservation and Carryover Allocation were made based on the application for Housing Tax Credits dated January 23, 2018 and submitted to the Agency for the Apartment Complex, and are in full force and effect.

- The Eligible Basis, as defined in Section 42 of the Code, for the Apartment Complex is projected as follows:
  - Structure and buildings: $________
  - Personal Property: $________
  - Site Work: $________

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)
This Certificate is intended to take effect as a sealed instrument, shall inure to the benefit of the Investor Member and its successors and assigns and shall be binding upon each of the undersigned and each of its successors and assigns. This Certificate may be executed in any number of counterparts which together shall constitute one instrument. This instrument, and all rights and remedies of the parties, shall be determined as to their validity, construction, effect and enforcement, and in all other respects of the same or different nature, by the internal laws of the State of Texas. The undersigned acknowledge that tax counsel to the Investor Member will rely upon the foregoing certifications for purposes of its preparation and delivery of a tax opinion in connection with this transaction and hereby consent to such reliance.

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company
Its: Managing Member

By: [Signature]
Name: Lisa M. Stephens
Title: Manager

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company
Its: Sole Member

By: [Signature]
Name: Megan D. Lasch
Title: Managing Member
This Certificate is intended to take effect as a sealed instrument, shall inure to the benefit of the Investor Member and its successors and assigns and shall be binding upon each of the undersigned and each of its successors and assigns. This Certificate may be executed in any number of counterparts which together shall constitute one instrument. This instrument, and all rights and remedies of the parties, shall be determined as to their validity, construction, effect and enforcement, and in all other respects of the same or different nature, by the internal laws of the State of Texas. The undersigned acknowledge that tax counsel to the Investor Member will rely upon the foregoing certifications for purposes of its preparation and delivery of a tax opinion in connection with this transaction and hereby consent to such reliance.

SAIGEBROOK CANOVA, LLC,
a Texas limited liability company

By: Saigebrook Development, LLC,
a Florida limited liability company

Its: Managing Member

By:
Name: Lisa M. Stephens
Title: Manager

O-SDA CANOVA, LLC,
a Texas limited liability company

By: O-SDA Industries, LLC,
a Texas limited liability company

Its: Sole Member

By: 
Name: Megan D. Lasch
Title: Managing Member
ii) Documentation that the Third Party, such as a lender, that has the legal right to withhold a required consent was asked to give their consent (Example: Letter from the Applicant or an Affiliate requesting that the above Third Party give permission that if the 2019 Application is awarded, the Existing Development can be committed to the Section811 PRA Program)

Describe and attach the request made by the Applicant or Affiliate to the Third Party asking for consent:

Letter to Hunt Capital requesting to add 811 units

ATTACH PDF OF THE REQUEST FROM THE APPLICANT OR AFFILIATE TO THE THIRD PARTY BEHIND THIS PAGE.
February 28, 2019

Mr. William Teschke  
Director  
Hunt Capital Partners  
15910 Ventura Blvd., Ste. 1100  
Encino, CA 91436

Re: 811 Units – Canova Palms

Dear Billy:

Per the 2019 TDHCA Qualified Allocation Plan, we are hereby submitting a request for your consideration to add up to an additional ten 811 program units at Canova Palms, in Irving, Texas.

Under the First Amended and Restated Operating Agreement for Canova Palms, the Managing Member’s Authority is restricted under section 5.3 without consent of the Investor Member to modify any agreement with the Agency, to enter into any new Project Document or amend any Project Document. As such, Investor Member consent would be required to add 811 units other than those already committed to by Canova Palms in its Participation Agreement with the Department.

A written response is required by TDHCA for submission in our 2019 applications. If you have any questions about this request, you may reach me at 352-213-8700.

Sincerely,

Lisa M. Stephens  
President
iii) Documentation that the Third Party possessing the legal right to withhold a required consent has provided notice of their decision not to provide a required consent (Example: Letter from the Third Party that they are denying an Existing Development from participation).

Describe and attach the response from the Third Party that was received by the Applicant or Owner that reflects their decision not to provide the requested consent:
Letter from Hunt denying the request to add 811 units.

**ATTACH PDF OF THE RESPONSE FROM THE THIRD PARTY THAT REFLECTS THEIR DECISION TO DENY THE REQUESTED CONSENT BEHIND THIS PAGE.**
March 1, 2019

Texas Department of Community Affairs (TDHCA)
Attn: Spencer Duran, Section 811 PRAC Program Manager
221 E. 11th Street
Austin, TX 78701

RE: #18361 Canova Palms – additional 811 units

Mr. Duran:

As the investor member in Canova Palms, LLC, we have reviewed your request to increase the number of Section 811 units at the Canova Palms project in Irving. Canova Palms was underwritten with 10 Section 811 units (out of 58 total units) at the time HCP entered Canova Palms, LLC. The addition of more Section 811 units would put a heavier burden on property management to review tenant referrals and coordinate case management. In our experience, higher turnover is often associated with these units. The addition of more Section 811 units would therefore have a detrimental impact on the underwriting of the expected lease-up and operations of the property that HCP approved internally and represented to its investors. As such, HCP cannot approve the addition of more Section 811 units for this property at this time.

Should you need any further assistance, please feel free to contact me with any questions at (818) 380-6112 or via email at william.teschke@huntcompanies.com.

Sincerely,

[Signature]

William Teschke
Director, Project Management
Hunt Capital Partners
END 811
END 811
2019 HTC
Full Application

Part 3 Tab 19

Historic Preservation
This Tab is Not Applicable
2019 HTC
Full Application

Part 3 Tab 20

Existing Development Information
This Tab is Not Applicable
2019 HTC Full Application

Part 3 Tab 21

Occupied Developments
This Tab is Not Applicable
Architectural Drawings Must be Submitted Behind this Tab [§11.204(b)(9)]
(If development is scattered site, consult staff.)

In order to reduce the file size and speed review of drawings, Applicants are encouraged to submit plans as 300dpi images. Following these steps in Adobe Acrobat will convert most plans: File > Print > Printer: Adobe PDF > Advanced > Settings: Custom > [V] Print As Image 300dpi > OK

- **Site Plan** which:
  - states the size of the site on its face;
  - includes a unit and building type table matrix that is consistent with the Rent Schedule and Building and Unit Configuration forms in labeling the buildings and Units, stating sizes, etc;
  - includes a table matrix specifying the square footage of Common Area space on a building by building basis;
  - identifies all residential and common buildings, in place on the Development Site, and labels them consistently with the Building/Unit Type Configuration form;
  - shows the locations (by unit and floor) of mobility and hearing/visual accessible units (unless included in residential building floor plans);
  - indicates the location and number of parking spaces, garages and carports, as applicable;
  - indicates the location and number of accessible parking spaces, including van accessible spaces;
  - includes information regarding local parking requirements, as applicable;
  - indicates compliant accessible routes or, if a route is not accessible, a cite to the provision in the Fair Housing Design Manual providing for its exemption;
  - indicates placement of detention/retention pond(s) or states there are no detention ponds;
  - clearly delineates the flood plain boundary lines or states there is no floodplain;
  - describes, if applicable, how flood mitigation or other required mitigation will be accomplished; and
  - identifies all pipeline easements on or adjacent to the Development Site (§11.101(2)(I)).

- **Residential Building floor plans** should include the following, building by building:
  - separate tabulation of the square footage of each of these areas: breezeways, corridors, utility closets, balconies, porches and patios, and any other square footage not included in NRA; and
  - location of accessible units (unless included on Site Plan).

- **Common Building floor plans** should include tabulations of the square footage of the following spaces that are outside of Net Rentable Area, whether conditioned or unconditioned, building by building:
  - spaces that are accessible to tenants, e.g., offices for tenant/management contact, resident services offices, clubrooms, kitchens, community restrooms, exercise rooms, laundries, porches, patios, mailbox areas, etc. (state each area separately);
  - spaces that are restricted to employees, only, e.g., administrative offices, maintenance areas, equipment rooms, storage areas, etc. (state each area separately); and

  **NA** For Supportive Housing only, specification of space to be used for 75 sq ft/unit common space.

- **Unit floor plans** for each type of Unit:
  - must include the square footage of each type of Unit; and
  - must include floor plans for the accessible Units.

- **Elevations for each side of each building type** which include:
  - a percentage estimate of the exterior composition of each elevation; and
  - roof pitch.

  **NA** Photos of building elevations for Rehab and Adaptive Reuse developments not altering the unit configuration.

2/25/2019
ARCHITECTURAL SITE PLAN
EVERLY PLAZA

SITE NOTES
1. SITE AREA: TOTAL 1.36 ACRES
2. ENTIRE SITE IS IN FLOOD ZONE X
3. ALL ONSITE CONSTRUCTION IS NEW CONSTRUCTION
4. MINIMUM 8'-0" CEILING HEIGHT
5. PARKING SHOWN ON SITE PLAN CONFORMS TO VARIANCE REQUEST
6. NO STORMWATER DETENTION REQUIRED

PARKING SUMMARY
88 TOTAL SPACES
63 FULL SIZE SPACES
18 COMPACT SPACES
7 HC SPACES

NORTH
# BUILDING SUMMARY - EVERLY PLAZA

<table>
<thead>
<tr>
<th>BUILDING DESIGNATION</th>
<th>SPACE TYPE</th>
<th>BUILDING CONFIGURATION</th>
<th>AREAS</th>
<th></th>
<th></th>
<th>TOTAL N.R.A.</th>
<th>UNITS/BLDG</th>
<th># OF STORIES</th>
<th>G.S.F./BLDG ***</th>
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<td>1</td>
<td>APARTMENT</td>
<td>64 24</td>
<td>1-BR 1-BA</td>
<td>2-BR 2-BA</td>
<td>COMMON SPACE</td>
<td>653 851</td>
<td>62216</td>
<td>88</td>
<td>4</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>RESTRICTED TO</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>**</td>
<td></td>
<td></td>
<td>22166</td>
<td></td>
<td></td>
<td>62,216</td>
<td>88</td>
<td></td>
<td>87902</td>
</tr>
</tbody>
</table>

** NET RENTABLE AREA (TDHCA) IS THE UNIT SPACE THAT IS AVAILABLE EXCLUSIVELY TO THE TENANT AND IS HEATED & COOLED BY A MECHANICAL HVAC SYSTEM. N.R.A. IS MEASURED TO THE OUTSIDE OF THE STUDS OF A UNIT OR TO THE MIDDLE OF WALLS IN COMMON WITH OTHER UNITS. N.R.A. DOES NOT INCLUDE COMMON HALLWAYS, STAIRWELLS, ELEVATOR SHAFTS, JANITOR CLOSETS, ELECTRICAL CLOSETS, BALCONIES, PORCHES, PATIOS, OR OTHER AREAS NOT ACTUALLY AVAILABLE TO THE TENANTS FOR THEIR FURNISHINGS.

---

** 2010 ADA UNITS SUMMARY

- MOBILITY, HEARING & VISUAL
  - 5% x 88 = 5 UNITS - (3)1/1 & (2)2/2
  - Labeled HC unit on building plans
- HEARING & VISUAL
  - 2% x 88 = 3 UNITS - (2)1/1 & (1)2/2
  - Labeled HV unit on building plans

---

** BUILDING TYPE SUMMARY**

**EVERLY PLAZA**

Fort Worth, Texas
Commercial shell space is 2,612 SF, which is equal to the combined space of the four 1BR units above it.
1. NET RENTABLE AREA 62,216sf
2. PORCH AREA 3,520sf
3. TOTAL COMMON SPACE 22,166sf – SEE BREAKDOWN ON BUILDING TYPE SUMMARY
4. MINIMUM 8'-0" CEILING HEIGHT
5. ROOF SLOPE – 0.25:12

Building 1 - Second Level
EVERLY PLAZA
Fort Worth, Texas
1. NET RENTABLE AREA 62,216sf
2. PORCH AREA 3,520sf
3. TOTAL COMMON SPACE 22,166sf — SEE BREAKDOWN ON BUILDING TYPE SUMMARY
4. MINIMUM 8'-0" CEILING HEIGHT
5. ROOF SLOPE — 0.25:12

Building 1 - Third Level

EVERLY PLAZA

Fort Worth, Texas
1. NET RENTABLE AREA 62,216sf
2. PORCH AREA 3,520sf
3. TOTAL COMMON SPACE 22,166sf — SEE BREAKDOWN ON BUILDING TYPE SUMMARY
4. MINIMUM 8’-0" CEILING HEIGHT
5. ROOF SLOPE — 0.25:12

Building 1 - Fourth Level
EVERLY PLAZA
Fort Worth, Texas
Clubhouse - 3rd & 4th Levels
EVERLY PLAZA

BUILDING 1 NOTES
1. NET RENTABLE AREA 62,216sf
2. PORCH AREA 3,520sf
3. TOTAL COMMON SPACE 22,166sf — SEE BREAKDOWN ON BUILDING TYPE SUMMARY
4. MINIMUM 8'-0" CEILING HEIGHT
5. ROOF SLOPE — 0.25:12

Fort Worth, Texas
Building 1 - Elevations

EVERLY PLAZA

Fort Worth, Texas

BUILDING 1 NOTES

1. NET RENTABLE AREA 62,216sf
2. PORCH AREA 3,520sf
3. TOTAL COMMON SPACE 22,166sf – SEE BREAKDOWN ON BUILDING TYPE SUMMARY
4. MINIMUM 8’-0” CEILING HEIGHT
5. ROOF SLOPE – 0.25:12
BUILDING 1 NOTES

1. NET RENTABLE AREA 62,216sf
2. PORCH AREA 3,520sf
3. TOTAL COMMON SPACE 22,166sf — SEE BREAKDOWN ON BUILDING TYPE SUMMARY
4. MINIMUM 8'–0” CEILING HEIGHT
5. ROOF SLOPE — 0.25:12

Building 1 - Elevations

EVERLY PLAZA
One Bedroom Unit
EVERLY PLAZA

NET RENTABLE AREA: 653 SF
PORCH AREA: 40 SF

UNIT MEETS ALL ACCESSIBILITY & VISIBILITIVITY REQUIREMENTS

Fort Worth, Texas
Two Bedroom Unit

EVERLY PLAZA

NET RENTABLE AREA: 851 SF
PORCH AREA: 40 SF

UNIT MEETS ALL ACCESSIBILITY & VISIBILITY REQUIREMENTS
2019 HTC Full Application

Part 3 Tab 23

Specifications and Building/Unit Type Configuration and Tab 23a, 23b, 23c Forms
### SPECIFICATIONS AND BUILDING/UNIT TYPE CONFIGURATION

Unit types should be entered from smallest to largest based on "# of Bedrooms" and "Sq. Ft. Per Unit." "Unit Label" should correspond to the unit label or name used on the unit floor plan. "Building Label" should conform to the building label or name on the building floor plan. The total number of units per unit type and totals for "Total # of Units" and "Total Sq Ft. for Unit Type" should match the rent schedule and site plan. If additional building types are needed, they are available by un-hiding columns Q through AA, and rows 51 through 79.

#### Specifications and Amenities (check all that apply)

<table>
<thead>
<tr>
<th>Building Configuration (Check all that apply):</th>
<th>Single Family Construction</th>
<th>SRO</th>
<th>Transitional (per §42(i)(3)(B))</th>
<th>Duplex</th>
<th>Scattered Site</th>
<th>Fourplex</th>
<th>&gt; 4 Units Per Building</th>
<th>Townhome</th>
</tr>
</thead>
</table>

#### Development will have:

- Fire Sprinklers
- Elevators: 1
- # of Elevators: 3
- # of Elevators: 500

#### Number of Parking Spaces (consistent with Architectural Drawings):

<table>
<thead>
<tr>
<th>Free</th>
<th>Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shed or Flat Roof Carport Spaces</td>
<td>Detached Garage Spaces</td>
</tr>
<tr>
<td>Attached Garage Spaces</td>
<td>Uncovered Spaces</td>
</tr>
<tr>
<td>Structured Parking Garage Spaces</td>
<td></td>
</tr>
</tbody>
</table>

#### Floor Composition/Wall Height:

- % Carpet/Vinyl/Resilient Flooring: 100
- Ceiling Height: 8'
- % Ceramic Tile: 
- Upper Floor(s) Ceiling Height (Townhome Only): 
- % Other: Describe: 

#### Total # of Residential Buildings:

<table>
<thead>
<tr>
<th>Building Label</th>
<th>Number of Stories</th>
<th>Number of Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4</td>
<td>1</td>
</tr>
</tbody>
</table>

#### Number of Units Per Building:

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Number of Stories</th>
<th>Number of Buildings</th>
<th>Total # of Units</th>
<th>Total Sq Ft for Unit Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-Bedrooms 1-Bath</td>
<td>1</td>
<td>653</td>
<td>64</td>
<td>20,424</td>
</tr>
<tr>
<td>2-Bedrooms 2-Baths</td>
<td>2</td>
<td>851</td>
<td>24</td>
<td>41,792</td>
</tr>
<tr>
<td>Totals</td>
<td>1</td>
<td></td>
<td>88</td>
<td>62,216</td>
</tr>
</tbody>
</table>

#### Net Rentable Square Footage from Rent Schedule

| Totals | 88 | 62,216 |

#### Supportive Housing Applicants Only

- Enter the total development common area from the architect’s plans: 
- Ensure that this number matches your architectural drawings. 
- The additional square footage allowed for Supportive Housing per 11.9(e)(2) is: 
- The lesser of these two numbers added to NRA: 
  - Use this number to figure points under 11.9(e)(2) 
  - Note revised definition of "Common Area" at 10 TAC §11.1 (d)(22). 
  - 6,600 

#### If a revised form is submitted, date of submission:

2/25/2019
# Accessible Mobility Units Calculation

Include this worksheet in the Application (or a signed and certified worksheet provided by your accessibility professional that shows the calculations).

To the maximum extent feasible and subject to reasonable health and safety requirements, accessible units must be:

1. Distributed throughout the Unit types AND the Development; and
2. Made available in a sufficient range of sizes and amenities so that the choice of living arrangements of qualified persons with Disabilities is, as a whole, comparable to that of other persons eligible for housing assistance under the same program.

Multifamily Housing Developments covered by 10 TAC 11.101(b)(8)(A) must have a minimum of 5% of all units in the development set aside for the mobility impaired and an additional 2% must be set aside for the hearing and/or visually impaired.

<table>
<thead>
<tr>
<th>Mobility</th>
<th>Total Units</th>
<th>Required %</th>
<th>Calculated Units</th>
<th>Units Required</th>
<th>Units Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit Description</td>
<td>88</td>
<td>5%</td>
<td>0</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>One Bedroom</td>
<td>64</td>
<td>5%</td>
<td>3.2</td>
<td>3.2</td>
<td>3</td>
</tr>
<tr>
<td>Two Bedroom</td>
<td>24</td>
<td>5%</td>
<td>1.2</td>
<td>1.2</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5%</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5%</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5%</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>88</td>
<td>4.4</td>
<td>4.4</td>
<td>5</td>
</tr>
</tbody>
</table>

*NOTE: If total is more than what is required, Applicant will select which Unit(s) not to include Under "Units Proposed"*

**EXAMPLE:**

<table>
<thead>
<tr>
<th>Unit Description</th>
<th>Total Units</th>
<th>Required %</th>
<th>Calculated Units</th>
<th>Units Required</th>
<th>Units Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>68</td>
<td>5%</td>
<td>3.4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>1/1 (874sqft &amp; 806)</td>
<td>28</td>
<td>5%</td>
<td>1.4</td>
<td>1.4</td>
<td>1</td>
</tr>
<tr>
<td>2/2 (950 sqft &amp; 100)</td>
<td>36</td>
<td>5%</td>
<td>1.8</td>
<td>1.8</td>
<td>2</td>
</tr>
<tr>
<td>3/2 (1120 sqft &amp; 11)</td>
<td>4</td>
<td>5%</td>
<td>0.2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>D</td>
<td></td>
<td>5%</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>E</td>
<td></td>
<td>5%</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>68</td>
<td>3.4</td>
<td>4.2</td>
<td>4</td>
</tr>
</tbody>
</table>

*NOTE: Required is 4, but calculation yields 4.2. Applicant selected which to round down Under "Units Proposed"*

By signing below, I (WE) certify that the information above meets the requirements in Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8 as described in 10 TAC Chapter 1, Subchapter B. At least five percent (5%) of all dwelling units will be designed and built to be accessible for persons with mobility impairments.

By: [Signature]

**Paul C. Slayton III**

Printed Name

2/22/2019

[Signature]

**Miller Slayton Architects, Inc.**

Firm Name (If applicable)

2/21/2019
# Accessible Hearing/Visual Units Calculation

Include this worksheet in the Application (or a signed and certified worksheet provided by your accessibility professional that shows the calculations).

To the maximum extent feasible and subject to reasonable health and safety requirements, accessible units must be:

1. Distributed throughout the Unit types AND the Development; and
2. Made available in a sufficient range of sizes and amenities so that the choice of living arrangements of qualified persons with Disabilities is, as a whole, comparable to that of other persons eligible for housing assistance under the same program.

Multifamily Housing Developments covered by 10 TAC 11.101(b)(8)(A) must have a minimum of 5% of all units in the development set aside for the mobility impaired and an additional 2% must be set aside for the hearing and/or visually impaired.

<table>
<thead>
<tr>
<th>Hearing/Visual</th>
<th>Total Units</th>
<th>Required %</th>
<th>Calculated Units</th>
<th>Units Required (Rounded)</th>
<th>Units Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit Description</td>
<td>88</td>
<td>2%</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>One Bedroom</td>
<td>64</td>
<td>2%</td>
<td>1.28</td>
<td>1.28</td>
<td>2</td>
</tr>
<tr>
<td>Two Bedroom</td>
<td>24</td>
<td>2%</td>
<td>0.48</td>
<td>1</td>
<td>1</td>
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<td></td>
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<tr>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>2%</td>
<td>0</td>
<td>0</td>
<td></td>
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<tr>
<td></td>
<td>88</td>
<td>1.76</td>
<td>2.28</td>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>

*NOTE: If total is more than what is required, Applicant will select which to include under "Units Proposed"

### EXAMPLE

<table>
<thead>
<tr>
<th>Hearing/Visual</th>
<th>Total Units</th>
<th>Required %</th>
<th>Calculated Units</th>
<th>Units Required (Rounded)</th>
<th>Units Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit Description</td>
<td>68</td>
<td>2%</td>
<td>1.36</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>1/1</td>
<td>28</td>
<td>2%</td>
<td>0.56</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2/2</td>
<td>36</td>
<td>2%</td>
<td>0.72</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>3/3</td>
<td>4</td>
<td>2%</td>
<td>0.08</td>
<td>1</td>
<td></td>
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<tr>
<td>D</td>
<td></td>
<td>2%</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>E</td>
<td></td>
<td>2%</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td></td>
<td>68</td>
<td>1.36</td>
<td>3</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

*NOTE: Required is 2, but calculation yields 3. Applicant selected which Unit(s) to include under "Units Proposed"

By signing below, I (WE) certify that the information above meets the requirements in Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8 as described in 10 TAC Chapter 1, Subchapter B. At least two percent (2%) of all dwelling units will be designed and built to be accessible for persons with hearing and/or visual impairment.

By: [Signature]

Paul C. Slayton III
Printed Name

2/22/2019
Date

Miller Slayton Architects, Inc.
Firm Name (If applicable)

2/21/2019
## Accessible Parking Calculation

Submit this worksheet or a comparable document certified by an accessibility professional.

Although Fair Housing Standards may apply in unusual circumstances, ADA Standards typically determine the required number of Accessible Parking Spaces (APSs). This worksheet is intended to handle typical (ADA) cases, where all parking spaces are within a single parking lot. However, it might be possible to determine the APS requirements of multiple lots (or facilities) by completing this same worksheet for each of the lots. The worksheet might also be usable for Developments with less than one parking space to serve each dwelling unit, by filling in the information on page one, bypassing inapplicable spaces in the first section of page two, and completing the second section of page two, "Distribution of APSs Among the Various Types of Parking", referencing ADA Table 208.2. In unique cases where Fair Housing applies, or where this worksheet cannot be applied, create a certification specifying the types and numbers of the parking spaces applicable, including standard and accessible parking for dwelling units and amenities (e.g., office, mail kiosk, laundry, dumpster, pool, playground, etc., collectively, “amenities”), and for each type of parking facility, e.g., surface spaces, carports, garages, etc., for staff review. Links to the applicable accessibility rules are provided below.


### Accessible Parking for Facilities and Amenities

Determining the number of APSs that serve the dwelling units requires accounting for APSs that do not serve dwelling units. In the yellow spaces below, identify the individual amenities served by an APS. Groups of amenities in close proximity typically are allowed to share a single APS. If groups of amenities share one APS (or APSs), identify each such group. In the yellow space to the right of each of these identifications, state the number of APSs designated to serve the amenity or group identified. If parking is provided near dumpsters, at least 1 dumpster must have an APS. The total of these APSs will be subtracted from the total of all types of parking spaces to determine the number of parking spaces that serve the dwelling units and the APSs required for the dwelling units.

<table>
<thead>
<tr>
<th>Amenity:</th>
<th>Identification of amenity, or amenities of a group, that the APS serves</th>
<th>APSs:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office, etc.:</td>
<td>Management office &amp; interior amenity</td>
<td>1</td>
</tr>
<tr>
<td>Amenity 1:</td>
<td>Dumpster</td>
<td>1</td>
</tr>
<tr>
<td>Amenity 2:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amenity 3:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amenity 4:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amenity 5:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amenity 6:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total of Accessible Parking Spaces that Do Not Serve Dwelling Units: 2

Links to the applicable accessibility rules are provided below.
Table 208.2 governs these parking facilities - bps

Accessible Parking for Residential Units

This portion of the worksheet was written for Developments having at least one parking space serving each dwelling unit, having surface parking spaces as the APSs that are not for dwelling units, and having only one parking lot, i.e., none of the parking spaces are physically segregated from the others by gates or by curbs or other barriers that require vehicles to exit the Development to travel between separate parking lots that serve it. The worksheet might, or might not be, useful for other cases.

Enter the information indicated below.

<table>
<thead>
<tr>
<th>Description</th>
<th>Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total dwelling Units in the Development:</td>
<td>88</td>
</tr>
<tr>
<td>Total surface parking spaces:</td>
<td>88</td>
</tr>
<tr>
<td>Total carports:</td>
<td></td>
</tr>
<tr>
<td>Total garages:</td>
<td></td>
</tr>
<tr>
<td>Total parking spaces of all types:</td>
<td>68</td>
</tr>
<tr>
<td>Total APSs that serve non-residential purposes (i.e. office, amenities, etc.):</td>
<td>2</td>
</tr>
<tr>
<td>Total of all types of parking spaces that serve dwelling units:</td>
<td>86</td>
</tr>
<tr>
<td>APSs for mobility accessible units (5% of unit count, if spaces are sufficient):</td>
<td>4</td>
</tr>
<tr>
<td>Parking spaces that serve dwelling units in excess of one per unit (if applicable):</td>
<td>0</td>
</tr>
<tr>
<td>APSs required in excess of one per mobility accessible unit:</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total APSs required (including dwelling units and facilities/amenities):</strong></td>
<td><strong>6</strong></td>
</tr>
</tbody>
</table>

All Developments, including those having fewer than one parking space serving each dwelling unit, should use this portion of the worksheet. Enter the number of APSs indicated by ADA Table 208.2 for the total of each type of parking space, i.e., surface spaces, carports, etc., including both amenity spaces and dwelling unit spaces.

Distribution of APSs Among the Various Types of Parking

Minimum number of surface parking spaces (include dwelling unit and amenity spaces) that must be APSs:

Minimum number of carports that must be APSs:

Number of garages that must be APSs:

**APSs that Must Be Van Spaces**

**Total Van APSs required, including all types of spaces:**

Minimum number of surface parking spaces that must be van APSs:

Minimum number of carports that must be van APSs:

Minimum number of garages that must be van APSs:

By signing below, I (WE) certify that the information above meets the requirements in the 2010 ADA Standards for Accessible Design Title III regulations at 28 CFR part 36, subpart D, and the 2004 ADA Accessibility Guidelines at 36 CFR part 1191, appendices B and D. There will be at least one accessible parking space per accessible unit located on the closest route to the accessible unit. For every 6 or fraction of 6 accessible spaces required, at least one will be van accessible. Accessible spaces will be dispersed amongst the parking types provided. Where parking for amenities or non-residents is provided, a sufficient number of accessible spaces will be provided.

[Signature]

2/22/2019

Paul C. Slayton III

Miller Slayton Architects, Inc
2019 HTC
Full Application

Part 4 Tab 24

Rent Schedule

SEE Revised Application Schedules received 6-27-19
<table>
<thead>
<tr>
<th>HTC Units</th>
<th>MF Direct Loan Units (CRE/Rent/Inc)</th>
<th>Nat'l HTF Units</th>
<th>TDHCA MRB Units</th>
<th>Other/ Subsidy</th>
<th># of Units</th>
<th># of Bedrooms</th>
<th># of Baths</th>
<th>Unit Size (Net Rentable Sq. Ft.)</th>
<th>Total Net Rentable Sq. Ft.</th>
<th>Total Unit Size</th>
<th>Program Rent Limit</th>
<th>Tenant Paid Utility Allow.</th>
<th>Rent Collected /Unit</th>
<th>Total Monthly Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
<td>PBV</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>653</td>
<td>3,918</td>
<td>423</td>
<td>895</td>
<td>5,370</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>50</td>
<td></td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>653</td>
<td>3,918</td>
<td>705</td>
<td>662</td>
<td>3,972</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>50</td>
<td>LH/50%</td>
<td>17</td>
<td>1</td>
<td>1</td>
<td>653</td>
<td>11,101</td>
<td>343</td>
<td>3662</td>
<td>11,254</td>
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<td></td>
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<tr>
<td>60</td>
<td></td>
<td>29</td>
<td>1</td>
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<td>653</td>
<td>18,937</td>
<td>846</td>
<td>803</td>
<td>23,287</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MR</td>
<td></td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>653</td>
<td>3,918</td>
<td>846</td>
<td>5,076</td>
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</tr>
<tr>
<td>30</td>
<td></td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>851</td>
<td>1,970</td>
<td>507</td>
<td>1,118</td>
<td>2,236</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>50</td>
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<td>2</td>
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<td>851</td>
<td>1,702</td>
<td>846</td>
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<td>1,580</td>
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<tr>
<td>50</td>
<td>LH/50%</td>
<td>7</td>
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<td>790</td>
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<td>851</td>
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<tr>
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<td>2</td>
<td>851</td>
<td>2,553</td>
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<td>3,045</td>
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</tr>
</tbody>
</table>

**Non Rental Income**
- $0.00 per unit/month for app fees, late fees, retained deposits and NSF charges
- $15.00 per unit/month

**Potential Gross Monthly Income**
- $70,940

**Provision for Vacancy & Collection Loss**
- 7.50%

**Total Rent Schedule**
- 88 units
- $62,216
- 70,940

**Self Score Total**: 124
## Rent Schedule (Continued)

### Housing

<table>
<thead>
<tr>
<th>Credit</th>
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<th>% of Total</th>
</tr>
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<tbody>
<tr>
<td>TC20%</td>
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<td>0</td>
</tr>
<tr>
<td>TC30%</td>
<td>10%</td>
<td>9%</td>
</tr>
<tr>
<td>TC40%</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TC50%</td>
<td>41%</td>
<td>36%</td>
</tr>
<tr>
<td>TC60%</td>
<td>49%</td>
<td>44%</td>
</tr>
<tr>
<td>TC70%</td>
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<tr>
<td>TC80%</td>
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</table>

### Tax Credits

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<tr>
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<th>% of Total</th>
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</thead>
<tbody>
<tr>
<td>HTC LI Total</td>
<td>79</td>
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<tr>
<td>EO</td>
<td>0</td>
<td>0</td>
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<tr>
<td>MR</td>
<td>11%</td>
<td>10%</td>
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<tr>
<td>MR Total</td>
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<td>9</td>
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<tr>
<td>Total HTC Units</td>
<td>88</td>
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### National Housing Trust Fund

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<td>HTF LI Total</td>
<td>0</td>
<td></td>
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<tr>
<td>MR</td>
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<td>0</td>
</tr>
<tr>
<td>MR Total</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>HTF Total</td>
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</table>

### Mortgages

<table>
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<tbody>
<tr>
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<tr>
<td>MR830%</td>
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<td>0</td>
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<tr>
<td>MR840%</td>
<td>0</td>
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<td>MR850%</td>
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<tr>
<td>MR880%</td>
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### Bond

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<tr>
<th>Credit</th>
<th>% of LI</th>
<th>% of Total</th>
</tr>
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<tbody>
<tr>
<td>MR LI Total</td>
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<tr>
<td>MRBMR</td>
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<td>0</td>
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<tr>
<td>MRBMR Total</td>
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</tr>
<tr>
<td>MRB Total</td>
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</table>

### Direct Loan

<table>
<thead>
<tr>
<th>Credit</th>
<th>% of LI</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>30%</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>40%</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>LH/50%</td>
<td>100%</td>
<td>100%</td>
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<tr>
<td>HH/60%</td>
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<tr>
<td>HH/80%</td>
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<td>0</td>
</tr>
<tr>
<td>Direct Loan LI Total</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>EO</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>MR</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>MR Total</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Direct Loan Total</td>
<td>24</td>
<td></td>
</tr>
</tbody>
</table>

### Other

<table>
<thead>
<tr>
<th>Credit</th>
<th>% of LI</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total OT Units</td>
<td>8</td>
<td></td>
</tr>
</tbody>
</table>

**Bedrooms**

<table>
<thead>
<tr>
<th>Bedroom</th>
<th>% of LI</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>0</td>
<td>0</td>
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<tr>
<td>2</td>
<td>0</td>
<td>0</td>
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<tr>
<td>3</td>
<td>0</td>
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<td>4</td>
<td>0</td>
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</tr>
<tr>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

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ACQUISITION + HARD

<table>
<thead>
<tr>
<th>Credit</th>
<th>Cost Per Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>$137.34</td>
<td></td>
</tr>
</tbody>
</table>

**Due to Other**

<table>
<thead>
<tr>
<th>Credit</th>
<th>Cost Per Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>$105.38</td>
<td></td>
</tr>
</tbody>
</table>

---

2/25/2019
2019 HTC
Full Application

Part 4 Tab 25

Utility Allowances

SEE Revised Application Schedules received 6-27-19
Utility Allowances [§10.614]

Applicant must attach documentation to this form to support the "Utility Allowance" estimate used in completing the Rent Schedule provided in the Application. Where the Applicant uses any method that requires Department review, such review must have been requested prior to submission of the Application. Please see 10 TAC §10.614(k). This exhibit must clearly indicate which utility costs are included in the estimate.

If tenants will be required to pay any other mandatory fees (e.g. renter's insurance) please provide an estimate, description and documentation of those as well.

<table>
<thead>
<tr>
<th>Utility</th>
<th>Who Pays</th>
<th>Energy Source</th>
<th>0BR</th>
<th>1BR</th>
<th>2BR</th>
<th>3BR</th>
<th>4BR</th>
<th>Source of Utility Allowance &amp; Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heating</td>
<td>Tenant</td>
<td>Electric</td>
<td>$11</td>
<td>$13</td>
<td></td>
<td></td>
<td></td>
<td>HUD Utility Model</td>
</tr>
<tr>
<td>Cooking</td>
<td>Tenant</td>
<td>Electric</td>
<td>$3</td>
<td>$5</td>
<td></td>
<td></td>
<td></td>
<td>2/15/2019</td>
</tr>
<tr>
<td>Other Electric</td>
<td>Tenant</td>
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<td>$17</td>
<td></td>
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</tr>
<tr>
<td>Air Conditioning</td>
<td>Tenant</td>
<td>Electric</td>
<td>$8</td>
<td>$11</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Water Heater</td>
<td>Tenant</td>
<td>Electric</td>
<td>$8</td>
<td>$10</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Water</td>
<td>Landlord</td>
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<td></td>
</tr>
<tr>
<td>Sewer</td>
<td>Landlord</td>
<td></td>
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</tr>
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</tr>
<tr>
<td>Flat Fee</td>
<td>Landlord</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>Landlord</td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Total Paid by Tenant</td>
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<td></td>
<td>$  -</td>
<td>$43.0</td>
<td>$56.0</td>
<td>$  -</td>
<td>$  -</td>
<td></td>
</tr>
</tbody>
</table>

Other (Describe)

If a revised form is submitted, date of submission: 2/25/2019
February 15, 2019

Kit Sarai
Sarah Anderson Consulting
Austin, Texas
kit@sarahandersonconsulting.com

RE: 2019 HTC Application – proposed site located in Fort Worth, Texas

Dear Mr. Sarai:

The Texas Department of Housing and Community Affairs has received a request submitted for proposed a 2019 Housing Tax Credit ("HTC"), located in Fort Worth, to calculate the utility allowance using the HUD Utility Schedule Model in accordance with the 10TAC§10.614(k). This allowance is calculated based on the following representations:

1. That the building(s) are not RHS assisted or have RHS assisted tenants;
2. That the residents are financially responsible for electricity and that the utility is not paid to or through the owner of the building based on an allocation formula or RUBS; and,
3. That the only building type is Apartments 5+.

In accordance with Treasury Regulation §1.42-10, the utility allowance for those units occupied by Section 8 voucher holders remains the applicable Public Housing Authority utility allowance established from where the resident receives the assistance.

Please see attached schedule dated February 15, 2019. This allowance can be used for underwriting purposes. If you are successful in obtaining an allocation, to utilize the HUD Utility Schedule Model to establish the initial utility allowance for the Development, the Owner must submit utility allowance documentation for Department approval, at minimum, 90 days prior to the commencement of leasing activities.

If you have any further questions, please contact Cody Campbell toll free in Texas at (800) 643-8204, directly at (512) 475-4603, or email: cody.campbell@tdhca.state.tx.us.

Sincerely,

Cody Campbell
Senior Compliance Monitor
<table>
<thead>
<tr>
<th>Utility or Service</th>
<th>Natural Gas</th>
<th>Bottled Gas</th>
<th>Electric</th>
<th>Other Electric</th>
<th>Air Conditioning</th>
<th>Water Heating</th>
<th>Other - specify</th>
<th>Total</th>
<th>Total Allowance (Rounded Up)</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>Natural Gas</td>
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<td>Bottled Gas</td>
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<tr>
<td>Fuel Oil</td>
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</tr>
<tr>
<td>Cooking</td>
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<td>Other Electric</td>
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<td>Natural Gas</td>
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<td>Trash Collection</td>
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<td>Refrigerator</td>
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<td>Other - specify</td>
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<tr>
<td>Total</td>
<td>$36.56</td>
<td>$42.91</td>
<td>$55.98</td>
<td>$69.56</td>
<td>$83.14</td>
<td>$96.72</td>
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<tr>
<td>Total Allowance (Rounded Up)</td>
<td>$37.00</td>
<td>$43.00</td>
<td>$56.00</td>
<td>$70.00</td>
<td>$84.00</td>
<td>$97.00</td>
<td>$370.0</td>
<td>$374.0</td>
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</table>
2019 HTC
Full Application

Part 4 Tab 26

Annual Operating Expenses

SEE Revised Application Schedules received 6-27-19
<table>
<thead>
<tr>
<th><strong>ANNUAL OPERATING EXPENSES</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General &amp; Administrative Expenses</strong></td>
</tr>
<tr>
<td>Accounting                          $ 12,000</td>
</tr>
<tr>
<td>Advertising                         $ 8,800</td>
</tr>
<tr>
<td>Legal fees                          $ 5,500</td>
</tr>
<tr>
<td>Leased equipment                    $</td>
</tr>
<tr>
<td>Postage &amp; office supplies           $ 4,400</td>
</tr>
<tr>
<td>Telephone                           $ 3,300</td>
</tr>
<tr>
<td>Other                               $</td>
</tr>
<tr>
<td>Total General &amp; Administrative Expenses:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Management Fee:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Percent of Effective Gross Income:</td>
</tr>
<tr>
<td>Total Management Fee:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Payroll, Payroll Tax &amp; Employee Benefits</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Management                                  $ 40,000</td>
</tr>
<tr>
<td>Maintenance                                 $ 34,000</td>
</tr>
<tr>
<td>Other                                        $ 20,720</td>
</tr>
<tr>
<td>Total Payroll, Payroll Tax &amp; Employee Benefits:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Repairs &amp; Maintenance</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Elevator                  $ 6,000</td>
</tr>
<tr>
<td>Exterminating             $ 1,584</td>
</tr>
<tr>
<td>Grounds                   $ 12,000</td>
</tr>
<tr>
<td>Make-ready                $ 11,440</td>
</tr>
<tr>
<td>Repairs                   $ 17,160</td>
</tr>
<tr>
<td>Other                      $</td>
</tr>
<tr>
<td>Total Repairs &amp; Maintenance:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Utilities (Enter Only Property Paid Expense)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric                                     $ 15,400</td>
</tr>
<tr>
<td>Natural gas                                  $</td>
</tr>
<tr>
<td>Trash                                        $ 8,400</td>
</tr>
<tr>
<td>Water/Sewer                                  $ 12,680</td>
</tr>
<tr>
<td>Other                                        $</td>
</tr>
<tr>
<td>Total Utilities:                             $ 66,480</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Property Taxes:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Published Capitalization Rate: 9.50%</td>
</tr>
<tr>
<td>Source: Tarrant</td>
</tr>
<tr>
<td>Annual Property Taxes</td>
</tr>
<tr>
<td>Payments in Lieu of Taxes</td>
</tr>
<tr>
<td>Total Property Taxes:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Reserve for Replacements:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual reserves per unit:    $ 250</td>
</tr>
<tr>
<td>Total Other Expenses:        $</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Other Expenses</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cable TV            $</td>
</tr>
<tr>
<td>Supportive Services (Staffing/Contracted Services)</td>
</tr>
<tr>
<td>TDHCA Compliance fees (40/HTC unit)</td>
</tr>
<tr>
<td>TDHCA Direct Loan Compliance Fees (354/MDL unit)</td>
</tr>
<tr>
<td>TDHCA Bond Compliance Fees (TDHCA as Bond Issuer Only - 25/MRB unit)</td>
</tr>
<tr>
<td>Bond Trustee Fees    $</td>
</tr>
<tr>
<td>Security             $</td>
</tr>
<tr>
<td>Other                $</td>
</tr>
<tr>
<td>Total Other Expenses: $ 21,976</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>TOTAL ANNUAL EXPENSES</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Expense per unit:        $ 5163</td>
</tr>
<tr>
<td>Total Annual Expenses:   $ 454,364</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>NET OPERATING INCOME</strong> (before debt service)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Annual Debt Service:   $ 347,722</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>First Mortgage Lender</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>TDHCA                      $ 104,312</td>
</tr>
<tr>
<td>City of Fort Worth         $ 10,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>NET CASH FLOW</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 55,789</td>
</tr>
</tbody>
</table>
SEE Revised Application Schedules received 6-27-19
### INCOME

<table>
<thead>
<tr>
<th></th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 10</th>
<th>YEAR 15</th>
</tr>
</thead>
<tbody>
<tr>
<td>POTENTIAL GROSS ANNUAL RENTAL INCOME</td>
<td>$851,280</td>
<td>$868,306</td>
<td>$885,672</td>
<td>$903,385</td>
<td>$921,453</td>
<td>$1,017,358</td>
<td>$1,223,466</td>
</tr>
<tr>
<td>Secondary Income</td>
<td>$15,840</td>
<td>$16,157</td>
<td>$16,480</td>
<td>$16,810</td>
<td>$17,146</td>
<td>$18,930</td>
<td>$20,901</td>
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<tr>
<td>POTENTIAL GROSS ANNUAL INCOME</td>
<td>$867,120</td>
<td>$884,462</td>
<td>$902,152</td>
<td>$920,195</td>
<td>$938,599</td>
<td>$1,036,289</td>
<td>$1,144,146</td>
</tr>
<tr>
<td>Provision for Vacancy &amp; Collection Loss</td>
<td>($65,034)</td>
<td>($66,335)</td>
<td>($67,661)</td>
<td>($69,015)</td>
<td>($70,395)</td>
<td>($77,722)</td>
<td>($85,811)</td>
</tr>
<tr>
<td>Rental Concessions</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EFFECTIVE GROSS ANNUAL INCOME</td>
<td>$802,086</td>
<td>$818,128</td>
<td>$834,490</td>
<td>$851,180</td>
<td>$868,204</td>
<td>$958,567</td>
<td>$1,058,335</td>
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### EXPENSES

<table>
<thead>
<tr>
<th></th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 10</th>
<th>YEAR 15</th>
</tr>
</thead>
<tbody>
<tr>
<td>General &amp; Administrative Expenses</td>
<td>$34,000</td>
<td>$35,020</td>
<td>$36,071</td>
<td>$37,153</td>
<td>$38,267</td>
<td>$44,362</td>
<td>$51,428</td>
</tr>
<tr>
<td>Management Fee</td>
<td>$40,104</td>
<td>$40,906</td>
<td>$41,724</td>
<td>$42,559</td>
<td>$43,410</td>
<td>$47,928</td>
<td>$52,916</td>
</tr>
<tr>
<td>Payroll, Payroll Tax &amp; Employee Benefits</td>
<td>$94,720</td>
<td>$97,562</td>
<td>$100,488</td>
<td>$103,503</td>
<td>$106,608</td>
<td>$123,588</td>
<td>$143,272</td>
</tr>
<tr>
<td>Repairs &amp; Maintenance</td>
<td>$48,184</td>
<td>$49,630</td>
<td>$51,118</td>
<td>$52,652</td>
<td>$54,232</td>
<td>$62,869</td>
<td>$72,883</td>
</tr>
<tr>
<td>Electric &amp; Gas Utilities</td>
<td>$15,400</td>
<td>$15,862</td>
<td>$16,338</td>
<td>$16,828</td>
<td>$17,333</td>
<td>$20,094</td>
<td>$23,294</td>
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<tr>
<td>Water, Sewer &amp; Trash Utilities</td>
<td>$51,080</td>
<td>$52,612</td>
<td>$54,191</td>
<td>$55,816</td>
<td>$57,491</td>
<td>$66,648</td>
<td>$77,263</td>
</tr>
<tr>
<td>Annual Property Insurance Premiums</td>
<td>$26,400</td>
<td>$27,192</td>
<td>$28,008</td>
<td>$28,848</td>
<td>$29,713</td>
<td>$34,446</td>
<td>$39,932</td>
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<tr>
<td>Property Tax</td>
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<td>$103,515</td>
<td>$106,620</td>
<td>$109,819</td>
<td>$113,114</td>
<td>$131,130</td>
<td>$152,015</td>
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<tr>
<td>Reserve for Replacements</td>
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<td>$22,660</td>
<td>$23,314</td>
<td>$24,014</td>
<td>$24,734</td>
<td>$28,674</td>
<td>$33,277</td>
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<tr>
<td>Other Expenses</td>
<td>$21,976</td>
<td>$22,635</td>
<td>$23,314</td>
<td>$24,014</td>
<td>$24,734</td>
<td>$28,674</td>
<td>$33,241</td>
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<td>$467,594</td>
<td>$481,213</td>
<td>$495,232</td>
<td>$509,663</td>
<td>$588,443</td>
<td>$679,522</td>
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<tr>
<td>NET OPERATING INCOME</td>
<td>$347,722</td>
<td>$350,534</td>
<td>$353,278</td>
<td>$355,948</td>
<td>$358,541</td>
<td>$370,124</td>
<td>$378,814</td>
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### DEBT SERVICE

<table>
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<tr>
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<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 10</th>
<th>YEAR 15</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Deed of Trust Annual Loan Payment</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
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<tr>
<td>Second Deed of Trust Annual Loan Payment</td>
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<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
</tr>
<tr>
<td>Third Deed of Trust Annual Loan Payment</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
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<td>10,000</td>
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<tr>
<td>OTHER ANNUAL REQUIRED PAYMENT</td>
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<tr>
<td>ANNUAL NET CASH FLOW</td>
<td>$55,789</td>
<td>$58,601</td>
<td>$61,344</td>
<td>$64,015</td>
<td>$66,607</td>
<td>$78,190</td>
<td>$86,880</td>
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<tr>
<td>CUMULATIVE NET CASH FLOW</td>
<td>$55,789</td>
<td>$114,389</td>
<td>$175,734</td>
<td>$239,749</td>
<td>$306,356</td>
<td>$688,443</td>
<td>$769,522</td>
</tr>
<tr>
<td>Debt Coverage Ratio</td>
<td>1.19</td>
<td>1.20</td>
<td>1.21</td>
<td>1.22</td>
<td>1.23</td>
<td>1.27</td>
<td>1.30</td>
</tr>
</tbody>
</table>

By signing below (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank’s current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under §11.9(e)(1) relating to Financial Feasibility)

Signature, Authorized Representative, Construction or Permanent Lender

Printed Name

Phone:

Email:

Date

Signature, Authorized Representative, Syndicator

Printed Name

Date

If a revised form is submitted, date of submission: 2/25/2019
# 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the pro forma period should be attached to this exhibit.

### Income

<table>
<thead>
<tr>
<th></th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
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<td>$903,385</td>
<td>$921,453</td>
<td>$1,017,358</td>
<td>$1,123,246</td>
</tr>
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<td>$16,480</td>
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<td>($69,015)</td>
<td>($70,395)</td>
<td>($77,183)</td>
<td>($85,811)</td>
</tr>
<tr>
<td>Rental Concessions</td>
<td>$0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Effective Gross Annual Income</strong></td>
<td>$802,086</td>
<td>$818,128</td>
<td>$834,490</td>
<td>$851,180</td>
<td>$868,204</td>
<td>$958,567</td>
<td>$1,058,335</td>
</tr>
</tbody>
</table>

### Expenses

<table>
<thead>
<tr>
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<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
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<td>$17,333</td>
<td>$20,094</td>
<td>$23,294</td>
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<td>$29,713</td>
<td>$34,446</td>
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<tr>
<td>Property Tax</td>
<td>$100,500</td>
<td>$101,515</td>
<td>$106,620</td>
<td>$109,819</td>
<td>$113,114</td>
<td>$131,130</td>
<td>$152,015</td>
</tr>
<tr>
<td>Reserve for Replacements</td>
<td>$22,000</td>
<td>$22,660</td>
<td>$23,349</td>
<td>$24,040</td>
<td>$24,761</td>
<td>$28,705</td>
<td>$33,277</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>$21,976</td>
<td>$22,635</td>
<td>$23,314</td>
<td>$24,014</td>
<td>$24,734</td>
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<td>$33,241</td>
</tr>
<tr>
<td><strong>Total Annual Expenses</strong></td>
<td>$454,364</td>
<td>$467,594</td>
<td>$481,213</td>
<td>$495,322</td>
<td>$509,663</td>
<td>$588,443</td>
<td>$679,522</td>
</tr>
<tr>
<td><strong>Net Operating Income</strong></td>
<td>$347,722</td>
<td>$350,534</td>
<td>$355,278</td>
<td>$355,948</td>
<td>$356,541</td>
<td>$370,124</td>
<td>$378,814</td>
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</tbody>
</table>

### Debt Service

<table>
<thead>
<tr>
<th></th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 10</th>
<th>YEAR 15</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Deed of Trust Annual Loan Payment</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
</tr>
<tr>
<td>Second Deed of Trust Annual Loan Payment</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
</tr>
<tr>
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<td>10,000</td>
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<tr>
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<td>0</td>
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<tr>
<td>Other Annual Required Payment</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Annual Net Cash Flow</strong></td>
<td>$55,789</td>
<td>$55,601</td>
<td>$61,344</td>
<td>$64,015</td>
<td>$66,607</td>
<td>$78,190</td>
<td>$86,880</td>
</tr>
<tr>
<td><strong>Cumulative Net Cash Flow</strong></td>
<td>$55,789</td>
<td>$114,389</td>
<td>$175,734</td>
<td>$239,749</td>
<td>$306,356</td>
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<td>Debt Coverage Ratio 1.19</td>
<td>1.20</td>
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<td>1.22</td>
<td>1.23</td>
<td>1.27</td>
<td>1.30</td>
<td></td>
</tr>
</tbody>
</table>

By signing below I (we) are certifying that the above 15 year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under 11.9(e)(1) relating to Financial Feasibility.)

---

**Signature, Authorized Representative, Construction or Permanent Lender**

Printed Name: STEVEN L. ROSE  
Phone: (713) 368-5754  
Email: srose@oxtx.com  
Date: 2/16/2019

**Signature, Authorized Representative, Syndicator**

Printed Name:  
Date: 2/22/2019
# 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro formas should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

## INCOME

<table>
<thead>
<tr>
<th></th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 6</th>
<th>YEAR 7</th>
<th>YEAR 8</th>
<th>YEAR 9</th>
<th>YEAR 10</th>
<th>YEAR 11</th>
</tr>
</thead>
<tbody>
<tr>
<td>POTENTIAL GROSS ANNUAL RENTAL INCOME</td>
<td>$851,280</td>
<td>$868,306</td>
<td>$885,672</td>
<td>$903,885</td>
<td>$921,453</td>
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<td>Secondary Income</td>
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<tr>
<td>POTENTIAL GROSS ANNUAL INCOME</td>
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<td>Provision for Vacancy &amp; Collection Loss</td>
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<tr>
<td>EFFECTIVE GROSS ANNUAL INCOME</td>
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## EXPENSES

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<thead>
<tr>
<th></th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 6</th>
<th>YEAR 7</th>
<th>YEAR 8</th>
<th>YEAR 9</th>
<th>YEAR 10</th>
<th>YEAR 11</th>
</tr>
</thead>
<tbody>
<tr>
<td>General &amp; Administrative Expenses</td>
<td>$34,000</td>
<td>$35,020</td>
<td>$36,071</td>
<td>$37,153</td>
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<td>Management Fee</td>
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<td>Payroll, Payroll Tax &amp; Employee Benefits</td>
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<td>Repairs &amp; Maintenance</td>
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<td>$52,657</td>
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<td>$62,869</td>
<td>$72,883</td>
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<tr>
<td>Electric &amp; Gas Utilities</td>
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<td>$16,832</td>
<td>$17,333</td>
<td>$20,094</td>
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<tr>
<td>Water, Sewer &amp; Trash Utilities</td>
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<td>$52,612</td>
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<td>$55,816</td>
<td>$57,491</td>
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<tr>
<td>Annual Property Insurance Premiums</td>
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<td>$39,627</td>
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<tr>
<td>Property Tax</td>
<td>$100,500</td>
<td>$103,515</td>
<td>$106,620</td>
<td>$109,819</td>
<td>$113,114</td>
<td>$131,139</td>
<td>$152,015</td>
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<td></td>
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</tr>
<tr>
<td>Reserve for Replacements</td>
<td>$22,000</td>
<td>$22,660</td>
<td>$23,220</td>
<td>$24,040</td>
<td>$24,761</td>
<td>$28,705</td>
<td>$33,277</td>
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<tr>
<td>Other Expenses</td>
<td>$21,976</td>
<td>$22,635</td>
<td>$23,314</td>
<td>$24,014</td>
<td>$24,734</td>
<td>$28,674</td>
<td>$33,241</td>
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<td></td>
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<tr>
<td>TOTAL ANNUAL EXPENSES</td>
<td>$454,364</td>
<td>$457,594</td>
<td>$481,213</td>
<td>$495,232</td>
<td>$509,663</td>
<td>$558,443</td>
<td>$679,522</td>
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<td></td>
<td></td>
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<tr>
<td>NET OPERATING INCOME</td>
<td>$347,722</td>
<td>$350,534</td>
<td>$353,378</td>
<td>$355,048</td>
<td>$358,541</td>
<td>$370,124</td>
<td>$378,814</td>
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</tr>
</tbody>
</table>

## DEBT SERVICE

<table>
<thead>
<tr>
<th></th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 6</th>
<th>YEAR 7</th>
<th>YEAR 8</th>
<th>YEAR 9</th>
<th>YEAR 10</th>
<th>YEAR 11</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Deed of Trust Annual Loan Payment</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
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<td>$177,621</td>
<td>$177,621</td>
<td>$177,621</td>
<td></td>
</tr>
<tr>
<td>Second Deed of Trust Annual Loan Payment</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td>104,312</td>
<td></td>
</tr>
<tr>
<td>Third Deed of Trust Annual Loan Payment</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td></td>
</tr>
<tr>
<td>Other Annual Required Payment</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td></td>
</tr>
<tr>
<td>ANNUAL NET CASH FLOW</td>
<td>$55,789</td>
<td>$58,601</td>
<td>$61,344</td>
<td>$64,015</td>
<td>$66,607</td>
<td>$78,199</td>
<td>$86,880</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CUMULATIVE NET CASH FLOW</td>
<td>$55,789</td>
<td>$114,389</td>
<td>$175,734</td>
<td>$239,749</td>
<td>$306,356</td>
<td>$683,235</td>
<td>$1,081,027</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Debt Coverage Ratio</td>
<td>1.19</td>
<td>1.20</td>
<td>1.21</td>
<td>1.22</td>
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<td>1.27</td>
<td>1.30</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

By signing below 1 (we) are certifying that the above 15 Year pro formas, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminary considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.25 debt coverage ratio. (Signature only required if using this pro forma for points under §11.9(e)(1) relating to Financial Feasibility)

---

Signature, Authorized Representative, Construction or Permanent Lender

[Signature]

Printed Name: 2-26-19

Date

Signature, Authorized Representative, Syndicator

[Signature]

Printed Name: 02/26/2019

Date

Phone: 972-803-3416

Email: omar.chaudry@huntcompanies.com

Signature:

Printed Name:

Date:

If a revised form is submitted, date of submission: 2/22/2019
2019 HTC
Full Application

Part 4 Tab 28

Offsite Cost Breakdown
# Everly Plaza Off-Site Cost Breakdown

This form must be submitted with the Development Cost Schedule if the development has offsite costs, whether those costs are included in the budget as a line item, embedded in the acquisition costs, or referenced in utility provider letters. Therefore, the total costs listed on this worksheet may or may not exactly correspond with those off-site costs indicated on the Development Costs Schedule. However, all costs listed here should be able to be justified in another place in the application.

**Columns A**: The offsite activity reflected here should correspond to the offsite activity reflected in the Development Cost Schedule or other supporting documentation.

**Columns B and C**: In determining actual construction cost, two different methods may be used:

- **Column D**: To arrive at total construction costs in Column D:
- **Column E**: Any proposed activity involving the acquisition of real property, easements, rights-of-way, etc., must have the projected costs of this acquisition for the activity.

**Column F**: Engineering/architectural costs must be broken out by the offsite work activity.

**Column G**: Figures for Column G, Total Activity Cost, are obtained by adding together Columns D, E, and F to get the total costs.

**ALL contingency must be included in the Contingency line item on the Development Cost Schedule and **NOT on this form**

<table>
<thead>
<tr>
<th>Activity</th>
<th>B. Labor or Unit Price</th>
<th>C. Materials or # of Units</th>
<th>D. Total Construction Costs</th>
<th>E. Acquisition Costs</th>
<th>F. Engineering / Architectural Costs</th>
<th>G. Total Activity Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offsite Demolition</td>
<td>$15,000.00</td>
<td></td>
<td>$15,000.00</td>
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<tr>
<td>Offsite Concrete</td>
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<tr>
<td>Offsite Paving - Alley</td>
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<td></td>
<td>$45,000.00</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

Total: $85,000

---

Signature of Registered Engineer responsible for Budget Justification: [Signature]

Printed Name: [Name]

Seal: [Seal]

Date: 2/21/2019

If a revised form is submitted, date of submission: [Date]
EVERLY PLAZA, LLC

INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED UPON PROCEDURES

FEBRUARY 21, 2019
INDEPENDENT ACCOUNTANT’S REPORT
ON APPLYING AGREED UPON PROCEDURES

To: Everly Plaza, LLC (the “Owner”)
5501-A Balcones Dr. #302
Austin, TX 78731

RE: Name of Property: Everly Plaza (the “Property”)

Name of Applicant: Everly Plaza, LLC (the “Company”)

We have performed the procedures enumerated below, which were agreed to by the Texas Department of Housing and Community Affairs (the “Agency”) and at the request of the Owner (collectively the “specified parties”), solely to assist you with respect to determining whether certain site work and off-site costs are expected to be includable in eligible basis per the tax credit application documents of the Owner submitted to the Agency. The Owner is responsible for determining whether certain site improvements are expected to be includable in eligible basis. The sufficiency of these procedures is solely the responsibility of the specified parties. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and associated findings are as follows:

1. We read the detailed cost breakdown for all estimated site work and off-site costs, completed by a third party engineer, licensed to practice in the State of Texas, and the development cost schedule, provided by the Company, to identify total estimated site-work costs.

   Finding: We determined the detailed cost breakdown for estimated site work and off-site work for the Property agrees to the detailed site work estimate prepared by Andrea E. Taylor, P.E. (the “Licensed Professional Engineer”) and dated as of February 20, 2019 and February 21, 2019.

2. We read the pertinent portions of the Internal Revenue Cost Section 42 and the Treasury Regulations (“IRC 42”) to determine the definition of eligible basis. We also read Internal Revenue Service Technical Advice Memoranda 200043015, 200043016, 200043017, 200044004, 200044005 and 200203013, along with IRS Revenue Ruling 2002-9 (the “TAMs”), to identify which costs can be included into eligible basis.

   Finding: We determined the definition of eligible basis, as it pertains to the inclusion of site work costs in eligible basis.
3. We read pertinent portions of the 2019 Housing Tax Credit Program Qualified Allocation Plan (the “QAP”) and the 2019 Multifamily Programs Application Procedures Manual (the “Application Manual”) for the 2019 Multifamily Uniform Application (the “Application”) to determine criteria specific to Site-work Cost Schedule that is to be submitted by the Company to the Agency.

**Finding:** We determined that the expected site work costs does not exceed $15,000 per unit. Therefore, the Owner is not required to provide a separate letter from a certified public accountant allocating which portions of those site work costs should be included in eligible basis.

4. We discussed the estimated site work costs, the accounting treatment of the site work costs, and the eligible basis treatment of the site work costs with the Company.

**Finding:** We determined that $1,201,700 of expected site work costs are includable in eligible basis.

5. We read IRS Private Letter Ruling 200916007 (“PLR 200916007”).

**Finding:** Site work and off-site costs are allowable costs as described in PLR 200916007.

6. We discussed the estimated site work and off-site costs and their respective accounting treatments with the Owner.

**Finding:** $70,000 of the off-site costs and $1,201,700 of the site work costs are potentially includable in eligible basis.

Based on our understanding of the TAMs, and representations made to us by the Owner regarding the probable character and nature of the estimated site work costs and off-site costs, we determined that estimated off-site costs of $70,000 and site work costs of $1,201,700 are potentially includable in eligible basis at cost certification, based on estimates of off-site costs of $85,000 and site work costs of $1,246,700 by the Registered Professional Engineer for the Property. The breakout of site work from the application is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Total Costs</th>
<th>Eligible Basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off-site costs</td>
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<tr>
<td>Site work cost</td>
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<tr>
<td><strong>Total costs</strong></td>
<td><strong>$1,331,700</strong></td>
<td><strong>$1,271,700</strong></td>
</tr>
</tbody>
</table>

The final determination of site work and off-site costs that are includable in eligible basis of the Property at cost certification cannot be made until the site work is completed, and the character and nature of the site work can be evaluated. Furthermore, the Owner’s treatment of site work and off-site costs is not free from challenge by the IRS and the final outcome of these issues in an IRS examination is not free from doubt.
The author of this document’s written tax advice did not intend nor write the advice to be used to avoid any penalty imposed by a taxing authority, nor may any recipient of this document use this document’s written tax advice for that purpose. This document’s tax advice was written specifically to support the promotion or marketing of the matter addressed by the written tax advice. Therefore, any recipient of this document should seek an independent tax professional’s advice regarding the recipient’s particular circumstances.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to, and did not; conduct an examination or review, the objective of which would be the expression of an opinion or a conclusion on whether the estimated site work costs are expected to be includable in eligible basis. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the specified parties, is not intended to be, and should not be used by anyone other than those specified parties.

Tidwell Group, LLC

Atlanta, Georgia
February 25, 2019

Contact person for questions about this report: Jeremy Densmore
Phone#: (470) 273-6619
E-Mail: jeremy.densmore@tidwellgroup.com
2019 HTC
Full Application

Part 4 Tab 29

Site Work Cost Breakdown
Everly Plaza Site Work Cost Breakdown

This form must be submitted with the Development Cost Schedule as justification of Site Work costs.

Column A: The Site Work activity reflected here must match the Site Work activity reflected in the Development Cost Schedule.

Columns B and C: In determining actual construction cost, two different methods may be used:

- The construction costs may be broken into labor (Column B) and materials (Column C) for the activity. Off

- The use of unit price (Column B) and the number of units (Column C) data for the activity.

Column D: To arrive at total construction costs in Column D:

- If based on labor and materials, add Column B and Column C together to arrive at total construction costs.
- If based on unit price measures, Column B is multiplied by Column C to arrive at total construction costs.

Column E: Any proposed activity involving the acquisition of real property, easements, rights-of-way, etc., must have the projected costs of this acquisition for the activity.

Column F: Engineering/architectural costs must be broken out by the Site Work activity.

Column G: Figures for Column G, Total Activity Cost, are obtained by adding together Columns D, E, and F to get the total costs.

**This form must be completed by a Third-Party engineer licensed to practice in the State of Texas. His or her signature and registration seal must be on the form.**

For Site Work costs that exceed $15,000 per Unit and are included in Eligible Basis, a CPA letter allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible must be submitted behind this tab.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Labor or Unit Price</th>
<th>Materials or # of Units</th>
<th>Total Construction Costs</th>
<th>Acquisition Costs</th>
<th>Engineering / Architectural Costs</th>
<th>Total Activity Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demolition</td>
<td>$45,000.00</td>
<td>1</td>
<td>$45,000.00</td>
<td></td>
<td></td>
<td>$45,000</td>
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<tr>
<td>Rough Grading</td>
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<td>1</td>
<td>$250,000.00</td>
<td></td>
<td></td>
<td>$250,000</td>
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<tr>
<td>Fine Grading</td>
<td>$100,000.00</td>
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<td>$100,000.00</td>
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<td></td>
<td>$100,000</td>
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<tr>
<td>On-site Concrete</td>
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<td>$70,000.00</td>
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<td>$70,000</td>
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<tr>
<td>On-Site Electrical</td>
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<td>$200,000.00</td>
<td></td>
<td></td>
<td>$200,000</td>
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<tr>
<td>On-Site Paving</td>
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<td>$202,000.00</td>
<td></td>
<td></td>
<td>$202,000</td>
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<tr>
<td>On-Site Utilities</td>
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<td>$235,000.00</td>
<td></td>
<td></td>
<td>$235,000</td>
</tr>
<tr>
<td>Striping &amp; Signs</td>
<td>$30,000.00</td>
<td>1</td>
<td>$30,000.00</td>
<td></td>
<td></td>
<td>$30,000</td>
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<tr>
<td>Site Lighting</td>
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<td>$50,000.00</td>
<td></td>
<td></td>
<td>$50,000</td>
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<tr>
<td>Other - Mobilization</td>
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<td>1</td>
<td>$30,000.00</td>
<td></td>
<td></td>
<td>$30,000</td>
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<tr>
<td>SWPPP</td>
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<td>$14,700.00</td>
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<td>$14,700</td>
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<tr>
<td>Decorative Masonry</td>
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<td>$20,000.00</td>
<td></td>
<td></td>
<td>$20,000</td>
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</tbody>
</table>

Total: $1,246,700

Signature of Registered Engineer: [Signature]

Printed Name: Andrea Taylor

Seal: [Seal]

Date: 2/20/2019

If a revised form is submitted, date of submission: [___]
2019 HTC Full Application

Part 4 Tab 30

Development Cost Schedule

SEE Revised Application Schedules received 6-27-19
This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All Applications must complete the total development cost column and the Tax Payer Identification column. Only HTC applications must complete the Eligible Basis columns and the Requested Credit calculation below:

### TOTAL DEVELOPMENT SUMMARY

<table>
<thead>
<tr>
<th></th>
<th>Total Cost</th>
<th>Eligible Basis (If Applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Acquisition</td>
</tr>
<tr>
<td><strong>ACQUISITION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site acquisition cost</td>
<td>3,385,000</td>
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<tr>
<td>Existing building acquisition cost</td>
<td>0</td>
<td></td>
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<tr>
<td>Closing costs &amp; acq. legal fees</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Other (specify) - see footnote 1</td>
<td>0</td>
<td></td>
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<tr>
<td>Other (specify) - see footnote 1</td>
<td>0</td>
<td></td>
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<tr>
<td><strong>Subtotal Acquisition Cost</strong></td>
<td>3,385,000</td>
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<td><strong>OFF-SITES</strong></td>
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<tr>
<td>Off-site concrete</td>
<td>25,000</td>
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<tr>
<td>Storm drains &amp; devices</td>
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<td></td>
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<tr>
<td>Water &amp; fire hydrants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Off-site utilities</td>
<td>45,000</td>
<td></td>
</tr>
<tr>
<td>Off-site paving</td>
<td>45,000</td>
<td></td>
</tr>
<tr>
<td>Off-site electrical</td>
<td>15,000</td>
<td></td>
</tr>
<tr>
<td>Demolition</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (specify) - see footnote 1</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal Off-Sites Cost</strong></td>
<td>85,000</td>
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<tr>
<td><strong>SITE WORK</strong></td>
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<td></td>
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<tr>
<td>Demolition</td>
<td>45,000</td>
<td>250,000</td>
</tr>
<tr>
<td>Asbestos Abatement (Demolition Only)</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Detention</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rough grading</td>
<td>250,000</td>
<td>250,000</td>
</tr>
<tr>
<td>Fine grading</td>
<td>100,000</td>
<td></td>
</tr>
<tr>
<td>On-site concrete</td>
<td></td>
<td>70,000</td>
</tr>
<tr>
<td>On-site electrical</td>
<td></td>
<td>200,000</td>
</tr>
<tr>
<td>On-site paving</td>
<td></td>
<td>202,000</td>
</tr>
<tr>
<td>On-site utilities</td>
<td></td>
<td>235,000</td>
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<tr>
<td>Decorative masonry</td>
<td>20,000</td>
<td></td>
</tr>
<tr>
<td>Bumper stops, striping &amp; signs</td>
<td>30,000</td>
<td></td>
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<tr>
<td>Mobilization, Site Lighting and SWPPP</td>
<td>94,700</td>
<td>164,700</td>
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<tr>
<td><strong>Subtotal Site Work Cost</strong></td>
<td>1,246,700</td>
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<tr>
<td><strong>SITE AMENITIES</strong></td>
<td></td>
<td></td>
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<tr>
<td>Landscaping</td>
<td>150,000</td>
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</tr>
<tr>
<td>Pool and decking</td>
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<td></td>
</tr>
<tr>
<td>Athletic court(s), playground(s)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fencing</td>
<td>75,000</td>
<td></td>
</tr>
<tr>
<td>Picnic Tables/Benches/Grills</td>
<td>75,000</td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal Site Amenities Cost</strong></td>
<td>300,000</td>
<td>0</td>
</tr>
<tr>
<td><strong>BUILDING COSTS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concrete</td>
<td>276,194</td>
<td>276,194</td>
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<tr>
<td>Masonry</td>
<td>254,059</td>
<td>254,059</td>
</tr>
<tr>
<td>Metals</td>
<td>92,760</td>
<td></td>
</tr>
<tr>
<td>Woods and Plastics</td>
<td>1,616,485</td>
<td></td>
</tr>
<tr>
<td>Thermal and Moisture Protection</td>
<td>179,700</td>
<td></td>
</tr>
<tr>
<td>Roof Covering</td>
<td>123,975</td>
<td></td>
</tr>
</tbody>
</table>

2/25/2019
<table>
<thead>
<tr>
<th>Item</th>
<th>Before 11.9(e)(2)</th>
<th>After 11.9(e)(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Doors and Windows</td>
<td>284,930</td>
<td>284,930</td>
</tr>
<tr>
<td>Finishes</td>
<td>959,337</td>
<td>959,337</td>
</tr>
<tr>
<td>Specialties</td>
<td>53,108</td>
<td>53,108</td>
</tr>
<tr>
<td>Equipment</td>
<td>425,940</td>
<td>425,940</td>
</tr>
<tr>
<td>Special Construction</td>
<td>342,412</td>
<td>342,412</td>
</tr>
<tr>
<td>Conveying Systems (Elevators)</td>
<td>97,000</td>
<td>97,000</td>
</tr>
<tr>
<td>Mechanical (HVAC; Plumbing)</td>
<td>1,103,960</td>
<td>1,103,960</td>
</tr>
<tr>
<td>Electrical</td>
<td>746,700</td>
<td>746,700</td>
</tr>
</tbody>
</table>

**Individually itemize costs below:**
- Detached Community Facilities/Building
- Carports and/or Garages
- Lead-Based Paint Abatement
- Asbestos Abatement (Rehabilitation Only)
- Structured Parking
- Commercial Space Costs

Other (specify) - see footnote 1

| Subtotal Building Costs (Before 11.9(e)(2)) | $6,556,560 |

Voluntary Eligible Building Costs (After 11.9(e)(2)) $87.34 psf $5,433,511

If NOT seeking to score points under §11.9(e)(2), E77:E78 should remain BLANK. True eligible building cost should be entered in line items E33:E74. If requesting points under §11.9(e)(2) related to Cost of Development per Square Foot, enter the true or voluntarily limited costs in E77:E78 that produces the target cost per square foot in D77:D78. Enter Requested Score for §11.9(e)(2) at the bottom of the schedule in D202.

**Total Building Costs & Site Work**

Including site amenities $8,103,260 $0 $7,005,261

Contingency 7.00% $573,178 490,368

**Total Hard Costs**

$8,761,438 $0 $7,495,629

<table>
<thead>
<tr>
<th>Other Construction Costs</th>
<th>THC</th>
<th>EHC</th>
</tr>
</thead>
<tbody>
<tr>
<td>General requirements (&lt;6%)</td>
<td>6.00%</td>
<td>449,738 6.00%</td>
</tr>
<tr>
<td>Field supervision (within GR limit)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractor overhead (&lt;2%)</td>
<td>2.00%</td>
<td>149,913 2.00%</td>
</tr>
<tr>
<td>G &amp; A Field (within overhead limit)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractor profit (&lt;6%)</td>
<td>6.00%</td>
<td>449,738 6.00%</td>
</tr>
</tbody>
</table>

**Total Contractor Fees**

$1,226,601 $0 $1,049,388

**Total Construction Contract**

Before 11.9(e)(2) $9,988,040 $0 $8,545,017

Voluntary Eligible "Hard Costs" (After 11.9(e)(2)) $0.00 psf

If NOT seeking to score points under §11.9(e)(2), E96:E97 should remain BLANK. True eligible cost should be entered in line items E83 and E87:E91. If requesting points under §11.9(e)(2) related to Cost of Development per Square Foot, enter the true or voluntarily limited costs in E96:E97 that produces the target cost per square foot in D96:D97. Enter Requested Score for §11.9(e)(2) at the bottom of the schedule in D202.

**Soft Costs**

- Architectural - Design fees 280,000 280,000
- Architectural - Supervision fees 70,000 70,000
- Engineering fees 250,000 250,000
- Real estate attorney/other legal fees 225,000 225,000
- Accounting fees 75,000 75,000
- Impact Fees 105,075 105,075
- Building permits & related costs 75,718 75,718
- Appraisal 12,500 12,500
- Market analysis 8,500 8,500

The $2,500 fee waiver has been applied to permitting costs and is already reflected. Therefore, the fee was not entered.
<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental assessment</td>
<td>21,450</td>
</tr>
<tr>
<td>Soils report</td>
<td>21,450</td>
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<tr>
<td>Survey</td>
<td>22,100</td>
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<tr>
<td>Marketing</td>
<td>50,000</td>
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<tr>
<td>Hazard &amp; liability insurance</td>
<td>19,800</td>
</tr>
<tr>
<td>Real property taxes</td>
<td>153,618</td>
</tr>
<tr>
<td>Personal property taxes</td>
<td></td>
</tr>
<tr>
<td>Tenant Relocation</td>
<td></td>
</tr>
<tr>
<td>Bldr’s Risk, GL, Comp Ops Ins.</td>
<td>122,393</td>
</tr>
<tr>
<td>FFE and Int Des</td>
<td>165,000</td>
</tr>
<tr>
<td>Franchise Utility Fees</td>
<td>133,260</td>
</tr>
<tr>
<td><strong>Subtotal Soft Cost</strong></td>
<td><strong>$1,810,864</strong></td>
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**FINANCING:**

**CONSTRUCTION LOAN(S)**

<table>
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<tr>
<th>Description</th>
<th>Cost</th>
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</thead>
<tbody>
<tr>
<td>Interest</td>
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<tr>
<td>Loan origination fees</td>
<td>273,000</td>
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<tr>
<td>Title &amp; recording fees</td>
<td>200,000</td>
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<tr>
<td>Closing costs &amp; legal fees</td>
<td>175,000</td>
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<tr>
<td>Inspection fees</td>
<td>86,000</td>
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<tr>
<td>Credit Report</td>
<td></td>
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<tr>
<td>Discount Points</td>
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</tr>
<tr>
<td>Other (specify) - see footnote 1</td>
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</tr>
<tr>
<td>Other (specify) - see footnote 1</td>
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</table>

**PERMANENT LOAN(S)**

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<th>Description</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Loan origination fees</td>
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</tr>
<tr>
<td>Title &amp; recording fees</td>
<td></td>
</tr>
<tr>
<td>Closing costs &amp; legal fees</td>
<td></td>
</tr>
<tr>
<td>Bond premium</td>
<td></td>
</tr>
<tr>
<td>Credit report</td>
<td></td>
</tr>
<tr>
<td>Discount points</td>
<td></td>
</tr>
<tr>
<td>Credit enhancement fees</td>
<td></td>
</tr>
<tr>
<td>Prepaid MIP</td>
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<tr>
<td>Other (specify) - see footnote 1</td>
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<tr>
<td>Other (specify) - see footnote 1</td>
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</tr>
</tbody>
</table>

**BRIDGE LOAN(S)**

<table>
<thead>
<tr>
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<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest</td>
<td></td>
</tr>
<tr>
<td>Loan origination fees</td>
<td></td>
</tr>
<tr>
<td>Title &amp; recording fees</td>
<td></td>
</tr>
<tr>
<td>Closing costs &amp; legal fees</td>
<td></td>
</tr>
<tr>
<td>Other (specify) - see footnote 1</td>
<td></td>
</tr>
<tr>
<td>Other (specify) - see footnote 1</td>
<td></td>
</tr>
</tbody>
</table>

**OTHER FINANCING COSTS**

<table>
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</tr>
</thead>
<tbody>
<tr>
<td>Tax credit fees</td>
<td>62,103</td>
</tr>
<tr>
<td>Tax and/or bond counsel</td>
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</tr>
<tr>
<td>Payment bonds</td>
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<tr>
<td>Performance bonds</td>
<td>117,686</td>
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<tr>
<td>Credit enhancement fees</td>
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</tr>
<tr>
<td>Mortgage insurance premiums</td>
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</tr>
<tr>
<td>Cost of underwriting &amp; issuance</td>
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</tr>
<tr>
<td>Syndication organizational cost</td>
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<tr>
<td>Tax opinion</td>
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</tr>
<tr>
<td>Refinance (existing loan payoff amt)</td>
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<tr>
<td>Other (specify) - see footnote 1</td>
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<tr>
<td>Other (specify) - see footnote 1</td>
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</tr>
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**Subtotal Financing Cost**

<p>| | | |</p>
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<thead>
<tr>
<th></th>
<th></th>
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<tr>
<td>$2,121,289</td>
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<td>$1,673,936</td>
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### DEVELOPER FEES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (000)</th>
<th>Total (000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing consultant fees</td>
<td>200,000</td>
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<tr>
<td>General &amp; administrative profit</td>
<td>1,780,418</td>
<td>1,590,546</td>
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**Subtotal Developer Fees** 15.00%

<table>
<thead>
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<th>Amount (000)</th>
<th>Total (000)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>$1,980,418</td>
<td>$0</td>
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### RESERVES

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<tr>
<th>Description</th>
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<th>Total (000)</th>
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<tbody>
<tr>
<td>Rent-up - new funds</td>
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<tr>
<td>Rent-up - existing reserves*</td>
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<td></td>
</tr>
<tr>
<td>Operating - new funds</td>
<td>210,662</td>
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<tr>
<td>Operating - existing reserves*</td>
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<td></td>
</tr>
<tr>
<td>Replacement - new funds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Replacement - existing reserves*</td>
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<td></td>
</tr>
<tr>
<td>Escrows - new funds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Escrows - existing reserves*</td>
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</table>

**Subtotal Reserves**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (000)</th>
<th>Total (000)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$275,383</td>
<td>$0</td>
</tr>
</tbody>
</table>

### TOTAL HOUSING DEVELOPMENT COSTS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (000)</th>
<th>Total (000)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$19,560,994</td>
<td>$0</td>
</tr>
</tbody>
</table>

The following calculations are for HTC Applications only.

### Deduct From Basis:

- Federal grants used to finance costs in Eligible Basis
- Non-qualified non-recourse financing
- Non-qualified portion of higher quality units §42(d)(5)
- Historic Credits (residential portion only)

**Total Eligible Basis**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (000)</th>
<th>Total (000)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0</td>
<td>$13,727,520</td>
</tr>
</tbody>
</table>

**High Cost Area Adjustment (100% or 130%)** 130%

**Total Adjusted Basis**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (000)</th>
<th>Total (000)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0</td>
<td>$17,845,776</td>
</tr>
</tbody>
</table>

**Applicable Fraction** 90%

**Total Qualified Basis**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (000)</th>
<th>Total (000)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$15,989,815</td>
<td>$0</td>
</tr>
</tbody>
</table>

**Applicable Percentage** 9.00%

**Credits Supported by Eligible Basis**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (000)</th>
<th>Total (000)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$1,439,083</td>
<td>$0</td>
</tr>
</tbody>
</table>

**Credit Request** (from 17.Development Narrative)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount (000)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1,439,065</td>
</tr>
</tbody>
</table>

--

*11.9(c)(2) Cost Per Square Foot: DO NOT ROUND! Applicants are advised to ensure that the figure is not rounding down to the maximum dollar figure to support the elected points.

Name of contact for Cost Estimate: **Lisa Stephens**

Phone Number for Contact: **752-213-8700**

If a revised form is submitted, date of submission: **2/25/2019**
2019 HTC
Full Application

Part 4 Tab 31

Financing Narrative and
Summary of Sources and Uses

SEE Revised Application Schedules
received 6-27-19
The project will have 8 Project Based Vouchers. Additionally, per the City of Fort Worth RFP requirements, the development will need to provide supportive services currently estimated to cost $18,000 annually. A decision on the soft loan will be made by September 1.

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.
Signature, Authorized Representative, Construction or Permanent Lender

Printed Name

Date

Telephone:

Email address:

If a revised form is submitted, date of submission:
### Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Application (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

<table>
<thead>
<tr>
<th>Financing Participants</th>
<th>Funding Description</th>
<th>Construction Period</th>
<th>Permanent Period</th>
<th>Lion Position</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Loan/Equity Amount</td>
<td>Interest Rate (%)</td>
<td>Term (Yrs)</td>
</tr>
<tr>
<td>Debt</td>
<td></td>
<td>$2,200,000</td>
<td>2.50%</td>
<td>30</td>
</tr>
<tr>
<td>TDHCA</td>
<td>MF Direct Loan Const. to Perm.</td>
<td>2nd</td>
<td>$2,200,000</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>(Repayable)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LHCLA</td>
<td>MF Direct Loan Const. Only (Repayable)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TDHCA</td>
<td>Multifamily Direct Loan (Soft Repayable)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TDHCA</td>
<td>Mortgage Revenue Bond</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>First Mortgage Lender</td>
<td>Conventional Loan</td>
<td>6.50%</td>
<td>1st</td>
<td>35</td>
</tr>
<tr>
<td>City of Fort Worth</td>
<td></td>
<td>$13,650,000</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$1,250,000</td>
<td>1.00%</td>
<td>na</td>
</tr>
<tr>
<td>Third Party Equity</td>
<td>Hunt Capital Partners</td>
<td>$1,439,065</td>
<td>$1,953,335</td>
<td>$13,022,735</td>
</tr>
<tr>
<td>Grant</td>
<td>$11,832(2LPS Contribution)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deferred Developer Fee</td>
<td>Sage Brooke DEV, LLC</td>
<td>$888,758</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Source of Funds</td>
<td>$17,801,435</td>
<td>$19,560,994</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Uses of Funds</td>
<td>$17,801,435</td>
<td>$19,560,994</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**INSTRUCTIONS:** Describe the sources of funds that will finance development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contribute an FHA-insured loan, this includes the anticipated date that the FHA application will be submitted to HUD (if not already submitted).

The first mortgage lender will provide construction financing in the form of a construction loan. The amount of the construction loan will be $13,650,000 and will be interest-only at an interest rate of 6.50%. The first mortgage lender will also provide the permanent financing in the form of a conventional loan. The conventional perm loan will be in the amount of $12,450,000 at an interest rate of 6.50%. The conventional loan will be amortized over 35 years and carry a 18 year term. Hunt Capital Partners will be providing the equity for the project at a syndication rate of 0.90%. The total equity contribution will be $13,022,736 with 15% of the equity coming in during construction, or $1,953,335. It is currently estimated that $888,758 in developer fee will be deferred. An application has been made to the City of Fort Worth for a soft loan in the amount of $1,000,000 which will be subject to surplus cash flow.

Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.

Annual replacement reserves are to be $250/unit. Operating reserves are being required in the amount of $210,662 and rent-up reserves are being required in the amount of $64,721.

Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments. The project will have 8 Project Based Vouchers. Additionally, per the City of Fort Worth RFP requirements, the development will need to provide supportive services currently estimated to cost $18,000 annually.
By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

Signature:  
Authorized Representative, Construction or Permanent Lender

Telephone:  (713) 308-8754
Email address:  Srose@cbtx.com

Printed Name:  STEPHEN W. ROSE
Date:  2/26/2019

If a revised form is submitted, date of submission:  

## Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Application (i.e., Financing Narrative, Term Sheets, and Development Cost Schedule).

<table>
<thead>
<tr>
<th>Financing Participants</th>
<th>Funding Description</th>
<th>Construction Period</th>
<th>Permanent Period</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Loan/Equity Amount</td>
<td>Loan/Equity Amount</td>
</tr>
<tr>
<td>Debt</td>
<td>TDICA</td>
<td>$2,000,000</td>
<td>$2,000,000</td>
</tr>
<tr>
<td></td>
<td>TDICA</td>
<td>$0</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>TDICA</td>
<td>$0</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>TDICA</td>
<td>$0</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>TDICA</td>
<td>$0</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>First Mortgage Lender</td>
<td>$13,650,000</td>
<td>$2,450,000</td>
</tr>
<tr>
<td></td>
<td>City of Fort Worth</td>
<td>$5,000,000</td>
<td>3.00%</td>
</tr>
<tr>
<td>Third Party Equity</td>
<td>HTC</td>
<td>$1,439,005</td>
<td>$1,953,335</td>
</tr>
<tr>
<td>Grant</td>
<td>$11,062,236</td>
<td>$11,062,236</td>
<td></td>
</tr>
<tr>
<td>Deferred Developer Fee</td>
<td>$888,758</td>
<td>$888,758</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>Direct Loan Match</td>
<td>$19,560,994</td>
<td>$19,560,994</td>
</tr>
</tbody>
</table>

**INSTRUCTIONS:**

- Describe the sources of funds that will finance development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of timing and any specific amounts) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the following discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

- Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applicants that contemplate an FHA insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).

- The first mortgage lender will provide construction financing in the form of a construction loan. The amount of the construction loan will be $13,650,000 and will be interest-only at an interest rate of 6.50%. The first mortgage lender will also provide the permanent financing in the form of a conventional loan. The conventional loan will be in the amount of $2,450,000 at an interest rate of 6.50%. The conventional loan will be amortized over 35 years and carry a 30 year term. Hunt Capital Partners will be providing the equity for the project at a syndication rate of 6.50%. The total equity contribution will be $19,560,000 with 35% of the equity coming in during construction, or $1,953,335. It is currently estimated that $888,758 in developer fee will be deferred. An application has been submitted to the City of Fort Worth for a soft loan in the amount of $5,000,000 which will be subject to surplus cash flow.

- Describe the operating reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.

- Annual replacement reserves are estimated to be $150/unit. Operating reserves are being required in the amount of $210,662 and rent up reserves are being required in the amount of $44,721.

**Describe the operating items (rents, operating subsidies, project based assistance, etc., specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

- The project will have 8 Project Based Vouchers. Additionally, per the City of Fort Worth RFP requirements, the development will need to provide supportive services currently estimated to cost $18,000 annually.
By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

Signature, Authorized Representative, Construction or Permanent Lender

Omar Chaudhry

Printed Name

02/26/2019

Date

TelephoneNumber: 972-803-3416

Email address: omar.chaudry@huntcompanies.com
Multifamily Direct Loan
Financial Capacity
This Tab is Not Applicable
Financial Capacity, Owner Equity, and Appraisal Requirements  
(Multifamily Direct Loan Applications Only, if applicable)  
[§13.8(c)(6) and (7)]

Financial Capacity (10 TAC §13.8(c)(6))
except for Developments also financed through the USDA §515 program, the Application MUST include:

- A letter from a Third Party CPA verifying the capacity of the Applicant, Developer, or Development Owner to provide at least 10% of the Total Housing Development Cost as a short term loan for Development; OR
- Evidence of a line of credit or equivalent tool equal to at least 10% of the Total Housing Development Cost from a financial institution that is available for use during the proposed development activities.

Owner Equity and Appraisal Requirements (10 TAC §13.8(c)(7))
If the Direct Loan is the only source of Department funding for the Development (no HTC being requested), the Development Owner MUST provide:

- equity in an amount not less than 20% of Total Housing Development Costs; and
- if proposing new construction, an "as completed" appraisal pursuant to 10 TAC §11.304 which results in total repayable loan to value of not greater than 80%; or
- if proposing rehabilitation, the "as is" appraisal required by 10 TAC §11.205(4) may meet this requirement without needing an "as completed" appraisal provided the loan to value is not greater than 80%

As a result of providing owner equity in an amount greater than 5% of Total Housing Development Costs, the following must be provided in accordance with 10 TAC §11.204(7)(C):

- A letter - not older than 6 months from the date the of Application submission - from a Third Party CPA verifying the capacity of the Development Owner to provide the proposed financing with funds that are not otherwise committed or pledged; and
- A letter - not older than 6 months from the date the of Application submission - from the Development Owner’s bank or banks confirming that such funds are and will remain available at commitment and until the required investment is completed.
2019 HTC
Full Application

Part 4 Tab 33

Multifamily Direct Loan
Match Funds
Match in the amount of at least 5% of the Multifamily Direct Loan funds requested must be documented with a letter from the anticipated provider of Match indicating the provider’s willingness and ability to make a financial commitment should the Development receive an award of Multifamily Direct Loan funds. The information provided must be consistent with all other documentation in the Application.

Indicate the amount and source of Match funds in the appropriate spaces in the table below.

Generally, a Related Party contribution to the Development is not considered eligible Match. Please see 10 TAC §13.2(8) as well as the Match Guidance below.

<table>
<thead>
<tr>
<th>Type of Match Pledged</th>
<th>Pledged Amount</th>
<th>Source of Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Federal Grants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waived, foregone or deferred fees and charges (ex: debris removal and container fees, tap fees, building permits, other mandatory fees charged by the local municipality)  <strong>CANNOT INCLUDE DEVELOPER FEES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Below Market Interest Rate Loan</td>
<td>$ 514,864</td>
<td>City of Fort Worth</td>
</tr>
<tr>
<td>Property Tax Abatement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Donated Non-Professional Labor</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Federally Funded Infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rental Value of Donated Use of Site Preparation or Construction Equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Donated Construction Materials</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Donated Site Preparation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Donated Demolition Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Donated Real Property</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Value of Match Pledged</td>
<td>$ 514,864</td>
<td></td>
</tr>
<tr>
<td>Total Amount of MF Direct Loan funds Requested</td>
<td>$ 2,200,000</td>
<td></td>
</tr>
<tr>
<td>Percentage of MF Direct Loan Funds to be Matched (Total Value of Match /MF Direct Loan Funds Requested)</td>
<td>23.40%</td>
<td></td>
</tr>
</tbody>
</table>
2019 HTC
Full Application

Part 4 Tab 34

Finance Scoring
## Finance Scoring (for Competitive HTC Applications ONLY)

### 1. Commitment of Development Funding by Local Political Subdivision (§11.9(d)(2))

<table>
<thead>
<tr>
<th>Name of the Local Political Subdivision providing the funding:</th>
<th>City of Fort Worth</th>
</tr>
</thead>
<tbody>
<tr>
<td>A letter from an official of the political subdivision stating that the political subdivision will provide a loan, grant, reduced fees or contribution of other value type, and the terms under which it will be provided is in the application.</td>
<td>x</td>
</tr>
<tr>
<td>The dollar value of the contribution must be in the letter and must equal $500 or more if Urban and $250 or more if Rural or USDA.</td>
<td>x</td>
</tr>
<tr>
<td>The commitment of development funding is reflected in the Application as a financial benefit to the Development, i.e. reported as a source of funds on the Sources and Uses Form and/or reflected in a lower cost in the Development Cost Schedule, such as notation of a reduction in building permits and related costs.</td>
<td></td>
</tr>
<tr>
<td><strong>Total Points Claimed:</strong></td>
<td><strong>1</strong></td>
</tr>
</tbody>
</table>

### 2. Financial Feasibility (§11.9(e)(1))

| Eligible Pro-Forma and letter stating the Development is financially feasible. | 0 |
| Eligible Pro-Forma and letter stating Development and Principals are acceptable. | 18 |
| **Total Points Claimed:** | **18** |

### 3. Leveraging of Private, State, and Federal Resources (§2306.6725(a)(3); §11.9(e)(4))

| Percent of Units restricted to serve households at or below 30% of AMGI | 9.09% |
| HTC funding request as a percent of Total Housing Development Cost | 7.36% |

**Eligibility for points:**

- Development Leverages CDBG Disaster Recovery, HOPE VI, RAD or Choice Neighborhood Funding | 0 |
- Housing Tax Credit Request | 3 |
- Housing Tax Credit Request | 2 |
- Housing Tax Credit Request | 1 |

*Be sure no more than 50% of Developer fees are deferred.*

| **Total Points Claimed:** | **3** |

2/25/2019
Supporting Documents Should be Included Behind this Tab

**ALL SUPPORTING DOCUMENTS MUST BE CONSISTENT WITH THE SOURCES AND USES**

- Executed Pro Forma from Permanent or Construction Lender
- Letter from lender regarding approval of Principals (consistent with Template)
- Evidence of all Permanent and Construction Financing (term sheets, loan agreements)

**NOTE:** Term sheets and/or loan documents from debt and equity providers must include a statement confirming they are aware the Applicant intends to elect income averaging. If the term sheet speaks to unit designations, ensure those unit designations are consistent with the rent schedule and site plan.

- Evidence of any Gap Financing, terms included
- Evidence of any Owner Contributions, with financial support if required
- Evidence of Equity Financing (HTC applications only)
- Letter from Texas Historical Commission (THC) indicating preliminary eligibility for historic (rehabilitation) tax credits and documentation of Certified Historic Structure status as detailed in QAP §11.9(e)(6) was submitted behind TAB 19.

- Letter from Local Political Subdivision evidencing a loan, grant, reduced fees or contribution of other value to benefit the Development. [QAP §11.9(d)(2)]
- Evidence of Rental Assistance/Subsidy

2/26/2019
2019 HTC
Full Application

Part 4 Tab 35

Supporting Documents:
Construction and Permanent Financing Letters
and
Gap Financing and/or Owner Contributions
February 26, 2019

Saigebrook Development, LLC
Lisa Stephens
Everal Plaza, LLC
5501-A Balcones Dr., #302
Austin, Texas 78731

Re: Everal Plaza Apartments

Dear Lisa,

CommunityBank of Texas (the "Bank") is pleased to provide the following term sheet for construction and permanent financing to Everal Plaza, LLC (the "Borrower") for the development of Everal Plaza Apartments, an 88-unit senior LIHTC project to be built in Fort Worth, Texas. The proposed terms and conditions are as follows:

Summary of Terms

Borrower: Everal Plaza, LLC
Guaranty: Construction loan guaranty will be provided by Saigebrook Everal, LLC. The permanent loan will be non-recourse except as to "bad-boy" carve outs.
Project: Everal Plaza Apartments
Credit Facilities: A) Construction loan of up to $13,650,000:
   - Priced at a variable rate of Prime Floating subject to a minimum all-in rate of 6.50% (floor of 6.50%)
   - 24-month construction loan, plus one 6-month extension as below
   - one 6-month extension subject to 1) completion of project, 2) project sources and uses being balanced, 3) receipt of required tax credit equity payments, 4) No event of default has occurred or potential for default to occur, 5) 85% occupancy and 6) No material adverse change in the financial condition of the Project, Borrower and Guarantor(s).
   - Interest only due monthly during construction period
   - Total construction loan period including extension is 30-months.
E) Permanent loan of approximately $2,450,000 at an assumed underwriting rate of interest of 6.50%:

- Permanent loan rate to be locked at no later than construction loan closing of 30-month construction loan. The permanent loan rate would be 6.50% locked today.
- 15-year term upon conversion to permanent status based on 90% occupancy for 90 days and 1.15:1 debt service coverage.
- No pre-payment penalty – you may pre-pay the construction or permanent loan off at any time without penalty.
- Principal and interest due monthly during permanent period based on a 35-year amortization; balloon payment due at maturity.
- Replacement reserves to be $250 per unit per year with agreed upon increases for future years.
- Operating deficit and other reserve requirements subject to Bank review and approval. It is expected that these reserve requirements will mirror the equity LOI.

Note: Construction draws will be processed through the Bank, Title Company, and with approval of a 3rd party construction engineering firm hired by or acceptable to the Bank.

Loan-to-value:

1) Actual loan amount will be based on LTV not to exceed 80% during construction period, based on rent-restricted value plus value of the tax credits; 2) LTV not to exceed 80% during permanent period, based on stabilized rent-restricted value. Appraisal report will be in form and substance acceptable to the Bank.

Collateral:

- 1st lien deed of trust and assignment of leases and rents on the subject property
- UCC filing on furniture, fixtures, and equipment
- Assignment of Tax Credits
- Security interest in operating and replacement reserve funds
- Assignment and subordination of deferred developer fee and other management fees collected by general partner or a related entity.
- Assignment and subordination of management, construction, architectural contracts, etc.

Fees:

Origination fee of 2.00% of the construction loan (payable at construction loan closing), a 0.25% fee for the extension (payable upon exercise) and a 1.00% fee for the permanent loan (payable at construction loan closing). Borrower will also pay for all reasonable costs incurred by the Bank in connection with the loans including, but not limited to, legal fees and expenses, appraisal/survey fees, title insurance premiums and search fees, UCC searches, environmental assessment fees and inspecting architect fees, whether the facilities contemplated herein are funded or not. This obligation will survive whether the loans are approved or not.

Reporting Requirements: Include but are not limited to:

- Annual audited financial statements of Borrower
- Annual financial statements of Guarantors
- Annual evidence of tax credit compliance
- Monthly operating statements on the property once construction is complete
- Quarterly operating statements on the property during the permanent loan period
Summary of Conditions

This proposal is subject to all the following conditions being met prior to construction closing:

Tax Credit Allocation: Receipt of an annual allocation of Low-Income Housing Tax Credits from the Texas Department of Housing & Community Affairs (TDHCA) in a minimum amount of $1,439,065.

Other Funds: The Bank acknowledges other anticipated project financing to include the following:
- TDHCA Multi-Family Direct Loan - $2,200,000.
- City of Fort Worth Loan - $1,000,000
- 8 Project Based Vouchers

Tax Credit Equity: Tax credit investor and equity terms (including price and payment schedule) subject to Bank approval. Current model has Hunt Capital purchasing the tax credits at $0.905/credit, providing total equity of $13,022,236.

Developer Fee: Timing of payment of developer profit to be mutually agreed upon between Bank and Borrower. It is expected that the developer fee payment will mirror the developer fee payment schedule negotiated in the equity agreement. Current model has estimated deferred developer fee of $888,758.

Project Budget: The Bank’s current understanding of the project budget is based on initial verbal discussions and files provided by the Borrower on February 25, 2019. The Bank acknowledges that this project budget is subject to change.

However, significant changes to the budget that materially affect the project may result in changes to the terms and conditions proposed herein.

Underwriting Considerations: Property Pro forma utilizes $48,000 annual expense for Supportive Services.

Other Conditions: Receipt and approval of those items listed in the Due Diligence Checklist.

The attached 15-year pro forma was prepared by Everly Plaza, LLC (Applicant) for Everly Plaza Apartments to be located in Fort Worth, Texas. The pro forma is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on CommunityBank of Texas’s current underwriting parameters and consistent with the loan terms indicated in the term sheet and is preliminarily considered feasible, pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

Additionally, we have performed a preliminary review of the credit worthiness of Everly Plaza, LLC and its Principals. At this time, CommunityBank of Texas has no reservations with the Development Owner or any of the Principals. We anticipate no additional guarantors or financial strength will be needed to facilitate a loan to this borrower, other than those requirements disclosed herein.
This discussion letter does not represent a commitment by the Bank for the proposed financing, nor does it define all the terms and conditions of loan documents, but is a framework upon which a loan request may be submitted and considered. Issuance of a commitment by the Bank is subject to the approval of the loan request under the Bank's internal approval process, which includes, but is not limited to, a review of the Borrower's then current financial condition and review and approval of all third-party reports, in addition to completion of loan documents in form and substance acceptable to the Bank.

If you should have any questions concerning these terms and conditions, please feel free to call me at (13) 308-5754. Lisa, thank you for giving us the opportunity to consider financing for this project.

Sincerely,

Community Bank of Texas, N.A.

By:

Stephen W. Rose, Executive Vice President

Agreed to:

Saigebrook Everly, LLC

By:

Lisa M. Stephens, President
# 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today’s best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

<table>
<thead>
<tr>
<th>INCOME</th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 10</th>
<th>YEAR 15</th>
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<tbody>
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<td>POTENTIAL GROSS ANNUAL RENTAL INCOME</td>
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<td>$868,306</td>
<td>$885,672</td>
<td>$903,385</td>
<td>$921,453</td>
<td>$1,017,358</td>
<td>$1,123,246</td>
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<tr>
<td>Secondary Income</td>
<td>$15,840</td>
<td>$16,157</td>
<td>$16,480</td>
<td>$16,810</td>
<td>$17,146</td>
<td>$18,930</td>
<td>$20,901</td>
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<td>POTENTIAL GROSS ANNUAL INCOME</td>
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<tr>
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<td>$100,500</td>
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<th>DEBT SERVICE</th>
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<tr>
<td>First Deed of Trust Annual Loan Payment</td>
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<td>$104,312</td>
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<td>Other Annual Required Payment</td>
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<tr>
<td>ANNUAL NET CASH FLOW</td>
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<td>1.19</td>
</tr>
<tr>
<td>Other (Describe)</td>
<td></td>
</tr>
<tr>
<td>Other (Describe)</td>
<td></td>
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By signing below I (we) are certifying that the above 15 year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank’s current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under §11.9(e)(1) relating to Financial Feasibility)

[Signature, Authorized Representative, Construction or Permanent Lender]

[Printed Name]
[Phone: (713) 308-5754]
[Email: scrose@obtx.com]
[Date: 2/16/2019]

[Signature, Authorized Representative, Syndicator]

[Printed Name]
[Date: ]

[If a revised form is submitted, date of submission: ]

2/22/2019
<table>
<thead>
<tr>
<th>Description</th>
<th>CDFI</th>
<th>Grant</th>
<th>Other</th>
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<td>$2,792,055</td>
<td>$2,792,055</td>
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<td>$1,533,050</td>
<td></td>
<td>$2,792,055</td>
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**Schedule of Sources of Funds and Financing Narrative**

Describe the purpose and use of funds and financing sources associated with the project.

The project will receive a $52,000,000 loan for construction and working capital, a $14,000,000 loan for acquisition, and a $7,000,000 loan for operating expenses.

The project will be funded through the issuance of tax-exempt bonds. The bonds will be sold at a rate of 5.5% to raise the necessary funds.

The project will also receive a $1,000,000 grant from the City of Fort Worth for capital improvements.

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February 26, 2019

Saigebrook Development, LLC
Lisa Stephens
Everly Plaza, LLC
5501-A Balcones Dr., #302
Austin, Texas 78731

Re: Everly Plaza Apartments

Dear Lisa,

CommunityBank of Texas (the "Bank") is pleased to provide the following term sheet for construction financing to Everly Plaza, LLC (the "Borrower") for the development of Everly Plaza Apartments, an 88-unit senior LIHTC project to be built in Fort Worth, Texas. The proposed terms and conditions are as follows:

Summary of Terms

Borrower: Everly Plaza, LLC

Guaranty: Construction loan guaranty will be provided by Saigebrook Everly, LLC.

Project: Everly Plaza Apartments

Credit Facilities: Construction loan of up to $15,500,000:

- Priced at a variable rate of Prime Floating – 0.25%, subject to a minimum all-in rate of 5.25% (floor of 5.25%)
- 24-month construction loan, plus one 6-month extension as below
- one 6-month extension subject to 1) completion of project, 2) project sources and uses being balanced, 3) receipt of required tax credit equity payments, 4) No event of default has occurred or potential for default to occur, 5) 85% occupancy and 6) No material adverse change in the financial condition of the Project, Borrower and Guarantor(s).
- Interest only due monthly during construction period
- Total construction loan period including extension is 30-months
Note: Construction draws will be processed through the Bank, Title Company, and with approval of a 3rd party construction engineering firm hired by or acceptable to the Bank.

Loan-to-value: Actual loan amount will be based on LTV not to exceed 80% during construction period, based on rent-restricted value plus value of the tax credits. Appraisal report will be in form and substance acceptable to the Bank.

Collateral:
- 1st lien deed of trust and assignment of leases and rents on the subject property
- UCC filing on furniture, fixtures, and equipment
- Assignment of Tax Credits
- Security interest in operating and replacement reserve funds
- Assignment and subordination of deferred developer fee and other management fees collected by general partner or a related entity.
- Assignment and subordination of management, construction, architectural contracts, etc.

Fees: Origination fee of 2.00% of the construction loan (payable at construction loan closing), a 0.25% fee for the extension (payable upon exercise). Borrower will also pay for all reasonable costs incurred by the Bank in connection with the loans including, but not limited to, legal fees and expenses, appraisal/survey fees, title insurance premiums and search fees, UCC searches, environmental assessment fees, and inspecting architect fees, whether the facilities contemplated herein are funded or not. This obligation will survive whether the loan is approved or not.

Reporting Requirements: Include but are not limited to:
- Annual audited financial statements of Borrower
- Annual financial statements of Guarantors
- Annual evidence of tax credit compliance
- Monthly operating statements on the property once construction is complete

Summary of Conditions

This proposal is subject to all the following conditions being met prior to construction closing:

Tax Credit Allocation: Receipt of an annual allocation of Low-Income Housing Tax Credits from the Texas Department of Housing & Community Affairs (TDHCA) in a minimum amount of $1,439,095.

Other Funds: The Bank acknowledges other anticipated project financing to include the following:
- Mason Joseph (HUD Perm Loan) - $4,300,000
- City of Fort Worth Loan - $1,000,000

Tax Credit Equity: Tax credit investor and equity terms (including price and pay-in schedule) subject to Bank approval. Current model has Hunt Capital purchasing the tax credits at $0.92/credit, providing total equity of $13,238,074.

Developer Fee: Timing of payment of developer profit to be mutually agreed upon between Bank and Borrower. It is expected that the developer fee payment will mirror the developer fee payment schedule negotiated in the equity agreement. Current model has estimated deferred developer fee of $848,306.
Project Budget: The Bank’s current understanding of the project budget is based on initial verbal discussions and files provided by the Borrower on June 21, 2019. The Bank acknowledges that this project budget is subject to change.

However, significant changes to the budget that materially affect the project may result in changes to the terms and conditions proposed herein.

Other Conditions: Receipt and approval of those items listed in the Due Diligence Checklist

The attached 16-year pro forma was prepared by Everly Plaza, LLC (Applicant) for Everly Plaza Apartments to be located in Fort Worth, Texas. The pro forma is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on CommunityBank of Texas’s current underwriting parameters and consistent with the loan terms indicated in the term sheet and is preliminarily considered feasible, pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

Additionally, we have performed a preliminary review of the credit worthiness of Everly Plaza, LLC and its Principals. At this time, CommunityBank of Texas has no reservations with the Development Owner or any of the Principals. We anticipate no additional guarantors or financial strength will be needed to facilitate a loan to this borrower, other than those requirements disclosed herein.

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If you should have any questions concerning these terms and conditions, please feel free to call me at (713) 308-5754. Lisa, thank you for giving us the opportunity to consider financing for this project.

Sincerely,

CommunityBank of Texas, N.A.

By:

[Signature]

Stephen W. Rose, Executive Vice President

Agreed to:

Saigebrook Everly, LLC

By:

[Signature]

Lisa M. Stephens, President
# 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

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<tr>
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<td>$793,428</td>
<td>$809,297</td>
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<td>$841,992</td>
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<tr>
<td>Provision for Vacancy &amp; Collection Loss</td>
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<td>($60,697)</td>
<td>($61,911)</td>
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<td>($64,412)</td>
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<td>$0</td>
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<td>$776,843</td>
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<tr>
<td>First Deed of Trust Annual Loan Payment</td>
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<td>CUMULATIVE NET CASH FLOW</td>
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<tr>
<td>Debt Coverage Ratio</td>
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Signature, Authorized Representative, Construction or Permanent Lender

Phone: (713) 308-5754
Email: srose@cbtx.com

Signature, Authorized Representative, Syndicator

If a revised form is submitted, date of submission: 6-20-19

6/21/2019
# Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Application (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

<table>
<thead>
<tr>
<th>Financing Participants</th>
<th>Funding Description</th>
<th>Construction Period</th>
<th>Lien Position</th>
<th>Permanent Period</th>
<th>Lien Position</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Loan/Equity Amount</td>
<td>Interest Rate (%)</td>
<td>Loan/Equity Amount</td>
<td>Interest Rate (%)</td>
</tr>
<tr>
<td>Debt</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TDHCA</td>
<td>MF Direct Loan Const. to Perm. (Repayable)</td>
<td>$0</td>
<td>2nd</td>
<td>$</td>
<td>0.00%</td>
</tr>
<tr>
<td>TDHCA</td>
<td>MF Direct Loan Const. Only (Repayable)</td>
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<td>Community Bank of Texas</td>
<td>Conventional Loan</td>
<td>$15,500,000</td>
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<tr>
<td>City of Fort Worth</td>
<td></td>
<td>$1,000,000</td>
<td>1.00%</td>
<td>na</td>
<td>40</td>
</tr>
<tr>
<td>Mason Joseph</td>
<td></td>
<td>$4,300,000</td>
<td>5.25%</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>Third Party Equity</td>
<td>HTC</td>
<td>$1,439,065</td>
<td>$2,647,615</td>
<td>$13,238,074</td>
<td>0.92</td>
</tr>
<tr>
<td>Grant</td>
<td>$11.9(d)(2) LPS Contribution</td>
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<td></td>
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<td>Deferred Developer Fee</td>
<td>Saigebrook Development, LLC</td>
<td>$1,515,520</td>
<td>$848,306</td>
<td>$19,386,380</td>
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<td>Other</td>
<td>Direct Loan Match</td>
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<td>Total Sources of Funds</td>
<td>$19,663,135</td>
<td>$19,386,380</td>
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**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments).** For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).

CBOT will provide construction financing in the form of a construction loan. The amount of the construction loan will be $15,500,000 and will be interest-only at an interest rate of 5.25%. MJP will provide the permanent financing in the form of a HUD 221(d)(4) loan. The HUD loan will be in the amount of $4,300,000 at an interest rate of 5.00% plus 0.25% MIP. The perm loan will be amortized over 40 years and carry a 40 year term. Hunt Capital Partners will be providing the equity for the project at a syndication rate of 0.92%. The total equity contribution will be $13,238,074 with 20% of the equity coming in during construction, or $2,647,615. It is currently estimated that $848,306 in developer fee will be deferred. An application has been made to the City of Fort Worth for a soft loan in the amount of $1,000,000 which will be subject to surplus cash flow.

**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

Annual replacement reserves are estimated to be $250/unit. Operating reserves are being required in the amount of $226,624 and rent-up reserves are being required in the amount of $64,721.

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments).**

A decision on the soft loan will be made by September 1.

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

**Signature: Authorized Representative, Construction or Permanent Lender**

**printed name:**

**date:**

**telephone:** (713) 368-5754

**email address:** gorse@cbotx.com

6/21/2019
June 26, 2019

Ms. Lisa M. Stephens
President
Saigebrook Everly
220 Adams Drive
Suite 280, #138
Weatherford, TX 76086

Re: Everly Plaza
Fort Worth, TX

Dear Ms. Stephens:

I am pleased to offer this Letter of Intent to finance the construction of Everly Plaza, an 88-unit age-restricted apartment complex in Fort Worth, TX. This letter assumes the award of 9% low income housing tax credits by TDHCA and the use of a bridge loan secured by tax credit equity during construction (or otherwise a pay-in schedule sufficient to eliminate the need for such bridge funding).

It is our understanding that you have also applied for a City Loan of $1.0 million.

After review of your pro forma and development budget, Mason Joseph Co. anticipates the ability to provide construction and permanent financing for this project through the FHA 221(d)4 program with the following terms:

- Estimated Mortgage Amount: $4,300,000
- Debt Service Coverage: Loan subject to minimum 1.15 DSCR
- Term: Interest-Only Construction Period + 40-years Fully-Amortizing
- Construction Period: Estimated at 14 months + 2-month cost certification
- Interest Rate: 5.00% (Subject to market pricing at time of rate lock)
- Mortgage Insurance Premium: 25 bps (paid in addition to market interest rate)
- Mason Joseph Finance Fee: 2.00% of mortgage proceeds
- Placement Fee: $45,000
- HUD Exam Fee: 30 bps of mortgage proceeds
- HUD Inspection Fee: 50 bps of mortgage proceeds
- HUD Construction MIP: 50 bps of mortgage proceeds
Initial Operating Deficit: 6 months of Debt Service
Working Capital Escrow: 4% of mortgage proceeds
Recourse: Non-Recourse

Underwriting and final mortgage proceeds are subject to confirmation by an independent appraisal and market study and review and approval of FHA.

Thank you for your consideration of Mason Joseph and we look forward to providing the permanent debt for this affordable housing transaction.

Sincerely,

Matthew Corcoran
Vice President
## INCOME

<table>
<thead>
<tr>
<th>YEAR</th>
<th>POTENTIAL GROSS ANNUAL RENTAL INCOME</th>
<th>Secondary Income</th>
<th>POTENTIAL GROSS ANNUAL INCOME</th>
<th>Provision for Vacancy &amp; Collection Loss</th>
<th>Rental Concessions</th>
<th>EFFECTIVE GROSS ANNUAL INCOME</th>
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<tr>
<td>1</td>
<td>$777,588</td>
<td>$15,840</td>
<td>$793,428</td>
<td>($59,507)</td>
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<td>2</td>
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<td>($60,697)</td>
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<td>$809,003</td>
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<td>$948,220</td>
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<td>15</td>
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<td>$1,046,911</td>
<td>($78,518)</td>
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## EXPENSES

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<tr>
<th>Category</th>
<th>YEAR 1</th>
<th>YEAR 2</th>
<th>YEAR 3</th>
<th>YEAR 4</th>
<th>YEAR 5</th>
<th>YEAR 10</th>
<th>YEAR 15</th>
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<tr>
<td>General &amp; Administrative Expenses</td>
<td>$34,000</td>
<td>$35,020</td>
<td>$36,071</td>
<td>$37,153</td>
<td>$38,267</td>
<td>$44,362</td>
<td>$51,428</td>
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<tr>
<td>Management Fee</td>
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<td>$37,430</td>
<td>$38,179</td>
<td>$38,942</td>
<td>$39,721</td>
<td>$43,855</td>
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<td>Payroll, Payroll Tax &amp; Employee Benefits</td>
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<td>$97,562</td>
<td>$100,488</td>
<td>$103,503</td>
<td>$106,608</td>
<td>$123,588</td>
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<tr>
<td>Repairs &amp; Maintenance</td>
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<td>$49,630</td>
<td>$51,118</td>
<td>$52,652</td>
<td>$54,232</td>
<td>$62,869</td>
<td>$72,883</td>
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<tr>
<td>Electric &amp; Gas Utilities</td>
<td>$15,400</td>
<td>$15,862</td>
<td>$16,338</td>
<td>$16,828</td>
<td>$17,333</td>
<td>$20,094</td>
<td>$23,294</td>
</tr>
<tr>
<td>Water, Sewer &amp; Trash Utilities</td>
<td>$51,080</td>
<td>$52,612</td>
<td>$54,191</td>
<td>$55,816</td>
<td>$57,491</td>
<td>$66,648</td>
<td>$77,263</td>
</tr>
<tr>
<td>Annual Property Insurance Premiums</td>
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<td>$27,192</td>
<td>$28,008</td>
<td>$28,848</td>
<td>$29,713</td>
<td>$34,446</td>
<td>$39,932</td>
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<td>$92,700</td>
<td>$95,481</td>
<td>$98,345</td>
<td>$101,296</td>
<td>$117,430</td>
<td>$136,133</td>
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<tr>
<td>Reserve for Replacements</td>
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<td>$23,340</td>
<td>$24,040</td>
<td>$24,761</td>
<td>$28,705</td>
<td>$33,277</td>
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<tr>
<td>Other Expenses</td>
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<td>$3,255</td>
<td>$3,352</td>
<td>$3,453</td>
<td>$3,557</td>
<td>$4,123</td>
<td>$4,780</td>
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<tr>
<td>TOTAL ANNUAL EXPENSES</td>
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<td>$433,922</td>
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<td>$459,581</td>
<td>$472,979</td>
<td>$546,120</td>
<td>$630,682</td>
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<tr>
<td>NET OPERATING INCOME</td>
<td>$312,281</td>
<td>$314,677</td>
<td>$317,006</td>
<td>$319,262</td>
<td>$321,441</td>
<td>$330,984</td>
<td>$337,711</td>
</tr>
</tbody>
</table>

## DEBT SERVICE

| First Deed of Trust Annual Loan Payment            | $246,667| $246,667| $246,667| $246,667| $246,667| $246,667| $246,667|
| Second Deed of Trust Annual Loan Payment           | 10,750  | 10,664  | 10,573  | 10,477  | 10,377  | 9,780   | 9,027   |
| Third Deed of Trust Annual Loan Payment            | 10,000  | 10,000  | 10,000  | 10,000  | 10,000  | 10,000  | 10,000  |
| Other Annual Required Payment                      |         |         |         |         |         |         |         |
| ANNUAL NET CASH FLOW                               | $44,864 | $47,346 | $49,766 | $52,118 | $54,397 | $64,536 | $72,017 |
| CUMULATIVE NET CASH FLOW                           | $44,864 | $92,210 | $141,976| $194,094| $248,491| $345,825| $587,209|
| Debt Coverage Ratio                                | 1.17    | 1.18    | 1.19    | 1.20    | 1.20    | 1.24    | 1.27    |

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank’s current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio. (Signature only required if using this pro forma for points under §11.9(e)(1) relating to Financial Feasibility)

Signature, Authorized Representative, Construction or Permanent Lender

Signature, Authorized Representative, Syndicator

Matt Corcoran
Printed Name: 817/502-1077
Email: masonjosephco@gmail.com

Date: June 21, 2019

If a revised form is submitted, date of submission: 6-20-19
### Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Application (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

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<tr>
<th>Financing Participants</th>
<th>Funding Description</th>
<th>Construction Period</th>
<th>Permanent Period</th>
<th>Loan/Equity Amount</th>
<th>Interest Rate (%)</th>
<th>Amort. (Yrs)</th>
<th>Term (Yrs)</th>
<th>Syndication Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td><strong>Debt</strong></td>
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<td><strong>City of Fort Worth</strong></td>
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<td></td>
<td></td>
<td>$1,000,000</td>
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<td>na</td>
<td>40</td>
<td>2nd</td>
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<td><strong>Mason Joseph</strong></td>
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<td></td>
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<td><strong>Hunt Capital Partners</strong></td>
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<table>
<thead>
<tr>
<th>Source of Funds</th>
<th>Description of Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Loan</td>
<td>CBOT will provide construction financing in the form of a construction loan. The amount of the construction loan will be $15,500,000 and will be interest-only at an interest rate of 5.25%.</td>
</tr>
<tr>
<td>Permanent Loan</td>
<td>MJ will provide the permanent financing in the form of a HUD 221(d)(4) loan. The HUD loan will be in the amount of $4,300,000 at an interest rate of 5.00% plus 0.25% MIP. The perm loan will be amortized over 40 years and carry a 40 year term.</td>
</tr>
<tr>
<td>Bridge Loan</td>
<td>Hunt Capital Partners will be providing the equity for the project at a syndication rate of $0.92. The total equity contribution will $13,238,074 with 20% of the equity coming in during construction, or $2,647,615.</td>
</tr>
<tr>
<td>Developer Fee</td>
<td>It is currently estimated that $848,306 in developer fee will be deferred.</td>
</tr>
<tr>
<td>Soft Loan</td>
<td>An application has been made to the City of Fort Worth for a soft loan in the amount of $1,000,000 which will be subject to surplus cash flow.</td>
</tr>
</tbody>
</table>

**Describe the replacement reserves.** Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.

- Annual replacement reserves are estimated to be $250/unit. Operating reserves are being required in the amount of $226,624 and rent-up reserves are being required in the amount of $64,721.

**Describe the operating items (rents, operating subsidies, project based assistance, etc., etc., associated with the commitments.**

- A decision on the soft loan will be made by September 1.

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

---

**Signature, Authorized Representative, Construction or Permanent Lender:**

**Printed Name:**

**Date:**

**Telephone:** 817/502-1077

**Email address:** matt@masonjosephco.com
February 14, 2019

Lisa Stephens, President
Saigebrook Development
5501-A Balcones Dr. #302
Austin, TX 78731

Re: Gap Financing Request for Everly Plaza L.P.
2019 Competitive (9%) Housing Tax Credits

Dear Ms. Stephens,

This is a response to your letter dated February 10, 2019, making application to the Fort Worth Housing Finance Corporation ("FWHFC") for consideration of gap financing for the Everly Plaza project in the amount of $1,000,000. You requested the following loan terms: 0% interest rate during the 2 year construction period, 1% interest only payments during the permanent loan period, with a 40 year term.

Your request is under review at this time. Depending on funding availability and other commitments, Staff will negotiate final loan terms which must be approved by the Board of Directors of the FWHFC. Additionally, the City of Fort Worth ("City"), may consider granting a loan from other funding sources available to the City, again depending on funding availability, other commitments and an agreement upon terms. Any loan from the City must be approved by the City Council.

We expect to make a decision prior to August 1, 2019. If you have any questions concerning this letter, please contact me at 817-392-8187 or via email at Aubrey.Thagard@fortworthtexas.gov.

Sincerely,

Aubrey Thagard
Assistant General Manager

cc: Chad LaRoque, Housing Development and Grants Manager, City of Fort Worth
Vicki Ganske, Senior Assistant City Attorney, City of Fort Worth
2019 HTC
Full Application

Part 4 Tab 35

Supporting Documents:
Equity Letter
February 26, 2019

Saigebrook Development ("Saigebrook")
Lisa Stephens
220 Adams Dr., Suite 280, #138
Weatherford, TX 76086

Re: Everly Plaza, a 88-unit affordable senior housing development to be located in Fort Worth, Tarrant County, Texas, and developed, constructed, owned and operated by Everly Plaza, LLC., a Texas limited liability company (the “Partnership”), in compliance with Section 42 of the Internal Revenue Code of 1986 ("IRC")

Dear Lisa:

Thank you for providing Hunt Capital Partners, LLC ("HCP") the opportunity to present this Letter of Intent Agreement. The following sets forth our proposal of the basic business terms to be included in the Partnership by and between Hunt, or its designees as the Investor Limited Partner (the “Limited Partner” or “LP”) and Saigebrook Everly, LLC, a Texas limited liability company (the "Managing Member" or "MM") regarding the Project.

Investment Entity: Everly Plaza, LLC., a Texas limited liability company (the "Partnership"), with Saigebrook Everly, LLC a Texas limited liability company as Managing Member with a 0.01% ownership interest in the Partnership and Hunt Capital Partners, LLC or its designated affiliate, as Limited Partner with a 99.99% ownership interest in the Partnership.

Tax Credits Available: $14,390,650 (“projected LIHTCs”) The LP is acquiring 99.99% of the partnership’s tax credits with annual housing credit allocation of $1,439,065.

Net Credit Price to Partnership: $0.905 (Federal LIHTC)

Net Capital Contribution: $13,022,236
Equity Proceeds Pay-In Schedule: Based on the terms of this letter agreement and the information, projections, and assumptions you have provided to us, equity contributions will be made to the Partnership by the LP in the percentages set forth below:

1. 15% will be funded at (a) the Limited Partner's admission into the Partnership, (b) closing and initial funding of all of the construction financing for the Project, (c) receipt of the commitments for all of the permanent financing, and (d) receipt of the LIHTC allocation; such funds shall be used to fund hard and soft development costs.

2. 65% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payment set forth in paragraphs (1) and (2) and (b) 100% construction completion as certified by project architect; such funds shall be used to fund hard and soft development costs.

3. 18% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payments set forth in paragraphs (1), (2) and (3), (b) the issuance of final Municipal or County Occupancy Certificates, (c) receipt of the certification of qualified expenditures by an independent certified public accountant, (d) 90% qualified occupancy for three consecutive months (“Stabilized Operations”), and (e) funding of the Permanent Loan; such funds shall be used to fund initial operating deficit reserves and any remaining hard and soft costs.

4. 2% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payment set forth in paragraphs (1), (2), (3) and (4), (b) the issuance of all Treasury Forms 8609, and (c) receipt of the federal income tax return and K-1s for the Partnership; such funds shall be used to fund and any soft development costs.
Obligations of the Managing Member and Guarantor(s):

**Operating Deficit Guaranty:** The GP and Guarantors will guarantee and agree to loan to the Partnership sufficient funds, for a period of 60 months following the date stabilized operations is achieved (the "Operating Deficit Guarantee Period"), to fund operating deficits.

**Development Completion Guaranty:** The GP and Guarantors will guarantee completion of construction of the Project substantially in accordance with plans and specifications approved by Hunt Capital Partners, LLC, including, without limitation, a guaranty: (i) to pay any amounts needed in excess of the construction loan and other available proceeds to complete the improvements; and (ii) to pay operating deficits prior to the conclusion of Project construction.

**Credit Adjusters:** The GPs will provide that, if in any year actual credits are less than Projected Credits, then LP shall be owed an amount necessary to preserve its anticipated return based on the Projected Credit.

The obligations of the GP shall be guaranteed by GP, Developer and their principals (the “Guarantor”).

**Asset Management Fee (AMF):** $6,500 annually

**Syndicator Costs:** $60,000

**Developer Fee:** Of the total developer fee of $1,980,418 it is expected that $1,091,660 will be earned and paid and $888,758 will be deferred.

**Cash Flow Split:** Cash Flow to the Partnership shall be distributed as follows:

a. To the LP, to make any tax credit adjuster payment not previously made;

b. To the payment of any debts, excluding any unpaid Development Fee, owed to the Partners and/or their affiliates, until all such debts have been paid in full;

c. To the payment of the AMF plus all accrued AMF unpaid from prior years;

d. 100% to the payment of any unpaid Development Fee;
e. The balance, 90% to the GP as an Incentive Property Management Fee and 10% to the partners in accordance with their ownership percentages.

All tax profits, losses, and credits from operations will be allocated 0.01% to the GP and 99.99% to the LP.

Residual Split:

From Refinancing or Sale. Taxable profits and/or losses from a sale of the Property will be allocated among the Partners of the Partnership to adjust capital accounts as required by the Internal Revenue Code and in accordance with sale proceeds distributions.

Sale and Refinancing Proceeds will be distributed as follows:

a. Payment in full of all Partnership debts except those due to Partners and/or their affiliates;

b. To the LP, to make any tax credit adjuster payment not previously made;

c. To the payment of any debts owed to Partners and/or their affiliates until all such debts have been paid in full and GP’s capital contribution;

d. The balance, 90% to the GP and 10% to the LP.

Supportive Services: $18,000 per year

Replacement Reserves: $250/unit/year

Operating Reserves: 4 months of operating expenses and 1st mortgage debt service

Other Terms and Conditions:

1) Proof of award and allocation of LIHTC.

2) The GP must have a firm commitment for a fixed-rate permanent first mortgage with terms, conditions and a Lender acceptable to the Limited Partner. It is anticipated that the following construction and perm sources will be provided to the project:

   - A 2-year construction loan from Community Bank of Texas in the amount of $13,650,000 at a 6.5% interest rate
- A 15-year permanent loan from Community Bank of Texas in the amount of $2,450,000 at a 6.5% interest rate with a 35 year amortization
- A 15 year permanent loan from the TDHCA in the amount of $2,200,000 at a 2.5% interest rate and a 30 year amortization
- A 40 year construction and permanent loan from the City of Fort Worth in the amount of $1,000,000 at a 1% interest rate

3) Receipt, review, and approval of market study, environmental and geological reports, plans and specifications, contractor and such other conditions which are customary and reasonable for an equity investment of this nature and amount;

4) The Capital Contributions are determined on the projected credits delivered to Hunt based on the lease-up schedule provided to Hunt by the GP. Any changes in the timing of construction and/or lease-up may impact the timing and amounts of Capital Contributions.

5) Final Approval of the transaction by HCP’s Investment Committee and approval of the transaction yield and tax rate assumptions by HCP’s Investor.
In recognition of the time and expense to be spent by Hunt in evaluating this transaction prior to closing, the GP will deal exclusively with Hunt with respect to the transactions noted in this firm commitment letter until this firm commitment letter is terminated by either party. You hereby confirm that no other party presently has any right to acquire an interest in the Property or the Partnership.

Please execute and promptly return to us a copy of this commitment letter. The terms herein shall expire 10 business days after the date of this letter if your signed copy has not been received by us.

Sincerely,

Omar Chaudhry
Director, Acquisitions
Hunt Capital Partners, LLC

AGREED and ACCEPTED:

Saigebrook Everly, LLC

By: _____________________________ ___________________

Date

Name: _____________________________

Title: _____________________________

Cc: Dana Mayo (Hunt Capital Partners)
June 24, 2019

Saigebrook Development ("Saigebrook")
Lisa Stephens
220 Adams Dr., Suite 280, #138
Weatherford, TX 76086

Re: Everly Plaza (the “Project”), a 88-unit affordable senior housing development to be located in Fort Worth, Tarrant County, Texas, and developed, constructed, owned and operated by Everly Plaza, LLC., a Texas limited liability company (the “Partnership”), in compliance with Section 42 of the Internal Revenue Code of 1986 ("IRC")

Dear Lisa:

Thank you for providing Hunt Capital Partners, LLC ("HCP") the opportunity to present this Letter of Intent Agreement. The following sets forth our proposal of the basic business terms to be included in the Partnership by and between Hunt, or its designees as the Investor Limited Partner (the “Limited Partner” or “LP”) and Saigebrook Everly, LLC, a Texas limited liability company (the "Managing Member" or "MM") regarding the Project.

**Investment Entity:**
Everly Plaza, LLC., a Texas limited liability company (the "Partnership"), with Saigebrook Everly, LLC a Texas limited liability company as Managing Member with a 0.01% ownership interest in the Partnership and Hunt Capital Partners, LLC or its designated affiliate, as Limited Partner with a 99.99% ownership interest in the Partnership.

**Tax Credits Available:**
$14,390,650 (“projected LIHTCs”)
The LP is acquiring 99.99% of the partnership’s tax credits with annual housing credit allocation of $1,439,065.

**Net Credit Price to Partnership:**
$0.92 (Federal LIHTC)

**Net Capital Contribution:**
$13,238,074
Equity Proceeds Pay-In Schedule: Based on the terms of this letter agreement and the information, projections, and assumptions you have provided to us, equity contributions will be made to the Partnership by the LP in the percentages set forth below:

1. 20% will be funded at (a) the Limited Partner's admission into the Partnership, (b) closing and initial funding of all of the construction financing for the Project, (c) receipt of the commitments for all of the permanent financing, and (d) receipt of the LIHTC allocation; such funds shall be used to fund hard and soft development costs.

2. 65% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payment set forth in paragraphs (1) and (2) and (b) 100% construction completion as certified by project architect; such funds shall be used to fund hard and soft development costs.

3. 13% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payments set forth in paragraphs (1), (2) and (3), (b) the issuance of final Municipal or County Occupancy Certificates, (c) receipt of the certification of qualified expenditures by an independent certified public accountant, (d) 90% qualified occupancy for three consecutive months (“Stabilized Operations”), and (e) funding of the Permanent Loan; such funds shall be used to fund initial operating deficit reserves and any remaining hard and soft costs.

4. 2% will be funded upon the later to occur of: (a) satisfaction of all conditions precedent to the payment set forth in paragraphs (1), (2), (3) and (4), (b) the issuance of all Treasury Forms 8609, and (c) receipt of the federal income tax return and K-1s for the Partnership; such funds shall be used to fund any soft development costs.
Operating Deficit Guaranty: The MM and Guarantors will guarantee and agree to loan to the Partnership sufficient funds, for a period of 60 months following the date stabilized operations is achieved (the "Operating Deficit Guarantee Period"), to fund operating deficits.

Development Completion Guaranty: The MM and Guarantors will guarantee completion of construction of the Project substantially in accordance with plans and specifications approved by Hunt Capital Partners, LLC, including, without limitation, a guaranty: (i) to pay any amounts needed in excess of the construction loan and other available proceeds to complete the improvements; and (ii) to pay operating deficits prior to the conclusion of Project construction.

Credit Adjusters: The MMs will provide that, if in any year actual credits are less than Projected Credits, then LP shall be owed an amount necessary to preserve its anticipated return based on the Projected Credit.

The obligations of the MM shall be guaranteed by MM, Developer and their principals (the “Guarantor”).

Asset Management Fee (AMF): $6,500 annually

Syndicator Costs: $60,000

Developer Fee: Of the total developer fee of $1,937,925 it is expected that $1,089,619 will be earned and paid and $848,306 will be deferred.

Cash Flow Split: Cash Flow to the Partnership shall be distributed as follows:

a. To the LP, to make any tax credit adjuster payment not previously made;

b. To the payment of any debts, excluding any unpaid Development Fee, owed to the Partners and/or their affiliates, until all such debts have been paid in full;

c. To the payment of the AMF plus all accrued AMF unpaid from prior years;

d. 100% to the payment of any unpaid Development Fee;
e. The balance, 90% to the MM as an Incentive Property Management Fee and 10% to the partners in accordance with their ownership percentages.

All tax profits, losses, and credits from operations will be allocated 0.01% to the MM and 99.99% to the LP.

**Residual Split:**

From Refinancing or Sale. Taxable profits and/or losses from a sale of the Property will be allocated among the Partners of the Partnership to adjust capital accounts as required by the Internal Revenue Code and in accordance with sale proceeds distributions.

Sale and Refinancing Proceeds will be distributed as follows:

a. Payment in full of all Partnership debts except those due to Partners and/or their affiliates;

b. To the LP, to make any tax credit adjuster payment not previously made;

c. To the payment of any debts owed to Partners and/or their affiliates until all such debts have been paid in full, and MM’s capital contribution;

d. The balance, 90% to the MM and 10% to the LP.

**Supportive Services:**

none

**Replacement Reserves:**

$250/unit/year

**Rent-Up Reserves:**

$64,721

**Operating Reserves:**

4 months of operating expenses and 1st mortgage debt service

**Other Terms and Conditions:**

1) Proof of award and allocation of LIHTC.

2) The MM must have a firm commitment for a fixed-rate permanent first mortgage with terms, conditions and a Lender acceptable to the Limited Partner. It is anticipated that the following construction and perm sources will be provided to the project:
- A 2-year construction loan from Community Bank of Texas in the amount of $15,500,000 at a 5.25% interest rate

- A 40-year permanent loan from Mason Joseph in the amount of $4,300,000 at a 5.25% interest rate with a 40 year amortization

- A 40 year construction and permanent loan from the City of Fort Worth in the amount of $1,000,000 at a 1% interest rate

3) Receipt, review, and approval of market study, environmental and geological reports, plans and specifications, contractor and such other conditions which are customary and reasonable for an equity investment of this nature and amount;

4) The Capital Contributions are determined on the projected credits delivered to Hunt based on the lease-up schedule provided to Hunt by the MM. Any changes in the timing of construction and/or lease-up may impact the timing and amounts of Capital Contributions.

5) Final Approval of the transaction by HCP’s Investment Committee and approval of the transaction yield and tax rate assumptions by HCP’s Investor.

[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]
In recognition of the time and expense to be spent by Hunt in evaluating this transaction prior to closing, the MM will deal exclusively with Hunt with respect to the transactions noted in this firm commitment letter until this firm commitment letter is terminated by either party. You hereby confirm that no other party presently has any right to acquire an interest in the Property or the Partnership.

Please execute and promptly return to us a copy of this commitment letter. The terms herein shall expire 10 business days after the date of this letter if your signed copy has not been received by us.

Sincerely,

Omar Chaudhry
Director, Acquisitions
Hunt Capital Partners, LLC

AGREED and ACCEPTED:

Saigebrook Everly, LLC

By: _____________________________ ___________________
Name: _____________________________
Title: _____________________________

Date: 6-27-19

Cc: Dana Mayo (Hunt Capital Partners)
Supporting Documents:
Funding from Local Government
A Resolution

NO. 5056-02-2019

SUPPORTING A HOUSING TAX CREDIT APPLICATION FOR EVERLY PLAZA AND COMMITTING DEVELOPMENT FUNDING

WHEREAS, the City’s 2018 Comprehensive Plan is supportive of the preservation, improvement, and development of quality, affordable, accessible housing;

WHEREAS, the City’s 2018-2022 Consolidated Plan makes the development of quality, affordable, accessible rental housing units for low income residents of the City a high priority;

WHEREAS, Everly Plaza, LLC, an affiliate of Saigebrook Development, LLC and O-SDA Industries, LLC, has proposed a development for affordable senior multifamily rental housing named Everly Plaza to be located at 1801 8th Avenue in the City of Fort Worth;

WHEREAS, Everly Plaza, LLC has advised the City that it intends to submit an application to the Texas Department of Housing and Community Affairs ("TDHCA") for 2019 Competitive (9%) Housing Tax Credits for the Everly Plaza apartments, a new complex consisting of approximately 88 units, of which at least five percent (5%) of the total units will be Permanent Supportive Housing units and at least ten percent (10%) of the total units will be market rate units;

WHEREAS, TDHCA’s 2019 Qualified Allocation Plan ("QAP") provides that an application for Housing Tax Credits may receive seventeen (17) points for a resolution of support from the governing body of the jurisdiction in which the proposed development site is located; and

WHEREAS, the QAP also states that an application may receive one (1) point for a commitment of development funding from the city in which the proposed development site is located.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

The City of Fort Worth, acting through its City Council, hereby confirms that it supports the application of Everly Plaza, LLC to the Texas Department of Housing and Community Affairs for 2019 Competitive (9%) Housing Tax Credits for the purpose of the development of the Everly Plaza apartments to be located at 1801 8th Avenue (TDHCA Application No. 19285), and that this formal action has been taken to put on record the opinion expressed by the City Council of the City of Fort Worth.

The City of Fort Worth, acting through its City Council, additionally confirms that it will commit to fee waivers in an amount not exceed $2,500.00 to Everly Plaza, LLC conditioned upon its receipt of Housing Tax Credits. The City Council also finds that the waiver of such fees serves the public purpose of providing quality, accessible, affordable housing to low and moderate income households in
Resolution No. 5056-02-2019

accordance with the City’s Comprehensive Plan and Action Plan, and that adequate controls are in place through the City’s Neighborhood Services Department to carry out such public purpose.

The City of Fort Worth, acting through its City Council, further confirms that the City has not first received any funding for this purpose from the applicant, affiliates of the applicant, consultant, general contractor or guarantor of the proposed development or any party associated in any way with the applicant, Everly Plaza, LLC.

Adopted this 12th day of February 2019.

ATTEST:

By: [Signature]
Mary J. Kayser, City Secretary
February 20, 2019

TDHCA
David Cervantes, Acting Director
221 East 11th Street
Austin, TX 78701

RE: TDHCA Application #19285 Everly Plaza

Dear Mr. Cervantes:

The City of Fort Worth ("City") has provided a Resolution of Support for the Housing Tax Credit Application for Everly Plaza, LLC on February 12, 2019, which states that Everly Plaza, LLC is to be "an affiliate of Saigebrook Development, LLC and O-SDA Industries, LLC." It is the City's policy to disclose all potential owners and significant project consultants to the City Council and public by listing all potential entities as affiliates on the City Council Resolutions. The City recognizes that Everly Plaza, LLC will be owned only by Saigebrook Development, LLC and O-SDA Industries, LLC will serve only as a consultant for the transaction.

Sincerely,

[Signature]

Aubrey Thagard, Director

Neighborhood Services Department
The City of Fort Worth ∗ 200 Texas Street ∗ Fort Worth, Texas 76102
817-392-7540 ∗ Fax 817-392-7328
2019 HTC
Full Application

Part 4 Tab 35

Supporting Documents:
Rental Assistance
ADDENDUM NUMBER 5

February 25, 2019

RFP 2018-103 – Permanent Supportive Housing (PSH) - Project Based Vouchers (PBV)

Fort Worth Housing Solutions
Procurement Department
1201 E. 13th Street, South Entrance
Fort Worth, TX 71602

Note: The proposals are received but not publicly opened.

Receipt of this Addendum is to be acknowledged by the Respondent by signing, dating and submitting with the proposal. Failure to do so may render the proposal non-responsive.

The following revisions, clarifications, additions and/or deletions are included in this Addendum No. 5 to subject RFP and are to be fully incorporated into each respondent’s submission for work solicited therein.

Respondent acknowledges receipt of Addendum: ____________________________ Respondent’s Signature

Date: 2-25-19

The Proposal Due Date for Round 1 is February 28, 2019 at 11:00 a.m. C.S.T.

PLEASE NOTE: All respondents who submit a proposal will be provided a time stamped RECEIPT, once the proposal(s) has been delivered on FEB. 28, 2019 by the deadline time. (NO late proposals will be accepted)

All respondents who plan to submit a tax credit application that maybe due March 1, 2019, the receipt can be utilized as confirmation of delivery to FWHS.

Award(s) should be announced approximately 60 days from the due date for application(s) submitted.

***** END OF ADDENDUM NO. 5 *****

Kelvin Noble
Director of Procurement
Fort Worth Housing Solutions
Procurement Department
1201 E. 13th Street, 1st Floor, South Entrance
Fort Worth, TX 76102
(817) 333-3400
procurement@fwhs.org

RECEIPT FOR BIDS/PROPOSALS

SECTION I

Solicitation Type: IFB/RFP/RFQ

TITLE: DBV-PSH

SECTION II

ASSIGNED PERSONNEL:

☐ Kelvin  ☐ Jeannine

SECTION III

COMPANY NAME: Sagebrook

PHONE NO.: (817) 360-1360

DELIVERED BY: Kathy Turner
(Print Name of Individual Dropping Off)

SECTION IV

BID/PROPOSAL RECEIVED BY: Jeannine Charles
(Print FWHS Staff Name)

No. of Packages: 3

1) Sunset at Fosh Place - OA Industries
2) Cielo Place - Sagebrook Development
3) Evolve Place - Sagebrook Development (All received 2/16/11)

Stamp Date & Time Received: 02-26-19 09:01 RCVD
2019 HTC
Full Application

Part 5 Tab 36

Sponsor Characteristics
Pursuant to §11.9(b)(2) of the Qualified Allocation Plan, an Application may qualify to receive up to two (2) points provided the ownership structure meets one of the following requirements in parts 1 OR 2 below:

1. **Application is attempting to score as a Qualified Nonprofit or certified HUB with ownership interest and material participation and meets the criteria below:**
   - **No** If attempting to score as a Qualified Nonprofit, Application is applying under the Nonprofit Set-Aside
   - **Yes** If attempting to score as a certified HUB, evidence of the HUB’s existence from the Texas Comptroller of Accounts is provided behind this Tab
   - **Yes** The Qualified Nonprofit or certified HUB has some combination of ownership interest, cash flow from operations, and developer fee which taken together equal at least 50% and no less than 5% for any category.
     
     **Ownership Interest:** 100.00%
     **Cash flow from operations:** 100.00%
     **Developer Fee:** 100.00%
     **Total:** 300.00%  
     (Not required for HUB of HUD 202 Rehabilitation projects.)

   - **Yes** The Qualified Nonprofit or certified HUB will materially participate in the Development and the operation of the Development throughout the Compliance Period.
   - **Yes** A detailed narrative describing how that material participation will be achieved is included.
   - **Yes** The Qualified Nonprofit or certified HUB has experience directly related to the housing industry.
   - **Yes** A detailed narrative describing experience in each category is included.

Mark all that apply

- Property Management
- Construction
- Development
- Financing
- Compliance

- X No Principals of the Qualified Nonprofit or HUB are related Parties to any other Principals of the Applicant or Developer.
- X Evidence of experience in the housing industry and a statement regarding material participation are provided behind this tab.

**Points Claimed:** 2

2. **Application is attempting to score as a participating Nonprofit or certified HUB and meets the criteria below:**
   - A certified HUB will participate in Development Services or provide onsite tenant services, and evidence of the HUB’s existence from the Texas Comptroller of Accounts is provided behind this Tab.
   - A Nonprofit will participate in Development Services or provide onsite tenant services, and evidence from a state or federal source of the organization’s nonprofit status is provided behind this Tab.
   - Evidence of experience in the provision of Development Services or in the provision of on-site tenant services as well as a detailed narrative describing how the HUB or Nonprofit will provide such services must be included behind this tab.

**Points Claimed:** 0

**Total Points Claimed:** 2
2019 HTC
Full Application

Part 5 Tab 36

NP or HUB evidence
The Texas Comptroller of Public Accounts (CPA) administers the Statewide Historically Underutilized Business (HUB) Program for the State of Texas, which includes certifying minority-, woman- and service disabled veteran-owned businesses as HUBs and facilitates the use of HUBs in state procurement and provides them with information on the state's procurement process. The CPA has established Memorandums of Agreement with other organizations that certify minority-, woman- and service disabled veteran-owned businesses that meet certification standards as defined by the CPA. The agreements allow for Texas-based minority-, woman- and service disabled veteran-owned businesses that are certified with one of our certification partners to become HUB certified through one convenient application process.

In accordance with the Memorandum of Agreement the CPA has established with the Women's Business Council - Southwest (WBCS), we are pleased to inform you that your company is now certified as a HUB. Your company's profile is listed in the State of Texas HUB Directory and may be viewed online at https://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp. Provided that your company continues to remain certified with the WBCS, and they determine that your company continues to meet HUB eligibility requirements, the attached HUB certificate is valid for the time period specified.

You must notify the WBCS in writing of any changes affecting your company’s compliance with the HUB eligibility requirements, including changes in ownership, day-to-day management, control and/or principal place of business. Note: Any changes made to your company’s information may require the WBCS and/or the HUB Program to re-evaluate your company's eligibility. Failure to remain certified with the WBCS, and/or failure to notify them of any changes affecting your company’s compliance with HUB eligibility requirements, may result in the revocation of your company's certification.

Please visit our website at http://comptroller.texas.gov/procurement/prog/hub/ and reference our publications (i.e. Grow Your Business pamphlet, HUB Brochure and Vendor Guide) that will provide you with addition information on state procurement resources that can increase your company's chances of doing business with the state.

Thank you for your participation in the HUB Program! If you have any questions, you may contact a HUB Program representative at 512-463-5872 or toll-free In Texas at 1-888-863-5881.
2019 HTC
Full Application

Part 5 Tab 36

NP or HUB
Experience and Material Participation Statements
1. The principal of Saigebrook Development, Lisa Stephens, has more than 18 years housing experience and is qualified to be the HUB owner on this application. Please see the attached resume that documents expertise and recent experience. Ms. Stephens, has developed, financed and constructed or rehabilitated a considerable multi-family portfolio, in excess of 4,600 units.

2. On this application and other applications for this year, Saigebrook has thus far provided site assessment, reviewed preliminary engineering opinions, site cost analysis, developed architectural schematics, worked with local governments, compiled budgets and provided other essential input for the development plan.

3. In addition to extensive involvement during the application and construction phases for this development, Saigebrook will be involved in the development during lease-up, stabilization and ongoing operations throughout the compliance period.

4. Saigebrook will conduct at least quarterly monitoring visits throughout construction and lease-up, and at least semi-annual visits during operations. Monitoring and visits will include meetings with on-site property management, analysis of vacancies, rental rates and marketing programs; and evaluation of physical property conditions. Saigebrook has prior experience in asset management and construction management and has the ability to identify potential issues with resident retention and property performance.
LISA M. STEPHENS - Ms. Stephens is a graduate of the University of Florida, Fisher School of Accounting, and Owner/President of Saigebrook Development, LLC a WBE and HUB certified real estate development consulting firm focused on affordable housing development. Ms. Stephens is a certified LEED Green Associate, a member of the National Green Building Standards Advisory Group and has participated on various affordable housing boards and committees in both Texas and Florida.

During Ms. Stephens’ tenure in the affordable housing industry, she has secured and closed in excess of $750 million of federal, state and local competitive funds across the southeastern United States. She has structured creative financing strategies and negotiated transactions involving more than 5,400 units in multiple states.

In 2011 Ms. Stephens formed Saigebrook Development, LLC to provide real estate development consulting services to clients in the affordable housing industry in Texas. Saigebrook Development is a certified Women Owned Business by the Women's Business Enterprise National Council as well as a State of Texas certified Historically Underutilized Business.

As a consultant, developer and owner in the affordable housing industry, Ms. Stephens is responsible for the day-to-day operations and management of all programmatic and development functions, as well as coordination of project team members. She has more than 20 years of experience in affordable, workforce and market rate housing including mixed finance and mixed income properties as well as partnerships with local municipalities, housing finance agencies and housing authorities. Having developed and financed a considerable portfolio, Ms. Stephens has significant knowledge of layered financing and utilization of 9% and 4% housing tax credits, local and state issued tax exempt bonds, credit enhancement programs, NSP, CDBG, HOME and many other soft financing opportunities.

Recent development experience includes the following:

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<th>Market Rate</th>
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<td>Liberty Pass</td>
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<tr>
<td>Summit Parque</td>
<td>Dallas, TX</td>
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<td>75</td>
<td>25</td>
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<td>Zip 2</td>
<td>Zip 3</td>
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<tr>
<td>La Ventana</td>
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<td>72</td>
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<td>Tylor Grand</td>
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<td>120</td>
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<tr>
<td>Singing Oaks (Rehab)</td>
<td>Denton, TX</td>
<td>126</td>
<td>122</td>
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<td>Pinnacle at North Chase</td>
<td>Tyler, TX</td>
<td>120</td>
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<td>Live Oak Apts (Rehab)</td>
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<td>McComb, MS</td>
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</table>
The organization charts must include:

- The names and ownership percentages of all Persons having an ownership interest in the Development Owner, Developer, and/or Guarantor.
- Nonprofit entities, public housing authorities, publicly traded corporations, individual board members and executive directors must be included in Organization charts.
- Any and all trusts must list all beneficiaries that have the legal ability to control or direct activities of the trust and are not just financial beneficiaries.

In the case of:

(A) Partnerships - Principals include all general Partners and Special LPs (any LP that is not the Syndicator is a "Special LP");

(B) Corporations - Principals include the executive director and all members of the board (shown with "0%" ownership as applicable). For to-be formed instrumentalities of PHAs, where the executive director and board remain to be determined, include the PHA, itself, and its members;

(C) Limited liability companies - Principals include all the managing members and all other members.

Org. Chart Example:

Be advised that the definition of "Control" has been revised. Refer to 10 TAC §11.1(d)(30) to ensure compliance.

Note that the percentage refers to the entity to which the Person is directly connected, not to the whole Development Owner.

Information about Organizations that will own or control the Applicant or other related organizations will be provided in the List of Organizations with an Ownership Special Interest in the Applicant form.

If a revised chart is submitted, include the date of submission!
Everly Plaza, LLC

ORGANIZATIONAL CHART

APPLICANT / OWNER

Applicant / Owner

Everly Plaza, LLC

Managing Member
Saigebrook Everly, LLC

0.01%

Syndicator

99.99% investor “LP” Member

Saigebrook Development, LLC
(A Texas HUB)
100%

Lisa M. Stephens
100%
Ability to Exercise Control
Everly Plaza
ORGANIZATIONAL CHART

GUARANTOR

Guarantor
Saigebrook Everly, LLC

Saigebrook Development, LLC
(A Texas HUB)
100%

Lisa M. Stephens
100%
Ability to Exercise Control
List of Organizations and Principals
List of Organizations and Principals

Provide the requested information for all partnerships, corporations, limited liability companies, trusts, or any other public or private entity and their Affiliates identified on the Owner and Developer Organization Charts. Organizations that own or control other organizations should also be identified until the only remaining sub-entity would be natural persons. Organizations that are Developers and/or Guarantors must also be listed on this form as must any organization (and natural person whose ownership interest in an applicable entity is direct instead of via membership in an organization) that will receive any portion of the developer fee whether by subcontract or otherwise, except if the Person is acting as a consultant with no Control. (Note - Entity Names, Principals, and ownership percentage should coincide with the Owner and Developer Organization Charts)

Be advised that the definition of "Control" has been revised. Refer to 10 TAC §11.1(d)(30) to ensure compliance.

<table>
<thead>
<tr>
<th>Organization Legal Name</th>
<th>Role/Title</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td>Everly Plaza, LLC</td>
<td></td>
<td>5501-A Balcones Dr., #302</td>
<td>Austin</td>
<td>TX</td>
<td>78731</td>
</tr>
<tr>
<td>Saigebrook Everly, LLC</td>
<td>Managing Mem &amp; Guar</td>
<td>5501-A Balcones Dr., #302</td>
<td>Austin</td>
<td>TX</td>
<td>78731</td>
</tr>
<tr>
<td>Saigebrook Development, LLC</td>
<td>Sole Member &amp; Developer</td>
<td>5501-A Balcones Dr., #302</td>
<td>Austin</td>
<td>TX</td>
<td>78731</td>
</tr>
</tbody>
</table>

Org. 1

Name(s) of Entities the Organization Owns or Controls: 100% Development Owner
Organization legally formed? No
Date formed: TBF
Legal Org is or will be: Limited Liability Company
Previous TDHCA Experience? No
Phone: (352) 213-8700
Email: lisa@saigebrook.com

Org. 1.1

Name(s) of Entities the Organization Owns or Controls: 0.01% of Everly Plaza, LLC and 100% Guarantor
Organization legally formed? No
Date formed: TBF
Legal Org is or will be: Limited Liability Company
Previous TDHCA Experience? No
Phone: 3522138700
Email: lisa@saigebrook.com

Org. 1.1.1

Name(s) of Entities the Organization Owns or Controls: 100% of Saigebrook Everly, LLC and 100% Developer
Organization legally formed? Yes
Date formed: 9/7/2011
Legal Org is or will be: Limited Liability Company
Previous TDHCA Experience? Yes
Phone: 3522138700
Email: lisa@saigebrook.com

Org.

Name(s) of Entities the Organization Owns or Controls:
Organization legally formed? Yes
Date formed: 2/25/2019
Legal Org is or will be:
Previous TDHCA Experience? Yes
Phone: 
Email: 

Org. 1

List of Sub-Entities or Principals:
1. Saigebrook Development, LLC
   TDHCA Experience: Yes
2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org. 1.1

List of Sub-Entities or Principals:
1. Lisa M. Stephens
   TDHCA Experience: Yes
2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org. 1.1.1

List of Sub-Entities or Principals:
1. NA
   TDHCA Experience: NA
2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org.

List of Sub-Entities or Principals:
1. NA
   TDHCA Experience: NA
2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org.

List of Sub-Entities or Principals:
1. NA
   TDHCA Experience: NA
2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org.

List of Sub-Entities or Principals:
1. NA
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2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org.

List of Sub-Entities or Principals:
1. NA
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2. NA
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3. NA
   TDHCA Experience: NA

Org.

List of Sub-Entities or Principals:
1. NA
   TDHCA Experience: NA
2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org.

List of Sub-Entities or Principals:
1. NA
   TDHCA Experience: NA
2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org.

List of Sub-Entities or Principals:
1. NA
   TDHCA Experience: NA
2. NA
   TDHCA Experience: NA
3. NA
   TDHCA Experience: NA

Org.
2019 HTC Full Application

Part 5 Tab 39

Previous Participation
Previous Participation Form

Form must be completed separately for each entity (i.e. person, organization, etc.) that has or will have a controlling interest or oversight in the contract, award, agreement, or ownership transfer being considered. This form should also be completed for each board member, individual with signature authority, executive director, or elected official that represents the person/entity (as applicable).

| Person/Role: | Everly Plaza, LLC  
|             | Saigebrook Everly, LLC  
| Email Address: | lisa@saigebrook.com  
| City & State of Home Addr: | Austin, TX  
| Applicant Legal Name: | Everly Plaza, LLC  

1. List experience with all TDHCA rental development programs (including: HTC, HTC Exchange, Direct Loan (HOME, TCAP, SHTF, RHD), and BOND) that you have controlled at any time.

[ ] By selecting this box I certify that I have no prior experience with any TDHCA administered affordable rental program.

<table>
<thead>
<tr>
<th>TDHCA ID#</th>
<th>Property Name</th>
<th>Property City</th>
<th>Program</th>
<th>Control began (mm/yy)</th>
<th>Control End (mm/yy)</th>
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</thead>
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</tr>
</tbody>
</table>

2. Identify all Community Affairs and Single Family department programs that you have participated in within the last three(3) years by placing an "x" next to the program name.

[ ] By selecting this box I certify that I have no prior experience with any TDHCA Single Family or Community Affairs Programs.

<table>
<thead>
<tr>
<th>Community Affairs:</th>
<th>CEAP</th>
<th>DOE</th>
<th>HHSP</th>
<th>WAP</th>
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<tr>
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<td></td>
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<tr>
<td>HTF/OCI:</td>
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<td></td>
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</table>
Form must be completed separately for each entity (i.e. person, organization, etc.) that has or will have a controlling interest or oversight in the contract, award, agreement, or ownership transfer being considered. This form should also be completed for each board member, individual with signature authority, executive director, or elected official that represents the person/entity (as applicable).

1. List experience with all TDHCA rental development programs (including: HTC, HTC Exchange, Direct Loan (HOME, TCAP, SHF, RHD), and BOND) that you have controlled at any time.

   ☐ By selecting this box I certify that I have no prior experience with any TDHCA administered affordable rental program.

2. Identify all Community Affairs and Single Family department programs that you have participated in within the last three(3) years by placing an "x" next to the program name.

   ☒ By selecting this box I certify that I have no prior experience with any TDHCA Single Family or Community Affairs Programs.
2019 HTC
Full Application

Part 5 Tab 40

Nonprofit Participation

NA
Nonprofit Support Documentation

NA
Development Team Members
The requested information on all known Development Team members must be provided. In addition to the categories listed below, the “Other” category should be used to list all known Development Team members that are included in the “Development Cost Schedule.” If the team member that will be utilized is not yet known, indicate “TBD.” If it is anticipated that the Development Team category will not be utilized, indicate “N/A.”

*If there is a direct or indirect, financial, or other interest with Applicant or other team members, provide an attachment behind this form in the Application that explains the relationship(s).

### Developer:

<table>
<thead>
<tr>
<th>Saigebrook Development, LLC</th>
<th>Lisa Stephens</th>
<th>(352) 213-8700</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:lisa@saigebrook.com">lisa@saigebrook.com</a></td>
<td>TBD</td>
<td>45-3062708</td>
</tr>
<tr>
<td>Email</td>
<td>Proposed Fee</td>
<td>Tax ID Number (TIN)</td>
</tr>
<tr>
<td>Yes</td>
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### Housing General Contractor:

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<th>TBD</th>
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### Infrastructure General Contractor:

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<td>Tax ID Number (TIN)</td>
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### Cost Estimator:

<table>
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<tr>
<th>Saigebrook Development, LLC</th>
<th>Lisa Stephens</th>
<th>(352) 213-8700</th>
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</thead>
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<tr>
<td><a href="mailto:lisa@saigebrook.com">lisa@saigebrook.com</a></td>
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<tr>
<td>Email</td>
<td>Proposed Fee</td>
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### Architect:

<table>
<thead>
<tr>
<th>Miller Slayton Architects</th>
<th>Paul Slayton</th>
<th>(352) 377-0505</th>
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<tr>
<td><a href="mailto:pslayton@millerslayton.com">pslayton@millerslayton.com</a></td>
<td>TBD</td>
<td>20-1755942</td>
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### Engineer:

<table>
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<tr>
<th>Contact Name</th>
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<tbody>
<tr>
<td>Rob Cronin</td>
<td>(817) 469-1671</td>
</tr>
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<table>
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<tr>
<td><a href="mailto:rcronin@mmatexas.com">rcronin@mmatexas.com</a></td>
<td>TBD</td>
<td>75-2841118</td>
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<table>
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<th>This is a direct or indirect, financial, or other interest with Applicant or other team members*</th>
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<tbody>
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### Civil Engineer:

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<tr>
<th>Contact Name</th>
<th>Phone</th>
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<tbody>
<tr>
<td>MMA</td>
<td>(210) 241-4323</td>
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<thead>
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<th>Proposed Fee</th>
<th>Tax ID Number (TIN)</th>
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<td><a href="mailto:rcronin@mmatexas.com">rcronin@mmatexas.com</a></td>
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<th>This is a direct or indirect, financial, or other interest with Applicant or other team members*</th>
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### Market Analyst:

<table>
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<tr>
<th>Contact Name</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Darrell G. Jack</td>
<td>(210) 241-4323</td>
</tr>
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<tr>
<td><a href="mailto:amd@stic.net">amd@stic.net</a></td>
<td>TBD</td>
<td>20-3964998</td>
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### Appraiser:

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<tr>
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<tr>
<th>Certified Texas HUB?</th>
<th>This is a direct or indirect, financial, or other interest with Applicant or other team members*</th>
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<tbody>
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### Attorney:

<table>
<thead>
<tr>
<th>Contact Name</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Cheng</td>
<td>(305) 415-9083</td>
</tr>
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<table>
<thead>
<tr>
<th>Email</th>
<th>Proposed Fee</th>
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<tbody>
<tr>
<td><a href="mailto:rcheng@shutts.com">rcheng@shutts.com</a></td>
<td>TBD</td>
<td>59-0447122</td>
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<td>No</td>
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</table>

### Accountant:

<table>
<thead>
<tr>
<th>Contact Name</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ashley Northcutt</td>
<td>(512) 693-2180</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Email</th>
<th>Proposed Fee</th>
<th>Tax ID Number (TIN)</th>
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<tbody>
<tr>
<td><a href="mailto:ashley.northcutt@tidwellgroup.com">ashley.northcutt@tidwellgroup.com</a></td>
<td>TBD</td>
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<tr>
<th>Certified Texas HUB?</th>
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</thead>
<tbody>
<tr>
<td>No</td>
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<tr>
<td>Property Manager:</td>
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</tr>
<tr>
<td>-------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Accolade Property Management</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Stephanie Baker</strong></td>
<td></td>
</tr>
<tr>
<td><strong>(214) 496-0600</strong></td>
<td></td>
</tr>
<tr>
<td><strong><a href="mailto:sbaker@accoladepm.com">sbaker@accoladepm.com</a></strong></td>
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<tr>
<td><strong>TBD</strong></td>
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<tr>
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</tr>
<tr>
<td><strong>This is a direct or indirect, financial, or other interest with Applicant or other team members</strong>*</td>
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<thead>
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<td><strong>Email</strong></td>
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<td><strong>Proposed Fee</strong></td>
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<tr>
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<td><strong>This is a direct or indirect, financial, or other interest with Applicant or other team members</strong>*</td>
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<td><strong>TBD</strong></td>
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<tr>
<td><strong>Contact Name</strong></td>
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<td><strong>Phone</strong></td>
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<td><strong>Email</strong></td>
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<tr>
<td><strong>Proposed Fee</strong></td>
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<tr>
<td><strong>Certified Texas HUB?</strong></td>
</tr>
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<tr>
<td><strong>Proposed Fee</strong></td>
</tr>
<tr>
<td><strong>Certified Texas HUB?</strong></td>
</tr>
<tr>
<td><strong>This is a direct or indirect, financial, or other interest with Applicant or other team members</strong>*</td>
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2/27/2019
<table>
<thead>
<tr>
<th>Title Company</th>
<th>Alicia Newburn</th>
<th>(817) 334-1309</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rattikin Title</td>
<td>Contact Name</td>
<td>Phone</td>
</tr>
<tr>
<td><a href="mailto:anewburn@rattikintitle.com">anewburn@rattikintitle.com</a></td>
<td>TBD</td>
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</tr>
<tr>
<td>Email</td>
<td>Proposed Fee</td>
<td>Tax ID Number (TIN)</td>
</tr>
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<tr>
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<table>
<thead>
<tr>
<th>Application Consultant:</th>
<th>Alyssa Carpenter</th>
<th>(512) 789-1295</th>
</tr>
</thead>
<tbody>
<tr>
<td>S. Anderson Consulting, LLC</td>
<td>Contact Name</td>
<td>Phone</td>
</tr>
<tr>
<td><a href="mailto:aicarpen@gmail.com">aicarpen@gmail.com</a></td>
<td>TBD</td>
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<tr>
<td>Email</td>
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<tr>
<td>This is a direct or indirect, financial, or other interest with Applicant or other team members*</td>
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<tr>
<th>ESA Provider:</th>
<th>Craig Hiatt</th>
<th>(512) 837-8005</th>
</tr>
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<tbody>
<tr>
<td>ECS Southwest, LLP</td>
<td>Contact Name</td>
<td>Phone</td>
</tr>
<tr>
<td><a href="mailto:Chiatt@ecslimited.com">Chiatt@ecslimited.com</a></td>
<td>TBD</td>
<td>54-1439291</td>
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<tr>
<td>This is a direct or indirect, financial, or other interest with Applicant or other team members*</td>
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<table>
<thead>
<tr>
<th>PCA Provider:</th>
<th>Megan Lasch</th>
<th>(830) 330-0762</th>
</tr>
</thead>
<tbody>
<tr>
<td>O-SDA Industries, LLC-consultant</td>
<td>Contact Name</td>
<td>Phone</td>
</tr>
<tr>
<td><a href="mailto:megan@o-sda.com">megan@o-sda.com</a></td>
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<tr>
<td>This is a direct or indirect, financial, or other interest with Applicant or other team members*</td>
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<tr>
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</tr>
<tr>
<td>This is a direct or indirect, financial, or other interest with Applicant or other team members*</td>
<td></td>
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</table>
Development Team Member Relationships with Applicant

The Applicant, Developer, and Cost Estimator are related entities through a principal.
2019 HTC
Full Application

Part 5 Tab 43

Architect Certification
The form for the certification will be posted to the Department's website at http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm.

NOTE: The certification requires a separate statement be submitted that describes how the accessibility requirements for the physically accessible/hearing and visual impaired Units will be met, along with related parking requirements. Be sure this statement is attached to this certification. Forms signed by the architect in Tabs 23(a), (b), and (c) may meet this requirement.
I (We) certify that the Development will be designed and built to meet the accessibility requirements of the Federal Fair Housing Act as implemented by HUD at 24 C.F.R. Part 100 and the Fair Housing Act Design Manual, Titles II and III of the Americans with Disabilities Act (42 U.S.C. Sections 12131-12189) as implemented by the Department of Justice regulations at 28 C.F.R. Parts 35 and 36, and the Department’s Accessibility rules in 10 TAC Chapter 1, Subchapter B, in effect at the time of certification.

I (we) certify that all materials submitted to the Department by the Architect or Applicant constitute records of the Department subject to Chapter 552, Tex. Gov’t Code, and the Texas Public Information Act.

I (We) certify that in accordance with Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8, if the Development includes the New Construction or substantial rehabilitation of multifamily units (4 or more units per building), at least five percent (5%) of all dwelling units will be designed and built to be accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise compliant with the 2010 ADA Standards with the exceptions listed in “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities” (Federal Register 79 FR 29671) meets this requirement. In addition, at least two percent (2%) of all dwelling units will be designed and built to be accessible for persons with hearing or vision impairments.

I (We) have attached a statement describing how the requirements of Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8 will be met as described in 10 TAC Chapter 1, Subchapter B. At a minimum, the statement will include (1) The total number of Units (2) Number and description of Unit types, the number of Units of each Type, (3) Number of Units of each Type that will meet the accessibility requirements, and (4) a description of how the accessibility requirements relating to Unit distribution will be met.

I (We) certify that I (We) have reviewed and understand the Department's fair housing educational materials posted on the Department's website as of the beginning of the Application Acceptance Period.

I (We) certify that all persons who have a property interest in the Development plan hereby acknowledge that the Department may publish the full Development plan on the Department’s website, release the Development plan in response to a request for public information, and make other use of the Development plan as authorized by law.
I (We) certify that if the Development includes the New Construction or Rehabilitation of single family units (1 to 3 units per building), every unit will be designed and built to meet the accessibility requirements of Tex. Gov't Code §2306.514, as it may be amended from time to time.

I (We) have attached a statement describing how, regardless of building type, all Units accessed by the ground floor or by elevator ("affected units") meet the requirements at 10 TAC §11.101(b)(8)(B).

I(We) certify that all accessible Units under 10 TAC Chapter 1, Subchapter B, and all affected Units meeting the requirements under 10 TAC 11.101(b)(8)(B) will be dispersed throughout the Development.

If the Applicant is applying for HOME funds and the Development consists of New Construction, I (We) further certify that the Development meets the Construction Site Standards in 24 C.F.R §983.57(e)(1).

This certification meets the requirement that the Applicant provide a certification from the Development engineer or an accredited architect. A similar certification will also be required after the Development is completed from an inspector, architect, or accessibility specialist.

By: ____________________________

Signature

2/19/2019

Date

Paul C. Slayton III

Printed Name

Texas 21866

License Number and State

Miller Slayton Architects, Inc.

Firm Name (If applicable)
Additional Architect Statement

As referenced in the 2019 Architect Certification, this Additional Architect Statement includes the following:

1. The requirements of Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8 will be met as shown in the following calculation forms and in the Architectural Plans contained in this Application. A minimum of 5% of all dwelling units will be designed and built to be accessible for persons with mobility impairments and a minimum of 2% of all dwelling units will be designed and built to be accessible for persons with hearing or vision impairments. The calculation forms include the total number of units, number and description of unit types, and number of units of each type that will meet accessibility requirements. This statement confirms that accessible units are distributed across unit types and also the development site as shown in the architectural plans.

2. Regardless of building type, all units accessed by the ground floor or by elevator ("affected units") meet the requirements of 10 TAC §11.101(b)(8)(B). The statement confirms that the proposed development complies with visitability requirements per Fair Housing Act Design Manual standards and includes the following:

   (i) All common use facilities are in compliance with the Fair Housing Design Act Manual;

   (ii) As required by the Fair Housing Design Act Manual, there is an accessible or exempt route from common use facilities to the "affected units" as shown on the architectural site plan; and

   (iii) Each "affected unit" includes the following features:

      (I) at least one zero-step, accessible entrance;

      (II) at least one bathroom or half-bath with toilet and sink on the entry level. The layout of this bathroom or half-bath complies with one of the specifications set forth in the Fair Housing Act Design Manual;

      (III) the bathroom or half-bath will have the appropriate blocking relative to the toilet for the later installation of a grab bar, if ever requested by the tenant of that Unit;

      (IV) there is an accessible route from the entrance to the bathroom or half-bath, and the entrance and bathroom will provide usable width; and

      (V) light switches, electrical outlets, and thermostats on the entry level will be at accessible heights.

By: ____________________________

Signature

2/19/2019

Date

Paul C. Slayton III

Printed Name
Accessible Mobility Units Calculation

Include this worksheet in the Application (or a signed and certified worksheet provided by your accessibility professional that shows the calculations).

To the maximum extent feasible and subject to reasonable health and safety requirements, accessible units must be:

(1) Distributed throughout the Unit types AND the Development; and
(2) Made available in a sufficient range of sizes and amenities so that the choice of living arrangements of qualified persons with Disabilities is, as a whole, comparable to that of other persons eligible for housing assistance under the same program.

Multifamily Housing Developments covered by 10 TAC 11.101(b)(8)(A) must have a minimum of 5% of all units in the development set aside for the mobility impaired and an additional 2% must be set aside for the hearing and/or visually impaired.

### Mobility Table

<table>
<thead>
<tr>
<th>Unit Description</th>
<th>Total Units</th>
<th>Required %</th>
<th>Calculated Units</th>
<th>Units Required</th>
<th>Units Proposed</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>88</td>
<td>5%</td>
<td>4.4</td>
<td>4.4</td>
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*NOTE: If total is more than what is required, Applicant will select which Unit(s) not to include Under "Units Proposed"

### Example Table

<table>
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<th>Unit Description</th>
<th>Total Units</th>
<th>Required %</th>
<th>Calculated Units</th>
<th>Units Required</th>
<th>Units Proposed</th>
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<tbody>
<tr>
<td></td>
<td>68</td>
<td>5%</td>
<td>4.2</td>
<td>4.2</td>
<td>4</td>
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</tbody>
</table>

*NOTE: Required is 4, but calculation yields 4.2. Applicant selected which to round down Under "Units Proposed"

By signing below, I (WE) certify that the information above meets the requirements in Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8 as described in 10 TAC Chapter 1, Subchapter B. At least five percent (5%) of all dwelling units will be designed and built to be accessible for persons with mobility impairments.

By: [Signature]

Paul C. Slayton III
Printed Name

2/22/2019
Date

Miller Slayton Architects, Inc.
Firm Name (If applicable)

2/21/2019
Accessible Hearing/Visual Units Calculation

Include this worksheet in the Application (or a signed and certified worksheet provided by your accessibility professional that shows the calculations).

To the maximum extent feasible and subject to reasonable health and safety requirements, accessible units must be:
(1) Distributed throughout the Unit types AND the Development; and
(2) Made available in a sufficient range of sizes and amenities so that the choice of living arrangements of qualified persons with Disabilities is, as a whole, comparable to that of other persons eligible for housing assistance under the same program.

Multifamily Housing Developments covered by 10 TAC 11.101(b)(8)(A) must have a minimum of 5% of all units in the development set aside for the mobility impaired and an additional 2% must be set aside for the hearing and/or visually impaired.

<table>
<thead>
<tr>
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<th>Total Units</th>
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<th>Calculated Units</th>
<th>Units Required (Rounded)</th>
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<td>0</td>
<td>0</td>
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<tr>
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<td>2%</td>
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<td>1.76</td>
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*NOTE: If total is more than what is required, Applicant will select which to include under "Units Proposed"

EXAMPLE

<table>
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<tr>
<th>Hearing/Visual</th>
<th>Total Units</th>
<th>Required %</th>
<th>Calculated Units</th>
<th>Units Required (Rounded)</th>
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<tr>
<td>Unit Description</td>
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<td>E</td>
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<td>68</td>
<td>1.36</td>
<td>3</td>
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*NOTE: Required is 2, but calculation yields 3. Applicant selected which Unit(s) to include under "Units Proposed"

By signing below, I (WE) certify that the information above meets the requirements in Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8 as described in 10 TAC Chapter 1, Subchapter B. At least two percent (2%) of all dwelling units will be designed and built to be accessible for persons with hearing and/or visual impairment.

By: ___________________________  Paul C. Slayton III
Signature  Printed Name

2/22/2019  Miller Slayton Architects, Inc.
Date  Firm Name (If applicable)

2/21/2019
**Accessible Parking Calculation**

*Submit this worksheet or a comparable document certified by an accessibility professional.*

Although Fair Housing Standards may apply in unusual circumstances, ADA Standards typically determine the required number of Accessible Parking Spaces (APSs). This worksheet is intended to handle typical (ADA) cases, where all parking spaces are within a single parking lot. However, it might be possible to determine the APS requirements of multiple lots (or facilities) by completing this same worksheet for each of the lots. The worksheet might also be usable for Developments with less than one parking space to serve each dwelling unit, by filling in the information on page one, bypassing inapplicable spaces in the first section of page two, and completing the second section of page two, "Distribution of APSs Among the Various Types of Parking", referencing ADA Table 208.2. In unique cases where Fair Housing applies, or where this worksheet cannot be applied, create a certification specifying the types and numbers of the parking spaces applicable, including standard and accessible parking for dwelling units and amenities (e.g., office, mail kiosk, laundry, dumpster, pool, playground, etc., collectively, "amenities"), and for each type of parking facility, e.g., surface spaces, carports, garages, etc., for staff review. Links to the applicable accessibility rules are provided below.

**ADA Design Manual, Ch. 2, Sec. 208:**  [https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.pdf]


### Accessible Parking for Facilities and Amenities

Determining the number of APSs that serve the dwelling units requires accounting for APSs that do not serve dwelling units. In the yellow spaces below, identify the individual amenities served by an APS. Groups of amenities in close proximity typically are allowed to share a single APS. If groups of amenities share one APS (or APSs), identify each such group. In the yellow space to the right of each of these identifications, state the number of APSs designated to serve the amenity or group identified. If parking is provided near dumpsters, at least 1 dumpster must have an APS. The total of these APSs will be subtracted from the total of all types of parking spaces to determine the number of parking spaces that serve the dwelling units and the APSs required for the dwelling units.

<table>
<thead>
<tr>
<th>Amenity:</th>
<th>Identification of amenity, or amenities of a group, that the APS serves</th>
<th>APSs:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office, etc.:</td>
<td>Management office &amp; interior amenity</td>
<td>1</td>
</tr>
<tr>
<td>Amenity 1:</td>
<td>Dumpster</td>
<td>1</td>
</tr>
<tr>
<td>Amenity 2:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amenity 3:</td>
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<tr>
<td>Amenity 4:</td>
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<tr>
<td>Amenity 5:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amenity 6:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total of Accessible Parking Spaces that Do Not Serve Dwelling Units:** 2
Accessible Parking for Residential Units

This portion of the worksheet was written for Developments having at least one parking space serving each dwelling unit, having surface parking spaces as the APSs that are not for dwelling units, and having only one parking lot, i.e., none of the parking spaces are physically segregated from the others by gates or by curbs or other barriers that require vehicles to exit the Development to travel between separate parking lots that serve it. The worksheet might, or might not be, useful for other cases.

Enter the information indicated below.

Total dwelling Units in the Development: 88
Total surface parking spaces: 88
Total carports: 
Total garages: 
Total parking spaces of all types: 68
Total APSs that serve non-residential purposes (i.e. office, amenities, etc.): 2
Total of all types of parking spaces that serve dwelling units: 86
APPs for mobility accessible units (5% of unit count, if spaces are sufficient): 6
Parking spaces that serve dwelling units in excess of one per unit (if applicable): 0
APPs required in excess of one per mobility accessible unit: 0
Total APSs required (including dwelling units and facilities/amenities): 7

All Developments, including those having fewer than one parking space serving each dwelling unit, should use this portion of the worksheet. Enter the number of APSs indicated by ADA Table 208.2 for the total of each type of parking space, i.e., surface spaces, carports, etc., including both amenity spaces and dwelling unit spaces.

Distribution of APSs Among the Various Types of Parking

Minimum number of surface parking spaces (include dwelling unit and amenity spaces) that must be APSs: 7
Minimum number of carports that must be APSs: 
Number of garages that must be APSs: 

APSs that Must Be Van Spaces

Total Van APSs required, including all types of spaces: 2
Minimum number of surface parking spaces that must be van APSs: 
Minimum number of carports that must be van APSs: 0
Minimum number of garages that must be van APSs: 0

By signing below, I (WE) certify that the information above meets the requirements in the 2010 ADA Standards for Accessible Design Title III regulations at 28 CFR part 36, subpart D, and the 2004 ADA Accessibility Guidelines at 36 CFR part 1191, appendices B and D. There will be at least one accessible parking space per accessible unit located on the closest route to the accessible unit. For every 6 or fraction of 6 accessible spaces required, at least one will be van accessible. Accessible spaces will be dispersed amongst the parking types provided. Where parking for amenities or non-residents is provided, a sufficient number of accessible spaces will be provided.

2/22/2019

Signature: 
Printed Name: Paul C. Slayton III
Firm Name (if applicable): Miller Slayton Architects, Inc
2019 HTC
Full Application

Part 5 Tab 44

Evidence of Experience
Evidence of Experience Must be Provided Behind this Tab

Pursuant to §11.204(6) of the QAP, a Principal of the Developer, Development Owner, or General Partner must establish that they have experience in the development of 150 units or more.

Evidence of experience behind this tab includes:

☐ An Experience certificate issued by the Department under the 2014-2018 Uniform Multifamily Rules.
☐ An Experience certificate issued by the Department under the 2019 QAP.
☐ An Application for experience and supporting documentation in accordance with §11.204(6)(A)(i)-(ix).
☐ Evidence from the Department that the application for experience was received and is being processed by the Department.

Alternatively, pursuant to §13.5(d)(1) of the Multifamily Direct Loan Rule, Applicants requesting MFDL as the only source of Department funds may meet the Experience Requirement by providing evidence of the successful development and operation for at least 5 years of at least twice as many affordability restricted units as requested in the Application.

☐ Documentation provided behind this tab meets the alternative Experience Requirement in §13.5(d)(1).

DUNS Number and System for Award Management (SAM.gov) registration (Direct Loan Applications Only)

The Office of Management and Budget (OMB) requires grant applicants to provide a Dunn and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for Federal grants, including Direct Loan funds, on or after October 1, 2003. The DUNS number will supplement other identifiers required by statute or regulation, such as tax identification numbers. To apply for a DUNS number applicants can go to the Dunn & Bradstreet website:

http://fedgov.dnb.com/webform

Once applicants have obtained a DUNS number, they must register with the SAM database:
https://sam.gov/portal/public/SAM

Applicants may provide this information with the Application or upon award.

☐ Evidence of SAM.gov registration for the applicant entity is attached behind this tab.
☒ Evidence of SAM.gov registration for the applicant entity will be provided upon award.

Davis Bacon Labor Standards (Direct Loan Applications Only)

NOTE: The Department’s Section 811 PRA program is designed such that Davis Bacon generally does not apply.

24 CFR §92.354, Davis-Bacon Act (40 U.S.C. §§276(a)-276(a)(5), the Davis-Bacon Related Acts, the Contract Work Hours and Safety Standards Act, and the Copeland (Anti-Kickback) Act (40 U.S.C. §276(c)) apply to developments being assisted with Direct Loan funds if (Select all that apply):

☐ Twelve (12) or more Direct Loan-assisted units will be rehabilitated or constructed under one construction contract.
☐ Community Development Block Grant (CDBG) funds (including NSP1 Pl) are being used to support the Development, which requires a lower number of units (8) be used as a threshold.

2/25/2019
2019 HTC
Full Application

Part 5 Tab 44

Experience Certificate
December 28, 2016

Ms. Lisa M. Stephens
c/o Alyssa Carpenter
1305 East 6th Street, Suite 12
Austin, Texas 78702

RE: REQUEST FOR EXPERIENCE CERTIFICATE UNDER 2017 UNIFORM MULTIFAMILY RULES

Dear Ms. Stephens:

We have reviewed your request for an experience certificate, which is provided to individuals that meet the requirements of §10.204(6) of the Uniform Multifamily Rules. In order to meet the experience requirements an individual must establish that they have experience in the development and placement in service of at least 150 residential units. We find that the documentation you have provided is sufficient to establish this required experience. Additionally, you have certified to compliance with the requirements of §10.204(6)(B), including the following requirements:

(ii) Experience may not be established for a Person who at any time within the preceding three years has been involved with affordable housing in another state, in which the Person or Affiliate has been the subject of issued IRS Form 8823 citing non-compliance that has not been or is not being corrected with reasonable due diligence. ...

(iv) Notwithstanding the foregoing, no person may be used to establish such required experience if that Person or an Affiliate of that Person would not be eligible to be an Applicant themselves.

Should you choose to participate as a member of the Development Team or an individual providing experience for any Application submitted for funding, a Previous Participation Review (10 TAC §1.5) may be conducted prior to any award of funds. Additionally, should it be determined at any point in time that the information provided in your request for experience is fraudulent, knowingly falsified, intentionally or negligibly materially misrepresented, or omits relevant information, this certificate of experience is null and void and you may be subject to other sanctions under the Texas Department of Housing and Community Affairs’ rules and requirements.
If you have any questions or concerns regarding this certificate or the experience requirements, please contact Marni Holloway at marni.holloway@tdhca.state.tx.us.

Sincerely,

[Signature]

Marni Holloway
Director of Multifamily Finance
2019 HTC
Full Application

Part 5 Tab 45

Credit Limit Documentation
Pursuant to §11.4(a) of the Qualified Allocation Plan, the Department shall not allocate more than $3 million of Competitive Housing Tax Credits from the current Application Round to any Applicant, Developer, Affiliate or Guarantor (unless the Guarantor is also the General Contractor, and is not a Principal of the Applicant, Developer, or Affiliate of the Development Owner). All Applications must be identified herein to ensure that the Department is advised of all Applicants, Affiliates, Developers, General Partners or Guarantors involved to avoid any statutory violation of Texas Government Code, §2306.6711(b).

Instructions:

Complete Part I of this form. For each person or entity in Part I that answers "Yes" to Part I b., a Part II form must be submitted (i.e. if 4 persons/entities answer "Yes" to Part I b., then 4 separate Part II forms must be provided).

Part I. Applicant Credit Limit Documentation

a. Applicant, Developers, Affiliates, and Guarantors - List below all entities or Persons meeting the definition of Applicant, Affiliate, Developer or Guarantor.

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<tr>
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<tbody>
<tr>
<td>1.</td>
<td>Everly Plaza, LLC</td>
<td>No</td>
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<td>2.</td>
<td>Saigebrook Everly, LLC</td>
<td>No</td>
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<td>3.</td>
<td>Saigebrook Development, LLC</td>
<td>Yes</td>
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<td>4.</td>
<td>Lisa M. Stephens</td>
<td>Yes</td>
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b. Person/entity has at least one other application in the current Application Round.

Individually, or as the General Partner(s) of officer(s) of the Applicant entity, I (we) certify that we are submitting behind this tab one signed Credit Limit Certification form for each person and/or entity that answered "Yes" to Part I b. above.

By: [Signature of Applicant]  2-12-19  Date
Is: President

2/11/2019
Part II. Credit Limit Certification

Instructions:
Each Person and/or Entity that answered "Yes" to Part I (b) must complete this form.

Name and role of Person or Entity completing this form: Salgbrook Development, LLC

Which is: ☒ the Applicant (Entity that generally manages or controls the "Applicant," i.e. General Partner, Managing Partner, etc.)
☐ a Special Limited Partner or Class B Limited Partner or equivalent of the Applicant
☒ a Developer for the Applicant for this specific Application
☐ an Affiliate to the Applicant
☒ a Guarantor on the Application

Pursuant to §11.4(a) of the Qualified Allocation Plan, the Department shall not allocate more than $3 million of tax credits from the current Application Round to any Applicant, Developer, Affiliate or Guarantor. The undersigned represents to the Department that the following is a list of all developments for which the Applicant, the Developer, Affiliate, or Guarantor, has applied for an allocation of tax credit authority from the Department in the current Application Round.

<table>
<thead>
<tr>
<th>Development Name:</th>
<th>Region:</th>
<th>City:</th>
<th>% Ownership:</th>
<th>% of Dev. Fee:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cléo Place</td>
<td>3</td>
<td>Fort Worth</td>
<td>100.00%</td>
<td>100.00%</td>
</tr>
<tr>
<td>Everly Plaza</td>
<td>3</td>
<td>Fort Worth</td>
<td>100.00%</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

I acknowledge that: Lisa M. Stephens is authorized to terminate the Application in the event of a conflict with §11.4(a) of the Qualified Allocation Plan.

I hereby certify that the foregoing is a complete list of Developments with respect to which I am seeking a current allocation of tax credit authority from the Department. I certify that, if the Department makes a recommendation to the Board or issues a commitment which may cause Applications for which I am the Applicant, the Developer, Affiliate or Guarantor, to receive credits in excess of $3 million, I will notify the Department in writing within three business days of the recommendation or issuance of the Commitment.

I acknowledge that if the Department determines that an Applicant, Developer, Affiliate or Guarantor, has received (in the aggregate) allocations in the current Application Round from the Department exceeding $3 million, the Department must refuse to issue one or more Commitments or Carryover Allocations, or must terminate one or more Commitments or Carryover Allocations.

Under penalty of perjury, I certify that this information and these statements are true, complete, and accurate:

By: [Signature of Applicant, Developer, Affiliate or Guarantor (as appropriate)]

Salgbrook Development, LLC

Printed Name

Date: 2-17-19

2/11/2019
Part II. Credit Limit Certification

Instructions:
Each Person and/or Entity that answered "Yes" to Part 1 (b) must complete this form.

Name and role of Person or Entity completing this form: Lisa M. Stephens

Which is:  
☐ the Applicant (Entity that generally manages or controls the "Applicant," i.e. General Partner, Managing Partner, etc.)
☐ a Special Limited Partner or Class B Limited Partner or equivalent of the Applicant
☒ a Developer for the Applicant for this specific Application
☐ an Affiliate to the Applicant:
☐ a Guarantor on the Application

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<td>Fort Worth</td>
<td>☒ 100.00%</td>
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I acknowledge that if the Department determines that an Applicant, Developer, Affiliate or Guarantor, has received (in the aggregate) allocations in the current Application Round from the Department exceeding $3 million, the Department must refuse to issue one or more Commitments or Carryover Allocations, or must terminate one or more Commitments or Carryover Allocations.

Under penalty of perjury, I certify that this information and these statements are true, complete, and accurate.

By: Lisa M. Stephens

Printed Name

Date: 2/12/19
2019 HTC Full Application

Part 6 Tab 46

Community Input Scoring Items
### Community Input Scoring Items

**TDHCA#: 19285**

1. **Local Government Support - §11.9(d)(1)** - Only check the box if support documents are included in the Application.

   - **Resolution(s) of either "no objection" or "support" is included behind this tab.**
     - **City of Fort Worth**
       - Name of Local Government Body
       - Name of Local Government Body (if applicable)
       - **Note that resolutions are due March 1, 2019**

2. **Quantifiable Community Participation - §11.9(d)(4)**

   - **Application expects to receive QCP points.**
     - **Note that QCP Packets are due March 1, 2019 and MAY NOT be submitted by the Applicant. Packets MUST be received from Neighborhood Organization!**

3. **Community Support from State Representative - §11.9(d)(5)**

   - **Application expects to receive points for a letter from a Representative.**
   - **Letter of either "support" or "opposition" is included behind this tab.**
     - **Note that letters are due March 1, 2019**

4. **Input from Community Organizations - §11.9(d)(6)**

   - **Applicant has included one or more letters of support or opposition behind this tab.**
   - List information for each of the letters below:
     - **A. Meals On Wheels, Inc. of Tarrant County**
       - Name of Community Organization: Carla Jutson
       - Contact Name
       - **Support**
       - **Opposition**
     - **B. Tarrant County Hands of Hope**
       - Name of Community Organization: John Ramsey
       - Contact Name
       - **Support**
       - **Opposition**
     - **C. Pathfinders**
       - Name of Community Organization: Kathryn Arnold
       - Contact Name
       - **Support**
       - **Opposition**
     - **D. Sixty & Better, Inc.**
       - Name of Community Organization: Monique Barber
       - Contact Name
       - **Support**
       - **Opposition**
     - **E. United Way of Tarrant County**
       - Name of Community Organization: Donald R. Smith
       - Contact Name
       - **Support**
       - **Opposition**
     - F.
       - Name of Community Organization
       - Contact Name
       - **Support**
       - **Opposition**

2/25/2019
Local Government Support Resolution
A Resolution

NO. 5056-02-2019

SUPPORTING A HOUSING TAX CREDIT APPLICATION FOR EVERLY PLAZA AND COMMITTING DEVELOPMENT FUNDING

WHEREAS, the City’s 2018 Comprehensive Plan is supportive of the preservation, improvement, and development of quality, affordable, accessible housing;

WHEREAS, the City’s 2018-2022 Consolidated Plan makes the development of quality, affordable, accessible rental housing units for low income residents of the City a high priority;

WHEREAS, Everly Plaza, LLC, an affiliate of Saigebrook Development, LLC and O-SDA Industries, LLC, has proposed a development for affordable senior multifamily rental housing named Everly Plaza to be located at 1801 8th Avenue in the City of Fort Worth;

WHEREAS, Everly Plaza, LLC has advised the City that it intends to submit an application to the Texas Department of Housing and Community Affairs (“TDHCA”) for 2019 Competitive (9%) Housing Tax Credits for the Everly Plaza apartments, a new complex consisting of approximately 88 units, of which at least five percent (5%) of the total units will be Permanent Supportive Housing units and at least ten percent (10%) of the total units will be market rate units;

WHEREAS, TDHCA’s 2019 Qualified Allocation Plan (“QAP”) provides that an application for Housing Tax Credits may receive seventeen (17) points for a resolution of support from the governing body of the jurisdiction in which the proposed development site is located; and

WHEREAS, the QAP also states that an application may receive one (1) point for a commitment of development funding from the city in which the proposed development site is located.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

The City of Fort Worth, acting through its City Council, hereby confirms that it supports the application of Everly Plaza, LLC to the Texas Department of Housing and Community Affairs for 2019 Competitive (9%) Housing Tax Credits for the purpose of the development of the Everly Plaza apartments to be located at 1801 8th Avenue (TDHCA Application No. 19285), and that this formal action has been taken to put on record the opinion expressed by the City Council of the City of Fort Worth.

The City of Fort Worth, acting through its City Council, additionally confirms that it will commit to fee waivers in an amount not exceed $2,500.00 to Everly Plaza, LLC conditioned upon its receipt of Housing Tax Credits. The City Council also finds that the waiver of such fees serves the public purpose of providing quality, accessible, affordable housing to low and moderate income households in
Resolution No. 5056-02-2019

In accordance with the City’s Comprehensive Plan and Action Plan, and that adequate controls are in place through the City’s Neighborhood Services Department to carry out such public purpose.

The City of Fort Worth, acting through its City Council, further confirms that the City has not first received any funding for this purpose from the applicant, affiliates of the applicant, consultant, general contractor or guarantor of the proposed development or any party associated in any way with the applicant, Everly Plaza, LLC.

Adopted this 12th day of February 2019.

ATTEST:

By: [Signature]

Mary J. Kayser, City Secretary
February 20, 2019

TDHCA
David Cervantes, Acting Director
221 East 11th Street
Austin, TX 78701

RE: TDHCA Application #19285 Everly Plaza

Dear Mr. Cervantes:

The City of Fort Worth ("City") has provided a Resolution of Support for the Housing Tax Credit Application for Everly Plaza, LLC on February 12, 2019, which states that Everly Plaza, LLC is to be "an affiliate of Saigebrook Development, LLC and O-SDA Industries, LLC." It is the City’s policy to disclose all potential owners and significant project consultants to the City Council and public by listing all potential entities as affiliates on the City Council Resolutions. The City recognizes that Everly Plaza, LLC will be owned only by Saigebrook Development, LLC and O-SDA Industries, LLC will serve only as a consultant for the transaction.

Sincerely,

[Signature]

Aubrey Thagard, Director

Neighborhood Services Department
The City of Fort Worth ★ 200 Texas Street ★ Fort Worth, Texas 76102
817-392-7540 ★ Fax 817-392-7328
2019 HTC
Full Application

Part 6 Tab 46

Support from State Representative
February 25, 2019

Texas Department of Housing and Community Affairs (TDHCA)
Mr. David Cervantes, Executive Director
221 East 11th Street
Austin, Texas 78701

RE: Support for TDHCA Application #19285 (Everly Plaza)

Dear Mr. Cervantes:

The City Council of Fort Worth has passed a resolution in support of TDHCA application #19285, representing Everly Plaza, LLC. I also offer my support for the proposed development which will reside in House District 97, the district I have the honor to represent.

Respectfully yours,

[Signature]
Craig Goldman
Texas State Representative
District 97
2019 HTC
Full Application

Part 6 Tab 46

Input from Community Organizations
January 24, 2019

TDHCA
Marnie Holloway
221 East 11th Street
Austin, TX 78701

RE: Everly Plaza Application #19285
Sunset at Fash Place Application #19276

Dear Ms. Holloway,

I am writing this letter to voice my support for the following TDHCA Tax Credit Applications for a proposed senior housing in Tarrant County:

“Sunset at Fash Place,” to be located at 2504 Oakland Blvd., Fort Worth, 76103
“Everly Plaza,” to be located at 1801 8th Ave., Fort Worth, 76110

Meals On Wheels, Inc. of Tarrant County is a tax exempt 501(c)3 not-for-profit organization that serves the community in which the development site is located. Our mission is to promote the dignity and independence of older adults, persons with disabilities, and other homebound persons by delivering nutritious meals and providing or coordinating needed services. We see firsthand the need for senior housing that is affordable to citizens of modest means and this development will help meet that need.

Sincerely,

Carla Jutson
President & CEO
Meals On Wheels, Inc. of Tarrant County
Exemption Verification Letter

Texas Comptroller of Public Accounts
Austin, TX 78774

January 31, 2019

MEALS-ON-WHEELS, INC. OF TARRANT COUNTY
5740 AIRPORT FWY
FORT WORTH, TX 76117-6005

According to the records of the Comptroller of Public Accounts, the following exemption(s) from Texas taxes apply to the above organization(s):

- Franchise tax, as of 09-22-1977
- Sales and use tax, as of 11-16-1989
  (provide Texas sales and use tax exemption certificate Form 01-339 (Back) to vendor)
- The entity is not exempt from hotel occupancy tax.

Texas taxpayer identification number: 17515687980

This exemption verification is not a substitute for the completed exemption certificates that are required when claiming exemption from Texas taxes. Vendors should be familiar with the requirements for accepting the certificates in good faith from their customers.

This exemption verification does not mean that the organization holds a permit for collecting or remitting any Texas taxes.

Exempt organizations must collect tax on most sales. For more information, please see our publication Exempt Organizations: Sales and Purchases (96-122). Online registration is available.

For information concerning sales taxpayer permit status, please use the vendor search we provide online.

Corporations that are registered in Texas with the Secretary of State must maintain a current registered agent and registered office address. Information is available from Business and Nonprofit Forms page of the Secretary of State’s website. Additionally, out-of-state corporations, limited liability companies, or limited partnerships transacting business in Texas may need to file a Certificate of Authority or Registration with the Texas Secretary of State. More information is available from the Foreign or Out-of-State Entities page on the Secretary of State's website.

Our publications and other helpful information are available on our website. If you need more information, write to us at exempt.orgs@cpa.texas.gov, or call us at 800-252-5555.

In reply refer to: 0256439164
Nov. 07, 2018 LTR 4168C 0
75-1568798 000000 00
0012727
BODC: TE

MEALS-ON-WHEELS INC OF TARRANT
5740 AIRPORT FWY
HALTOM CITY TX 76117

Employer ID number: 75-1568798
Form 990 required: Y

Dear Taxpayer:

We're responding to your request dated Oct. 31, 2018, about your tax-exempt status.

We issued you a determination letter in OCT 1978, recognizing you as tax-exempt under Internal Revenue Code (IRC) Section 501(c)(03).

We also show you're not a private foundation as defined under IRC Section 509(a) because you're described in IRC Sections 509(a)(1) and 170(b)(1)(A)(vi).

Donors can deduct contributions they make to you as provided in IRC Section 170. You're also qualified to receive tax deductible bequests, legacies, devises, transfers, or gifts under IRC Sections 2055, 2106, and 2522.

In the heading of this letter, we indicated whether you must file an annual information return. If you're required to file a return, you must file one of the following by the 15th day of the 5th month after the end of your annual accounting period:

- Form 990, Return of Organization Exempt From Income Tax
- Form 990EZ, Short Form Return of Organization Exempt From Income Tax
- Form 990-N, Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or Form 990-EZ
- Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation

According to IRC Section 6033(j), if you don't file a required annual information return or notice for 3 consecutive years, we'll revoke your tax-exempt status on the due date of the 3rd required return or notice.

You can get IRS forms or publications you need from our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, call 877-829-5500 between 8 a.m. and 5 p.m.,
Programs

Home-Delivered Meals | Case Management | Client Services | Friend to Friend | Supplemental Food | Errands | Companion Pet Meals | Nutrition

Meals On Wheels of Tarrant County provides more than just a nutritious meal. While the Home-Delivered Meals program is at the heart of everything we do, we have established a number of ancillary programs to meet specific needs within the community. These programs address issues ranging from senior isolation to unsafe living conditions to a variety of nutrition programs that help our clients manage chronic health issues. Each client is assigned to a case manager who makes quarterly check-up visits to gauge the client’s progress. As part of that discussion, the case manager will note
specific needs and recommend the client to one of our ancillary programs if needed. Since Meals On Wheels works closely with a number of other charitable organizations, we can also make referrals to other resources within the community.

**Home-Delivered Meals**

Meals On Wheels of Tarrant County provides nutritionally-balanced, home-delivered noontime meals to the homebound, elderly and disabled citizens of Tarrant County. Meals are typically delivered between 10:30 a.m. and 12:30 p.m., Monday through Friday. Some clients need a greater level of care and qualify for breakfast and weekend meals in addition to our regular noontime meal. The meals are delivered to the client’s door by trained volunteers, who are often the only people our clients see on a daily basis. We prepare and deliver more than 3,700 nutritious meals each day right here in Tarrant County.

**Qualification Criteria:** Home-delivered meals are available to those who live in Tarrant County, Texas, who are homebound for any length of time, are physically or mentally unable to prepare nutritious meals for themselves, and have no one to help them on a regular basis. There are no age or income restrictions and no one is ever approved or denied services based on their ability to make a voluntary contribution toward the cost of the services that they receive.

- Current breakfast menu
- Current lunch menu
- Communities Served
- Refer/Become a Client
- Donate to the Home-Delivered Meals program
- Nutrition Information
Case Management

Each client and prospective client is assigned to a professional case manager who assesses the client's needs, coordinates other needed services, and advocates for the client with other agencies. All clients are re-certified for the program on an annual basis.

The case manager is also the client's link to accessing and receiving other services within the community.

Our first priority is always providing a nourishing noon meal, but the case managers also determine if clients need additional meals or other services that we can provide or coordinate with other service providers. We see every client in their home at least three times per year.

We assist clients with fans, air conditioners, and heaters. We process applications that allow low-income clients to occasionally have their utility bills paid. We arrange for our clients to borrow, indefinitely and at no cost, equipment such as walkers, commode chairs, and bath rails. We check on clients when we are concerned about their safety. Our case managers help to greatly improve the quality of our clients’ lives, allowing them to live in...
February 4, 2019

TDHCA
Marnie Holloway
221 East 11th Street
Austin, TX 78701

RE: Everly Plaza Application #19285
    Sunset at Fash Place Application #19276

Dear Ms. Holloway,

I am writing this letter to voice my support for the following TDHCA Tax Credit Applications for a proposed senior housing in Tarrant County:

    “Sunset at Fash Place,” to be located at 2504 Oakland Blvd., Fort Worth, 76103
    “Everly Plaza,” to be located at 1801 8th Ave., Fort Worth, 76110

Tarrant County Hands of Hope is a tax exempt 501(c)3 not-for-profit organization that serves the community in which the development site is located with a primary purpose of street outreach to the unsheltered homeless and the overall betterment of the community. We believe that there is a need for senior housing that is affordable to citizens of modest means and this development will help meet that need.

Sincerely,

John Ramsey
Executive Director and CEO
Exemption Verification Letter

Texas Comptroller of Public Accounts
Austin, TX 78774

February 19, 2019

TARRANT COUNTY HANDS OF HOPE
PO BOX 7306
FORT WORTH, TX 76111-0306

According to the records of the Comptroller of Public Accounts, the following exemption(s) from Texas taxes apply to the above organization(s):

- Franchise tax, as of 01-27-2011
- Sales and use tax, as of 01-27-2011
  (provide Texas sales and use tax exemption certificate [Form 01-339](Back) to vendor)
- The entity is not exempt from hotel occupancy tax.

Texas taxpayer identification number: 32043486979

This exemption verification is not a substitute for the completed exemption certificates that are required when claiming exemption from Texas taxes. Vendors should be familiar with the requirements for accepting the certificates in good faith from their customers.

This exemption verification does not mean that the organization holds a [permit](Back) for collecting or remitting any Texas taxes.

Exempt organizations must collect tax on most sales. For more information, please see our publication [Exempt Organizations: Sales and Purchases](96-122). [Online registration is available](Back).

For information concerning sales taxpayer permit status, please use the [vendor search](Back) we provide online.

Corporations that are registered in Texas with the Secretary of State must maintain a current registered agent and registered office address. Information is available from [Business and Nonprofit Forms page](Back) of the [Secretary of State's website](Back). Additionally, out-of-state corporations, limited liability companies, or limited partnerships transacting business in Texas may need to file a Certificate of Authority or Registration with the Texas Secretary of State. More information is available from the [Foreign or Out-of-State Entities page](Back) on the Secretary of State’s website.

Our publications and other helpful information are available on our [website](Back). If you need more information, write to us at exempt.orgs@cpa.texas.gov, or call us at 800-252-5555.
Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.
Welcome.

Hands of Hope is a full time street outreach to the unsheltered homeless in Tarrant and surrounding counties. We focus on those living in locations unsuitable for human habitation, whether that be in a vacant structure, a vehicle, or a tent in a remote wooded area. We search for those who are often forgotten and hidden away. Once we locate an individual, we work to develop a relationship of trust and to provide their basic necessities. We have the ability to complete a coordinated housing assessment for entry into the system for housing assistance, taking that first step with them on site.
Tarrant County Hands of Hope: Homeless Outreach

...and never from a place of judgment. Hands of Hope feels that no matter the cause of their homelessness, there is always hope and that there are no hopeless situations.

Matthew 25:40 - "The King will reply, 'Truly I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did for me.'"

Tarrant County Hands of Hope is an approved 501(c) (3) Charity.
We rely on private funding to support our organization
All donations are tax deductible

CONTACT
Tarrant County Hands of Hope
PO BOX 7306
Fort Worth, TX 76111

Tel: 817-298-2779
info@hohtx.com
CONTACT US:

There are multiple ways you can contact Hands of Hope. We would love to hear from you!

BY MAIL:
Tarrant County Hands of Hope
PO Box 7306
Fort Worth, Texas 76111

Please do not mail cash.

BY EMAIL:
If you wish to send us an email, you may do so by emailing info@ohbx.com.

BY PHONE:
If you wish to call us, use +1 817 296 2279.
Calls will be returned within 24 hours during the work week. Please provide a full descriptive voicemail of the services needed.

You may also call 911 if you’re in need of financial or rental assistance. Hands of Hope does not provide financial or rental assistance of any type.

Please note that Hands of Hope does not provide rides, financial or rental assistance of any kind.

Name *

Email *

Phone

Address

Subject

Message

Send to ohbx

© 2010-2019 Tarrant County Hands of Hope (Reg No:4, 567,775)
Tarrant County Hands of Hope is an approved 501(c)(3) charity. All images and videos are protected intellectual property of Tarrant County Hands of Hope. Hands of Hope is not responsible for content found on external websites.
February 5, 2019

TDHCA
Marnie Holloway
221 East 11th Street
Austin, TX 78701

RE: Everly Plaza Application #19285
    Sunset at Fash Place Application #19276

Dear Ms. Holloway,

I am writing this letter to voice my support for the following TDHCA Tax Credit Applications for a proposed senior housing in Tarrant County:

    “Sunset at Fash Place,” to be located at 2504 Oakland Blvd., Fort Worth, 76103
    “Everly Plaza,” to be located at 1801 8th Ave., Fort Worth, 76110

Pathfinders is a tax exempt 501(c)3 not-for-profit organization that serves the community in which the development site is located with a primary purpose of empowering individuals and families to find their path from poverty to self-sufficiency and the overall betterment of the community. We believe that there is a need for senior housing that is affordable to citizens of modest means and this development will help meet that need.

Sincerely,

Kathryn Arnold
Executive Director
Exemption Verification Letter

Texas Comptroller of Public Accounts
Austin, TX 78774

February 10, 2019

FAMILY PATHFINDERS OF TARRANT COUNTY
PO BOX 470869
FORT WORTH, TX 76147-0869

According to the records of the Comptroller of Public Accounts, the following exemption(s) from Texas taxes apply to the above organization(s):

- Franchise tax, as of 06-12-2003
- Sales and use tax, as of 06-12-2003
  (provide Texas sales and use tax exemption certificate Form 01-339 (Back) to vendor)
- The entity is not exempt from hotel occupancy tax.

Texas taxpayer identification number: 17316433840

This exemption verification is not a substitute for the completed exemption certificates that are required when claiming exemption from Texas taxes. Vendors should be familiar with the requirements for accepting the certificates in good faith from their customers.

This exemption verification does not mean that the organization holds a permit for collecting or remitting any Texas taxes.

Exempt organizations must collect tax on most sales. For more information, please see our publication Exempt Organizations: Sales and Purchases (96-122). Online registration is available.

For information concerning sales taxpayer permit status, please use the vendor search we provide online.

Corporations that are registered in Texas with the Secretary of State must maintain a current registered agent and registered office address. Information is available from Business and Nonprofit Forms page of the Secretary of State's website. Additionally, out-of-state corporations, limited liability companies, or limited partnerships transacting business in Texas may need to file a Certificate of Authority or Registration with the Texas Secretary of State. More information is available from the Foreign or Out-of-State Entities page on the Secretary of State's website.

Our publications and other helpful information are available on our website. If you need more information, write to us at exempt.orgs@cpa.texas.gov, or call us at 800-252-5555.
Mentoring

The call to mentoring has never been greater or more rewarding.

Family, Youth and Reentry Mentoring

Today’s communities have many families and individuals that need and want a trained mentor to help them find a path to self-sufficiency. Our mentor training, coupled with your life experiences, can empower you, as a mentor, to help others improve their life skills and find better ways to support their families. Mentors join hands with an individual or family for one year, helping them make the very difficult transition to financial stability. Each mentor provides a broad range of support including budgeting, job preparation, decision making, emotional support, parenting advice and goal setting. This unique program makes a difference in people’s lives when they learn life skills from caring, committed volunteers. And the time commitment for the mentorship is just three to four hours a month at a time convenient to the mentors and mentees. Due to our success, the Mentoring program has been recognized for Best Practices by Urban Partnership Initiatives of the U.S. Department of Health and Human Services. The strength of the program is the three-way relationship among the client, the mentor(s), and the staff, all focused on helping the family become self-sufficient.

What makes a great mentor?

Pathfinders mentors come from all walks of life, are all ages, and span a variety of economic and educational backgrounds. Our clients simply value having someone to talk to, someone to listen, and someone to care about their future. If you know how to set goals, stick to a budget, or look for a job and you are willing to learn and walk with your mentee in his or her journey toward self-sufficiency, you will make a great mentor! And you will not be alone in this process. Pathfinders provides ongoing support, training, a great mentor toolbox full of resources right here on our website, and opportunities to connect with other mentors and share your successes and challenges along the way.

What options are available?

Pathfinders provides three avenues for volunteer mentors:

1. One-on-one mentoring
2. Mentoring as a team
3. Pathfinder Partner - organizations with multiple one-on-one mentors or teams of mentors

How do I get started?

1. Submit a Mentor Application
2. Consider recruiting friends or colleagues to create a team
3. If your church/faith community, club, or business has multiple mentors, consider becoming a Pathfinder Partner

Still have questions? Visit our Frequently Asked Questions page for more information or send us an email.
Financial Capability

Financial Education

Our Financial Literacy classes help students identify ways to better manage their money, reduce expenses, save for emergencies and improve their self-advocacy skills in a fun and interactive setting. Using the FDIC “Money Smart” curriculum and class role play activities, the students learn basic steps for creating a household budget, choosing and using banking resources, identifying borrowing risks and benefits, improving credit and saving for financial goals. Whether they come to a stand-alone class or a series of five classes, students gain awareness of tools to help them build savings as well as resources to help them with financial issues. All students receive a “budget box” which is a portable file with tools to help them create a budget and manage their financial records and bills.

Financial Coaching

Pathfinders provides financial coaching to help low and moderate income people attain financial stability. Financial Coaching builds on financial (education/management) skills to address personal needs for improving financial behaviors. Each client-driven session is led by a volunteer Coach with training in budgeting, banking and borrowing, and credit. These sessions allow participants to come with their own questions and work with a coach to take back control of their finances, make better decisions, and regain a foothold in financial stability and self-sufficiency. Participants in the program are referred to Pathfinders through our partnership in the United Way’s Financial Stability Initiative.

Interested in volunteering as a Financial Coach? Submit your Volunteer Application today!

Still have questions? Visit our Frequently Asked Questions page for more information or send us an email.
Contact Us

For more information on Pathfinders, visit us on Facebook!

For media inquiries please email info@pathfinderstc.org

Mailing Address
P.O. Box 470869
Fort Worth, TX 76147

Physical Address
6550 Camp Bowie Blvd., Suite 111
Fort Worth, TX 76116

Phone
817-731-1173

Fax
817-731-1207

You can also use the form below to get in contact with a member of the Pathfinders staff.

First Name *

Last Name *

Email Address *

Phone

How may we help? *

Please answer the simple math question below to submit the form.

2 + 2 = 

Submit
February 5, 2019

TDHCA
Marnie Holloway
221 East 11th Street
Austin, TX 78701

RE: Everly Plaza Application #19285
Sunset at Fash Place Application #19276

Dear Ms. Holloway,

I am writing this letter to voice my support for the following TDHCA Tax Credit Applications for a proposed senior housing in Tarrant County:

“Sunset at Fash Place,” to be located at 2504 Oakland Blvd., Fort Worth, 76103
“Everly Plaza,” to be located at 1801 8th Ave., Fort Worth, 76110

Sixty and Better, Inc. is a tax exempt 501(c)3 not-for-profit organization that serves the community in which the development site is located. For five decades, Sixty and Better has provided a place for older adults to have fun, be well, and stay connected. We strive to end isolation so those in the prime of their life can stay connected, healthy, and active. We believe that there is a need for senior housing that is affordable to citizens of modest means and this development will help meet that need.

Sincerely,

Monique Barber, MPH, MBA
Chief Executive Officer
Sixty and Better, Inc.
Exemption Verification Letter

Texas Comptroller of Public Accounts
Austin, TX 78774

February 10, 2019

SIXTY AND BETTER, INC.
1400 CIRCLE DR STE 300
FORT WORTH, TX 76119-8142

According to the records of the Comptroller of Public Accounts, the following exemption(s) from Texas taxes apply to the above organization(s):

- Franchise tax, as of 05-01-1972
- Sales and use tax, as of 08-29-1977
  (provide Texas sales and use tax exemption certificate Form 01-339 (Back) to vendor)
- The entity is not exempt from hotel occupancy tax.

Texas taxpayer identification number: 17512513395

This exemption verification is not a substitute for the completed exemption certificates that are required when claiming exemption from Texas taxes. Vendors should be familiar with the requirements for accepting the certificates in good faith from their customers.

This exemption verification does not mean that the organization holds a permit for collecting or remitting any Texas taxes.

Exempt organizations must collect tax on most sales. For more information, please see our publication Exempt Organizations: Sales and Purchases (96-122). Online registration is available.

For information concerning sales taxpayer permit status, please use the vendor search we provide online.

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Our publications and other helpful information are available on our website. If you need more information, write to us at exempt.orgs@cpa.texas.gov, or call us at 800-252-5555.
About Us

Where Healthy Aging Begins!

**Our Vision**
Sixty and Better envisions communities without isolated elders, with older adults staying connected, healthy, active, and contributing to community needs.

**Our Mission**
Sixty and Better empowers older adults to live with purpose, independence, and dignity.

**Our Values**
- Person-centered Services
- Quality
- Diversity
- Collaboration
- Respect

Founded in 1967, Sixty and Better strives to end isolation so those in the prime of their life can stay connected, healthy, and active. Through our comprehensive, evidence-based approach to aging, Sixty and Better participants significantly increase their activity levels, healthy eating habits, social interactions, and contribute to their local community in meaningful ways through volunteer projects.
Formerly Senior Citizen Services of Greater Tarrant County, Sixty and Better serves those aged 60+ at 25 neighborhood activity centers in 13 communities across Fort Worth and Tarrant County. Our signature programs include a **congregate meal nutrition program**, regular socialization activities, round-trip transportation services to some activity centers, **volunteer opportunities**, help with federal and state **benefits enrollment**, and **health and wellness classes**, such as *A Matter of Balance Fall Prevention* and *Health for Me Chronic Disease Self Management*.

As a 501(c)(3) nonprofit organization, we have benefited from the generosity of the community for five decades to keep older adults active and engaged.

To make a contribution, please visit our **DONATE** page.

---

**FY 2017 Annual Report**

Each year Sixty and Better conducts an annual survey with our Activity Center Participants to measure the personal importance and the impact of our programs and services.

**Highlights**

- **Nutritious Meals:** In 2017, Sixty and Better provided 205,279 meals to 3,087 Meal Program Participants, served fresh by 560 volunteer food handlers.

- **Health and Wellness Programs:** In 2017, Sixty and Better empowered 929 Participants through our signature health and wellness programs, instructed by 38 volunteer coaches and lay-leaders.

- **Community Connections:** In 2017, Sixty and Better connected 2,450 volunteers with meaningful opportunities to make a difference. Volunteers donated 134,893 hours of service, equivalent to $3.1 million in value.

- **Transportation Services:** In 2017, 551 Sixty and Better Participants took 44,529 trips to their neighborhood Activity Center for fun, friendship, and food.

Click the image to download the **Sixty and Better 2017 Annual Report PDF**.
2017 Annual Report

What We Do
Sixty and Better serves those aged 60+ at 25 neighborhood Activity Centers in 13 communities across Fort Worth and Tarrant County. Programs include nutritious meals, socialization activities, volunteer opportunities, health and wellness classes, and round trip transportation to local Activity Centers.

Our Vision
Sixty and Better envisions communities without isolated elders, with older adults staying connected, healthy, active, and contributing to community needs.

Our Mission
Sixty and Better empowers older adults to live with purpose, independence, and dignity.

Our Values
Person-centered Services
Quality
Diversity
Collaboration
Respect

Celebrating 50 Years, Shaping the Next 50

In 1967, we opened Fort Worth's first older adult activity center. Since then, we grew to become Senior Citizen Services of Greater Tarrant County, experts in healthy aging. Today, we have a new name, a county-wide network of 25 Activity Centers, and serve more than 3,500 older adults and Boomers annually, yet our mission remains the same after five decades.

Golden Anniversary Year Highlights

New Name and Look: To better convey a message of vibrancy and vitality to those we serve, we updated our look and transitioned to Sixty and Better.

Golden Anniversary Gala: In September, General Motors Financial generously presented the milestone event at the Fort Worth Club honoring our co-founders Rosalyn G. Rosenthal and Evelyn Siegel. Their forethought, generous support, and tireless passion have enhanced the lives of older people living in Tarrant County for 50 years.

Healthy Aging Lecture Series: Six informative lectures were presented by topic leaders and held throughout Tarrant County, including Tarrant Area Food Bank, UNT Health Science Center, TCU, Texas A&M School of Law, and the THR Senior Health and Wellness Center.

Long-range Strategic Plan Initiatives:
1. Be Recognized as the Healthy Aging Expert
2. Transform Activity Centers into Centers of Excellence
3. Mobilize Older Adults and Boomers to Be Self-advocates
4. Develop and Implement Diversified Funding

Sixty and Better, Inc.
1400 Circle Drive, Suite 300
Fort Worth, TX 76119
Office (817) 413-4949
Fax (817) 413-4908
www.SixtyAndBetter.org

Formerly Senior Citizen Services of Greater Tarrant County, Inc.
January 30, 2019

Mrs. Marni Holloway
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Everly Plaza Application #19285
    Sunset at Fash Place Application #19276

Dear Ms. Holloway,

Please let this letter serve to acknowledge that the United Way of Tarrant County and the Area Agency on Aging of Tarrant County supports the 2019 application round of Housing Tax Credits for the proposed senior housing in Tarrant County:

    “Sunset at Fash Place,” to be located at 2504 Oakland Blvd., Fort Worth, 76103
    “Everly Plaza,” to be located at 1801 8th Ave., Fort Worth, 76110

The United Way of Tarrant County is a 501c(3) non-profit organization located at 1500 North Main Street, Fort Worth, Texas 76164 that serves the community in which the development sites are located. Our mission is to provide leadership and harness resources to solve Tarrant County’s toughest social challenges. United Way allocates funding to community agencies to help support our three key initiatives in education, health and income areas. Some of these programs include partnerships with Read Fort Worth in our education initiative and the Vita Program which is held yearly through our income initiative to assist low income consumers with tax preparation. Our health initiative in serving our older adult population through Area Agency on Aging provides direct services and programs to our aging population and their caregivers to ease the stress of growing older in Tarrant County. The United Way of Tarrant County and the Area Agency on Aging believe that there is a need for senior housing that is affordable to citizens of modest means and these developments will help meet that need. We look forward to seeing this project developed.

Sincerely,

Donald R. Smith
Director, Area Agency on Aging
Vice President, Community Investment
United Way of Tarrant County
1500 N Main, Suite 200, Fort Worth, TX 76164
Office: (817) 258-8128 Fax: (817) 258-8074
www.unitedwaytarrant.org/AAATC
Exemption Verification Letter

Texas Comptroller of Public Accounts
Austin, TX 78774

February 24, 2019

UNITED WAY OF TARRANT COUNTY
1500 N MAIN ST STE 200
FORT WORTH, TX 76164-8929

According to the records of the Comptroller of Public Accounts, the following exemption(s) from Texas taxes apply to the above organization(s):

    Franchise tax, as of 01-01-1969
    Sales and use tax, as of 08-29-1977
    (provide Texas sales and use tax exemption certificate Form 01-339 (Back) to vendor)
    The entity is not exempt from hotel occupancy tax.
    Texas taxpayer identification number: 17508583600

This exemption verification is not a substitute for the completed exemption certificates that are required when claiming exemption from Texas taxes. Vendors should be familiar with the requirements for accepting the certificates in good faith from their customers.

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Our publications and other helpful information are available on our website. If you need more information, write to us at exempt.orgs@cpa.texas.gov, or call us at 800-252-5555.
United Way of Tarrant County brings together individuals, groups, donors and service providers to help solve some of the toughest social issues affecting Tarrant County. As the steward of our donors’ funds, we invest in our partner agencies’ programs and other initiatives not just to manage social issues but to solve them for entire populations.

United Way of Tarrant County has more than 45 partner agencies. For the 2018–2019 fiscal year, United Way of Tarrant County allocated more than $13 million in funding to partners in the community, including almost $1 million for our new Systems Change funding model, which is part of the organization’s new strategy.
### 2016-2017 Total Revenue

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campaign Contributions</td>
<td>$13.9 million</td>
</tr>
<tr>
<td>Grant Revenue</td>
<td>$9.4 million</td>
</tr>
<tr>
<td>Service Center Rental</td>
<td>$.5 million</td>
</tr>
<tr>
<td>Other Revenue</td>
<td>$.2 million</td>
</tr>
<tr>
<td><strong>TOTAL REVENUE</strong></td>
<td><strong>$24 million</strong></td>
</tr>
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### Use of Funds

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service Centers</td>
<td>$.6 million</td>
</tr>
<tr>
<td>2-1-1 Information &amp; Referral</td>
<td>$1.0 million</td>
</tr>
<tr>
<td>LIVE WELL</td>
<td>$.9 million</td>
</tr>
<tr>
<td>EARN WELL</td>
<td>$1.4 million</td>
</tr>
<tr>
<td>LEARN WELL</td>
<td>$1.8 million</td>
</tr>
<tr>
<td>Program Support</td>
<td>$1.9 million</td>
</tr>
<tr>
<td>Allocations</td>
<td>$2.1 million</td>
</tr>
<tr>
<td>Homelessness</td>
<td>$3.2 million</td>
</tr>
<tr>
<td>Fundraising &amp; Admin</td>
<td>$4.3 million</td>
</tr>
<tr>
<td>Designations to Other Agencies</td>
<td>$4.1 million</td>
</tr>
<tr>
<td>Area Agency on Aging of Tarrant County</td>
<td>$5.9 million</td>
</tr>
<tr>
<td><strong>TOTAL USE OF FUNDS</strong></td>
<td><strong>$27.2 million</strong></td>
</tr>
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</table>

### Total Benefit to Community

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Volunteer Hours</td>
<td>$1.0 million</td>
</tr>
<tr>
<td>Donor Designations</td>
<td>$4.1 million</td>
</tr>
<tr>
<td>Community Partners Allocations</td>
<td>$2.1 million</td>
</tr>
<tr>
<td>Impact Leveraged Dollars</td>
<td>$7.5 million</td>
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<tr>
<td>Grant Dollars</td>
<td>$9.4 million</td>
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<tr>
<td>Impact Initiatives</td>
<td>$22.8 million</td>
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<tr>
<td><strong>Total Benefit to Community</strong></td>
<td><strong>$46.9 million</strong></td>
</tr>
</tbody>
</table>
Complete the information below as applicable [§11.205].

### 1. Environmental Site Assessment (ESA) (All Multifamily Applications)

<table>
<thead>
<tr>
<th>Prepared by: ECS Southwest, LLP</th>
<th>Date of Report: 2/20/2019</th>
</tr>
</thead>
</table>

- [X] Report recommends further studies or establishes environmental hazards that currently exist on the Property or off-site with the potential to affect the Property.
- [X] If the above box is checked, a statement is provided behind this tab signed by the Development Owner, that certifies the Development Owner will comply with any and all recommendations made by the ESA preparer.
- [□] Development is funded by USDA and is not required to supply an ESA.

### 2. Environmental Clearance (Section 811 PRA and Direct Loan applications only)

All Applications selecting Points for Section 811 PRA Program participation under the Competitive HTC program or Direct Loans must review the Environmental Requirements and Environmental Assurance section of the Section 811 PRA Program Guidelines (§PRA.215) and provide adequate material to meet the tenets. A Phase I Environmental Site Assessment (ESA) will not satisfy the environmental clearance required for use of the Section 811 PRA Program.

All Applications for Direct Loans by the Department must complete an environmental clearance process in accordance with 24 CFR Parts 50 and 58 prior to engaging in choice limiting activities such as closing on land, loans, beginning demolition or construction activities, or entering into construction contracts. A Phase I Environmental Site Assessment (ESA) will not satisfy the environmental clearance required for use of Multifamily Direct Loan funds.

- [□] Application selected points for the Section 811 PRA Program and includes documentation for the project participating in the Section 811 PRA Program that the project meets the tenets of HUD environmental policy and the requirements of applicable statutes and authorities.
- [□] Applicant has submitted an environmental packet to TDHCA and determination is pending.
- [X] Applicant has reviewed the Environmental Requirements and Environmental Assurance section of the Section 811 PRA Program Guidelines (§PRA.215) and understands that a determination must be received prior to signing the Rental Assistance Contract.
- [□] MFDL Development has already received Environmental Clearance from HUD under 24 CFR Parts 50 or 58.
- [□] Documentation of HUD Environmental Clearance is included behind this tab.
- [□] Applicant has submitted an environmental packet to TDHCA and clearance is pending.
- [X] Applicant has reviewed the environmental clearance materials available on the Department’s website and understands that clearance must be received prior to closing on the loan.
  
  [http://www.tdhca.state.tx.us/program-services/environmental/index.htm](http://www.tdhca.state.tx.us/program-services/environmental/index.htm)

- [□] A Third Party will aid in the completion of the environmental clearance process. If checked, complete the following:

<table>
<thead>
<tr>
<th>Name of Firm:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact Person:</td>
</tr>
<tr>
<td>Contact Telephone:</td>
</tr>
</tbody>
</table>

### 3. Primary Market Area Map

- [X] Primary Market Area (PMA) map with definition of PMA is included behind this tab.

<table>
<thead>
<tr>
<th>Prepared by: Apartment Market Data, LLC</th>
<th>Date of Report: TBD</th>
</tr>
</thead>
</table>

- Development Site Location:
  - Longitude: -97.34347
  - Latitude: 32.72465

### 4. Property Condition Assessment (PCA)

- Prepared by: N/A

### 5. Appraisal

- Prepared by: N/A

### 6. Site Design and Development Feasibility Report

- Prepared by: MMA, Inc.  
  Date of Report: 2/19/2019
2019 HTC
Full Application

Part 7 Tab 47

ESA Statement
Everly Plaza

The Development Site is located within 500 feet of active railroad tracks. Per Section 11.101(a)(2)(E)(ii), the Applicant has engaged a qualified Third Party to perform a noise assessment and the Applicant commits to perform sound mitigation in accordance with HUD standards as if they were directly applicable to the Development.

Lisa M. Stephens

2-06-2019
Date
February 26, 2019

Mr. Brent Stewart
Texas Dept. of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Public Information Request - Release

Greetings:

As part of the market studies produced for the 2019 9% LIHTC application round, Apartment MarketData, LLC (AMD) certifies that it has read and understands Department Rules specific to the report found in Section 11.303 of the Underwriting Rules and Guidelines. AMD acknowledges that the Texas Department of Housing and Community Affairs (the “Department”) may publish any of the reports on the Department’s website, release it in response to a request for public information, and make other use of the information as authorized by law.”

Sincerely,

[Signature]

Darrell G. Jack
Market Analyst
President
<table>
<thead>
<tr>
<th>Development</th>
<th>Site Location</th>
<th>Target Population</th>
<th>Definition of Elderly Age</th>
</tr>
</thead>
<tbody>
<tr>
<td>Everly Plaza</td>
<td>1801 8th Avenue</td>
<td>Elderly</td>
<td>55</td>
</tr>
</tbody>
</table>

**Site Coordinates:**

<table>
<thead>
<tr>
<th>Latitude</th>
<th>Longitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>32.72450</td>
<td>-97.34347</td>
</tr>
</tbody>
</table>

**Primary Market Area (PMA):**

<table>
<thead>
<tr>
<th>Census Tracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>484391026.02</td>
</tr>
<tr>
<td>484391028.00</td>
</tr>
<tr>
<td>484391041.00</td>
</tr>
<tr>
<td>484391042.01</td>
</tr>
<tr>
<td>484391042.02</td>
</tr>
<tr>
<td>484391043.00</td>
</tr>
<tr>
<td>484391044.00</td>
</tr>
<tr>
<td>484391045.02</td>
</tr>
<tr>
<td>484391045.03</td>
</tr>
<tr>
<td>484391047.01</td>
</tr>
<tr>
<td>484391048.03</td>
</tr>
<tr>
<td>484391048.04</td>
</tr>
<tr>
<td>484391054.03</td>
</tr>
<tr>
<td>484391231.00</td>
</tr>
<tr>
<td>484391233.00</td>
</tr>
<tr>
<td>484391234.00</td>
</tr>
<tr>
<td>484391235.00</td>
</tr>
<tr>
<td>484391236.00</td>
</tr>
</tbody>
</table>

**Square Miles:** 17.93
2019 HTC
Full Application

Part 8 Tab 48

Tie-Breaker Information
### Tie-Breaker Information

**Tie-Breaker #1 (10 TAC §11.7(1))**
Applications proposed to be located in a census tract with a poverty rate below the average poverty rate for all awarded Competitive HTC Applications from the past three years (with Region 11 adding an additional 15% to that value and Region 13 adding an additional 5% to that value). If a tie still persists, then the Development in the census tract with the highest percentage of statewide rent burden for renter households at or below 80% Area Median Family Income (“AMFI”), as determined by the U.S. Department of Housing and Urban Development’s Comprehensive Housing Affordability Strategy (“CHAS”) dataset and as reflected in the Department’s current Site Demographic Characteristics Report.

<table>
<thead>
<tr>
<th>Is Site in Region 11 or 13?</th>
<th>No</th>
<th>Poverty Rate = 10.8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Poverty Rate is less than 15.629.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is Site in Region 11?</th>
<th>No</th>
<th>Poverty Rate = NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicable Poverty Rate = NA</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is Site in Region 13?</th>
<th>No</th>
<th>Poverty Rate = NA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicable Poverty Rate = NA</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Rent Burden Rank = 1803 (lower number wins tie)

**Tie-Breaker #2 (10 TAC §11.7(2))**
Applications proposed to be located the greatest linear distance from the nearest Housing Tax Credit assisted Development that serves the same Target Population and that was awarded less than 15 years ago according to the Department’s property inventory tab of the Site Demographic Characteristics Report.

<table>
<thead>
<tr>
<th>Development Longitude:</th>
<th>-97.34347</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Latitude:</td>
<td>32.72465</td>
</tr>
<tr>
<td>Target Population:</td>
<td>Elderly</td>
</tr>
<tr>
<td>Closest Development serving same Population:</td>
<td>Oak Timbers-Fort Worth South</td>
</tr>
<tr>
<td>Application Number:</td>
<td>no 08027</td>
</tr>
<tr>
<td>Address:</td>
<td>300 E. Terrell Ave., Fort Worth, TX</td>
</tr>
<tr>
<td>Year of Award:</td>
<td>2008</td>
</tr>
</tbody>
</table>

2/26/2019
<table>
<thead>
<tr>
<th>Year</th>
<th>UID</th>
<th>TDHCA#</th>
<th>AMD_Name</th>
<th>Development_Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>3082</td>
<td>93109</td>
<td>Spring Hill (LIHTC)</td>
<td>Shadow Hill Apartments (fka Spring Hill)</td>
</tr>
<tr>
<td>1993</td>
<td>11400</td>
<td>93110</td>
<td>Spring Glen (LIHTC)</td>
<td>Spring Glen (fka Shadow Glen Apartments)</td>
</tr>
<tr>
<td>1994</td>
<td>15260</td>
<td>94025</td>
<td>Historic Electric Building (LIHTC)</td>
<td>Historic Electric Building</td>
</tr>
<tr>
<td>1995</td>
<td>13682</td>
<td>95048</td>
<td>Hillside (LIHTC)</td>
<td>Rock Island Hillside</td>
</tr>
<tr>
<td>1995</td>
<td>14740</td>
<td>95106</td>
<td>Autumn Chase (LIHTC)</td>
<td>Autumn Chase Apartments</td>
</tr>
<tr>
<td>1996</td>
<td>14659</td>
<td>96006</td>
<td>Pennsylvania Place (LIHTC)</td>
<td>Pennsylvania Place Apartments</td>
</tr>
<tr>
<td>1999</td>
<td>15262</td>
<td>99005</td>
<td>Homes of Parker Commons (LIHTC)</td>
<td>Homes of Parker Commons</td>
</tr>
<tr>
<td>2006</td>
<td>20692</td>
<td>60211</td>
<td>Hanratty Place (LIHTC)</td>
<td>Hanratty Place Apartments</td>
</tr>
<tr>
<td>2007</td>
<td>18485</td>
<td>7040</td>
<td>Villages at Samaritan House (LIHTC-Homeless)</td>
<td>Samaritan House</td>
</tr>
<tr>
<td>2008</td>
<td>20644</td>
<td>8027</td>
<td>Oak Timbers (Ft. Worth) (LIHTC-Sr)</td>
<td>Oak Timbers-Fort Worth South</td>
</tr>
<tr>
<td>2010</td>
<td>3198</td>
<td>10239</td>
<td>Prince Hall Gardens (LIHTC)</td>
<td>Prince Hall Gardens</td>
</tr>
<tr>
<td>2010</td>
<td>20689</td>
<td>11007</td>
<td>Terrell Homes I (LIHTC)</td>
<td>Terrell Homes I</td>
</tr>
<tr>
<td>2011</td>
<td>22571</td>
<td>11055</td>
<td>Valley at Cobb Park (LIHTC)</td>
<td>Pilgrim Valley Manor</td>
</tr>
<tr>
<td>2014</td>
<td>21993</td>
<td>14407</td>
<td>Hunter Plaza (Bond)</td>
<td>Hunter Plaza Apartments</td>
</tr>
<tr>
<td>2017</td>
<td>24526</td>
<td>17606</td>
<td>Casa Inc (LIHTC-Sr)</td>
<td>Casa Inc</td>
</tr>
<tr>
<td>2017</td>
<td>24324</td>
<td>17259</td>
<td>Mistletoe Station (LIHTC)</td>
<td>Mistletoe Station</td>
</tr>
<tr>
<td>2017</td>
<td>24308</td>
<td>17028</td>
<td>The Vineyard on Lancaster (LIHTC-Supportive)</td>
<td>The Vineyard on Lancaster</td>
</tr>
<tr>
<td>2018</td>
<td>23882</td>
<td>18407</td>
<td>Sphinx at Sierra Vista Senior Villas (LIHTC-Sr)</td>
<td>Sphinx at Sierra Vista Senior Villas</td>
</tr>
</tbody>
</table>
### Everly Plaza

<table>
<thead>
<tr>
<th>Population_Served</th>
<th>Total_Units</th>
<th>LIHTC_Units</th>
<th>Straight Line Distance</th>
<th>AR</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>254</td>
<td>254</td>
<td>2.4008963847 mi</td>
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</tr>
<tr>
<td>General</td>
<td>176</td>
<td>176</td>
<td>2.5706886303 mi</td>
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</tr>
<tr>
<td>General</td>
<td>106</td>
<td>62</td>
<td>1.9514855374 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>175</td>
<td>105</td>
<td>2.5600321448 mi</td>
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<tr>
<td>General</td>
<td>184</td>
<td>138</td>
<td>2.7742644154 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>152</td>
<td>152</td>
<td>1.3436558805 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>168</td>
<td>126</td>
<td>1.0778829524 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>32</td>
<td>32</td>
<td>1.0990271329 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td></td>
<td></td>
<td>0.9861657639 mi</td>
<td></td>
</tr>
<tr>
<td>Elderly</td>
<td></td>
<td></td>
<td>1.3535793962 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>100</td>
<td>100</td>
<td>2.6602395527 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>54</td>
<td>54</td>
<td>1.9970932386 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>168</td>
<td>168</td>
<td>2.5114366336 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>164</td>
<td>115</td>
<td>2.0902253639 mi</td>
<td></td>
</tr>
<tr>
<td>Elderly Preference</td>
<td>200</td>
<td>199</td>
<td>2.5194988652 mi</td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>78</td>
<td>74</td>
<td>0.564182263 mi</td>
<td></td>
</tr>
<tr>
<td>Supportive Housing</td>
<td>104</td>
<td>98</td>
<td>2.2997445354 mi</td>
<td></td>
</tr>
<tr>
<td>Elderly Limitation</td>
<td>272</td>
<td>272</td>
<td>2.5257002456 mi</td>
<td></td>
</tr>
</tbody>
</table>
Everly Plaza

<table>
<thead>
<tr>
<th>URL</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="http://www.tdhca.state.tx.us/readocs/uwrep/14407_13419.pdf">http://www.tdhca.state.tx.us/readocs/uwrep/14407_13419.pdf</a></td>
</tr>
<tr>
<td><a href="http://www.tdhca.state.tx.us/readocs/uwrep/17606.pdf">http://www.tdhca.state.tx.us/readocs/uwrep/17606.pdf</a></td>
</tr>
<tr>
<td><a href="http://www.tdhca.state.tx.us/readocs/uwrep/17259.pdf">http://www.tdhca.state.tx.us/readocs/uwrep/17259.pdf</a></td>
</tr>
<tr>
<td><a href="http://www.tdhca.state.tx.us/readocs/uwrep/17028.pdf">http://www.tdhca.state.tx.us/readocs/uwrep/17028.pdf</a></td>
</tr>
<tr>
<td><a href="http://www.tdhca.state.tx.us/readocs/uwrep/18407.pdf">http://www.tdhca.state.tx.us/readocs/uwrep/18407.pdf</a></td>
</tr>
</tbody>
</table>
Part 1: Development Information

Development Name: The Everly by Sagebrook
Development Street Address: 1801 8th Avenue
Development City: Fort Worth
Development County: Tarrant
TDHCA # (for office use only): 19285

Part 2: Neighborhood Organization Information

Neighborhood Organization Name: 

☐ Check one: ☐ Yes ☐ No
If YES, provide the years that the organization made submissions prior to 2019: 

The Neighborhood Organization is a (select one of the following):
☐ Homeowners Association
☐ Property Owners Association
☐ Resident Council and our members occupy the existing development
☒ Other (explain): Voluntary Participation Neighborhood Association that accepts both residential and commercial memberships

As of January 4, 2019, (as applicable) this Neighborhood Organization is on record with (select one of the following):
☐ County
☒ Secretary of State

Part 3: Neighborhood Organization Contact Information

1st Contact Information

Name: Sara A. Karashio
Title: President
Physical Address: PO Box 12348, Fort Worth, TX 76110
Mailing Address (if different from above): Same
City: Fort Worth
Phone: 817-260-6943
Email: president@historicfairmont.com

2001 College Avenue
Fort Worth
2nd Contact Information
Name: Fred Harper
Title: Director of Infrastructure
Physical Address: PO Box 12345
Mailing Address (if different from above): Same
City: Fort Worth
Zip Code: 76110
Phone: NA
Email: infrastructure@historicfairmount.com

Part 4: Reason for Support or Opposition
The Neighborhood Organization: [X] Supports, Opposes the Application for Competitive Housing Tax Credits for the above referenced development for the following reasons:

Soihebrook presented to residents both on 12/10/18 and 01/28/19. At the 01/28/19 meeting, membership voted to support the development. The FNA supports the concept of Senior affordable housing and feels it will have minimal impact on nearby residents. Residents are also willing to support this project specifically because the developer has promised to seek continued neighborhood input as the design evolves.

Part 5: Written Boundary Description
Provide a written boundary description of the geographical boundaries of the Neighborhood Organization. (Example: North boundary is Main St., East boundary is railroad track, South boundary is First St., West boundary is Jones Ave.) Boundary description MUST match the boundary map.

The boundaries of the Fairmount Neighborhood will be from the centerline of Hemphill St. on the east, to the centerline of 8th Ave. on the west, and from the centerline of West Magnolia Ave. on the north, to the centerline of West Lamar Ave. on the south.

QUALIFIED NEIGHBORHOOD ORGANIZATION EVIDENCE OF QUANTIFIABLE COMMUNITY PARTICIPATION (Continued)

Part 6: Certifications
By signing this form, I (we) certify to the following:
- This organization certifies that the two contacts listed have the authority to sign on behalf of the Neighborhood Organization.
- This organization certifies that the organization was formed on or before December 5, 2018.
• This organization certifies that the boundaries of this organization include the proposed Development Site in its entirety. This organization acknowledges that boundary changes or annexations after January 4, 2019 may not be considered eligible and a site that is only partially within the boundaries may not satisfy the requirement that the boundaries contain the proposed Development Site.

• This organization certifies that it meets the definition of “Neighborhood Organization”; defined as an organization of persons living near one another within the organization’s defined boundaries that contain the proposed Development Site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood.

• This organization certifies that none of the following individuals participated in the deliberations or voted on the decision to provide a statement with respect to the proposed development: the development owner, architect, attorney, tax professional, property management company, consultant, market analyst, tenant services provider, syndicator, real estate broker or agent or person receiving fees in connection with these services, current owners of the property, developer, builder, or general contractor associated with the proposed development.

• This organization certifies that at least 80% of the current membership consists of homeowners and/or tenants living within the boundaries of the Neighborhood Organization.

• This organization certifies that all certifications contained herein are true and accurate.

(First and Second Contacts must sign below):

[Signature]
1st Contact Signature

[Printed Name]
1st Contact Printed Name

[Signature]
2nd Contact Signature

[Printed Name]
2nd Contact Printed Name

[Signature]
Date

[Printed Name]
Title

[Signature]
Date

[Printed Name]
Title
QUALIFIED NEIGHBORHOOD ORGANIZATION EVIDENCE OF QUANTIFIABLE COMMUNITY PARTICIPATION (Continued)

REQUIRED ATTACHMENTS
(Only if not previously submitted to register with TDHCA)

In addition to the information requested on the form, please attach the following items and include with your submission to the Texas Department of Housing & Community Affairs:

1. Documentation to support the selection of being on record with the County or Secretary of State (ex: letter from county clerk or judge acknowledging the Organization, letter from the Secretary of State stating the incorporated entity is in good standing.)

✓ 2. Evidence of the Neighborhood Organization’s existence (ex. bylaws, newsletter, minutes, etc.)

✓ 3. Boundary Map: The boundary map should be legible, clearly marked with the geographical boundaries of the Neighborhood Organization, and indicate the location of the proposed Development.

Example:

The solid line indicates the Neighborhood Organization’s boundary. The X indicates the development site.
Certificate of Formation
Nonprofit Corporation

FIL ED
In the Office of the Secretary of State of Texas SEP 29 2008
Corporations Section

Article 1 – Entity Name and Type

The filing entity being formed is a nonprofit corporation. The name of the entity is:
FAIRMOUNT NEIGHBORHOOD ASSOCIATION

Article 2 – Registered Agent and Registered Office
(Select and complete either A or B and complete C)

☐ A. The initial registered agent is an organization (cannot be entity named above) by the name of:

OR

☑ B. The initial registered agent is an individual resident of the state whose name is set forth below:

<table>
<thead>
<tr>
<th>First Name</th>
<th>M.I.</th>
<th>Last Name</th>
<th>Suffix</th>
</tr>
</thead>
<tbody>
<tr>
<td>PATTI</td>
<td>M</td>
<td>RANDLE</td>
<td></td>
</tr>
</tbody>
</table>

C. The business address of the registered agent and the registered office address is:

<table>
<thead>
<tr>
<th>Street Address</th>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>1716 S ADAMS ST</td>
<td>FORT WORTH</td>
<td>TX</td>
<td>76110</td>
</tr>
</tbody>
</table>

Article 3 – Management

The management of the affairs of the corporation is vested in the board of directors. The number of
directors constituting the initial board of directors and the names and addresses of the persons who are
to serve as directors until the first annual meeting of members or until their successors are elected and
qualified are as follows:

A minimum of three directors is required.

<table>
<thead>
<tr>
<th>First Name</th>
<th>M.I.</th>
<th>Last Name</th>
<th>Suffix</th>
</tr>
</thead>
<tbody>
<tr>
<td>PAUL</td>
<td></td>
<td>HOLT</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2250 COLLEGE ST</td>
<td>FORT WORTH</td>
<td>TX</td>
<td>76110</td>
</tr>
<tr>
<td>Street or Mailing Address</td>
<td>City</td>
<td>State</td>
<td>Zip Code</td>
</tr>
<tr>
<td></td>
<td>FORT WORTH</td>
<td>TX</td>
<td>76110</td>
</tr>
</tbody>
</table>

Director 2

<table>
<thead>
<tr>
<th>First Name</th>
<th>M.I.</th>
<th>Last Name</th>
<th>Suffix</th>
</tr>
</thead>
<tbody>
<tr>
<td>GLENN</td>
<td></td>
<td>REDDING</td>
<td></td>
</tr>
</tbody>
</table>
The management of the affairs of the corporation is to be vested in the nonprofit corporation’s members.

Article 4 – Membership
(See instructions. Do not select statement B if the corporation is to be managed by its members.)

☐ A. The nonprofit corporation shall have members.
☐ B. The nonprofit corporation will have no members.

Article 5 – Purpose
(See instructions. This form does not contain language needed to obtain a tax-exempt status on the state or federal level.)

The nonprofit corporation is organized for the following purpose or purposes:
THE FURTHER ADVANCEMENT OF THE NEIGHBORHOOD KNOWN AS HISTORIC SOUTHSIDE FAIRMOUNT, WITHIN THE CITY LIMITS OF FORT WORTH, TEXAS.
TO EDUCATE ITS MEMBERS ABOUT THE HISTORIC NATURE OF THEIR HOMES AND NEIGHBORHOOD AND TO PROTECT THAT HISTORIC NATURE.

The following text area may be used to include any additional language or provisions that may be needed to obtain tax-exempt status.
Supplemental Provisions/Information
(See instructions.)

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

Organizer

The name and address of the organizer:

PATTI RANDLE
Name

1716 S ADAMS ST  FORT WORTH  TX  76110
Street or Mailing Address  City  State  Zip Code

Effectiveness of Filing (Select either A, B, or C.)

A. ☑ This document becomes effective when the document is filed by the secretary of state.
B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: ________________________________
C. ☐ This document takes effect upon the occurrence of a future event or fact, other than the passage of time. The 90th day after the date of signing is: ________________________________
The following event or fact will cause the document to take effect in the manner described below:

________________________________________________________________________

________________________________________________________________________

Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Date:  SEPTEMBER 26, 2008

[Signature of organizer]
<table>
<thead>
<tr>
<th><strong>FAIRMOUNT NEIGHBORHOOD ASSOCIATION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Texas Taxpayer Number</strong></td>
</tr>
<tr>
<td><strong>Mailing Address</strong></td>
</tr>
<tr>
<td>Right to Transact Business in Texas</td>
</tr>
<tr>
<td><strong>State of Formation</strong></td>
</tr>
<tr>
<td>Effective SOS Registration Date</td>
</tr>
<tr>
<td>Texas SOS File Number</td>
</tr>
<tr>
<td>Registered Agent Name</td>
</tr>
<tr>
<td>Registered Office Street Address</td>
</tr>
</tbody>
</table>
Bylaws can be found online at:

Article I: Name
The official name of this organization shall be the Fairmount Association, hereinafter may be referred to as the Association.

Article II: Purpose
The purpose of the Fairmount Association is to promote better communication, neighborhood unity, neighborhood improvement, protect and promote the general welfare of residents, and act as an advocate on behalf of neighborhood interests.

Article III: Objectives
1. To promote a positive image of the neighborhood.
2. To promote communication within the neighborhood.
3. To promote and monitor public facilities and services.
4. To promote social services to neighborhood residents.
5. To promote and encourage improvement of housing.
6. To promote neighborhood schools.
7. To consult and work with other neighborhood, civic and public organizations.
8. To promote public safety.
9. To promote preservation of the historical character of the neighborhood.
10. To advocate and monitor issues affecting the neighborhood.

Article IV: Organization
The Fairmount Association exists as a not-for-profit incorporated Association in and of its members.

Article V: Boundaries
The boundaries of the Fairmount Neighborhood will be from the centerline of Hemphill Street on the east, to the centerline of 8th Avenue on the west, and from the centerline of West Magnolia Avenue on the north, to the centerline of West Jessamine Street on the south. These boundaries may be changed only by petition of 75% of the residents and property owners of the affected area, with approval of the Board, and by a three-fourths majority vote of Members present at a General Membership Meeting.

Article VI: Policies
Section 1. The Association shall be noncommercial, non-partisan and non-sectarian.

Section 2. The name of the Association or the names of any members in their official capacities shall not be used without consent of the Board. Under no conditions may they be used in connection with a commercial concern, or with any partisan interest, or for any purpose not appropriately related to the promotion of the objectives of the Association.
Section 3. The Association shall not directly or indirectly endorse any political candidate or party. "Paid Political Advertising" may be accepted for the newsletter, which shall be open to all candidates.

Section 4. The Association may cooperate with other organizations and agencies, but persons representing the Association in such matters shall make no commitments that bind the Association without authorization of the Board and the Association Membership.

Section 5. All disbursements (checks, drafts, etc.), contracts and agreements shall be approved by the Board (and by the General Membership if in excess of $300) and signed by two of the following officers: The President, or Director of Finance or Public Safety.

Section 6. Yearly operating budgets shall be established by each Board Member for their areas of responsibility and be approved by the General Membership. Approval of budgets shall constitute authority to expend funds. Budgets may be increased by majority vote of the Board, plus General Membership approval if increase is over $300. (Home Tour if increase is over $1,000.)

Section 7. All non-budgeted disbursements or agreements that obligate the Association for more than $300.00 must be approved by the Membership at a General Membership meeting. In the event of an emergency, the President, after consultation with the Directors of Finance and at least two other Directors, may call a special Membership meeting. In either case the Membership must be notified (by inclusion in the newsletter or by email, if possible) of the time and place of the meeting, the amount, reason, and payee (if known) at least 3 days in advance of the meeting.

Section 8. The Board must approve any hiring of employees, independent contractors, or any individuals paid to provide any type of personal service. Bids from at least three different sources must be obtained.

Section 9. The Director of Promotions shall, within 45 days following Home Tour, present to the Home Tour Audit Committee:

1. A complete and detailed report of all expenditures.
2. All cancelled checks and paid invoices.
3. A complete and detailed report of all sources and amounts of receipts.
4. A complete list of any unpaid invoices, obligations and receivables.

The Home Tour Audit Committee shall consist of the Association President, one other voting Board Member, and one General Member in good standing appointed by the Board (both committee members shall have been independent of Home Tour finances.) The audit shall be performed in the presence of the Directors of Finance, Promotions and Home Tour Assistant.
Section 10. All invoices, bank statements, payments, financial documents and other correspondence, if mailed, shall be sent to the Association's Post Office Box, not to a Member's home or office address. In the interest of convenience, and to avoid daily trips to the post office, Home Tour correspondence may be sent to the Promotion Director's residence. The President and Directors of Membership shall have keys to this mailbox, and the box must be checked at least once a week.

Section 11. The Board shall at the August Board Meeting, establish an audit committee to review the Association financial records and inventory of Association assets. The committee shall consist of one voting Board Member (not to be the President or Director of Finance), and one voting Member at-large. The audit should be observed by the outgoing and incoming President and Directors of Finance. The audit committee shall submit a report at the September Board and Membership meetings.

Section 13. All assets of the Association (including but not limited to signs and activity tents. Membership signs, Historic District brass plaques and other Home Tour and Historic Archives items may be stored in member's houses by permission of the Board. This equipment will remain the property of the Association and is not to be used for non-Association functions without Board approval. Custodians of this equipment are to exercise due care in securing such assets.

Section 14. In the event of dissolution of the Association, the surplus assets, if any, shall be given to a charitable organization agreed upon by a majority of the Membership attending a General Meeting. The disbursement of any funds will be made within ten (10) days. A notice of the action and the reason shall be sent to all Association Members in good standing. The effective date of dissolution shall be thirty (30) days after the date of action by the Membership.

Article VII: Meetings

Section 1. General Membership Meetings shall be open to all, and held as determined by the Membership.

Section 2. One-tenth of the Members eligible to vote shall constitute a quorum.

Section 3. All other Fairmount Association meetings shall be open to all "Members in Good Standing."

Section 4. Special meetings may be called if the need arises at the discretion of the Board. Such meetings shall if possible be announced to members by telephone, mail or email at least three days prior to the special meeting date.

Article VIII: Membership and Dues
Section 1. Any individual who subscribes to the Objectives and Policies of this Association, and who resides, leases or owns property within its boundaries, may become a full voting Member. Full voting Membership shall consist of:

A. Individual Membership
B. Household Membership
C. Business Membership

Members in these categories shall be eligible to participate in meetings of the General Membership, to serve in elected or appointed positions, and to serve on committees.

Section 2. Others who do not meet residence or ownership criteria, but subscribe to the objectives of the organization, may become an Associate "Friend of Fairmount" non-voting Member. Associate Members may participate in meetings and serve on committees, but NOT chair committees or hold Board positions.

Section 3. Membership in this Association shall be available without regard to race, color, creed, gender, sexual preference or national origin.

Section 4. The General Membership shall establish the annual dues for each of the above types of membership.

Section 5. Membership renewal dues must be paid by January 31st for the year. The previous year's Members who have not paid dues by this date shall not be considered "Members in good standing" until ten (10) days following payment of dues. Dues must be paid to a voting Board Member. The Board Member is responsible for issuing a dated receipt. The Board Member shall turn over dues to the Director of Finance and membership applications to the Director of Membership in a timely manner. Members of the Board must pay their dues to the President before the January 31st deadline, or resign their Board position.

Section 6. New members may join at any time during the year and shall be considered "Members in good standing" ten (10) days following payment of dues.

Section 7. All Members voting shall be: "in good standing," eighteen years of age, and identified on the membership application. Under no circumstances shall an individual be allowed to exercise more than one vote. (i.e. Proxy voting shall not be allowed. An individual shall not be allowed to vote for other members of their household or business if they are voting for themselves.)

A. An Individual Membership shall have the right to exercise one vote per issue.
B. A Household Membership shall have the right to exercise two votes per issue. The names of the voting Members must be indicated on the membership application.
C. A business membership shall have the right to exercise one vote per issue. The name of the authorized individual must be indicated on the membership application.

D. An Associate "Friend of Fairmount" Membership shall NOT have the right to vote at General Membership meetings.

Section 8. A Member in good standing shall forfeit their voting privileges should they cease to meet the criteria in Section 1. and become an Associate Member. (i.e. if they sell their property and move from the neighborhood.) Should they again meet the criteria during the membership year, they shall regain their voting privileges and be considered a Member in good standing. (i.e. if they move back.)

Article IX: Parliamentary Authority
Robert’s Rules of Order (Revised) shall be the guide to parliamentary procedure.

Article X: Amendments

Section 1. Notice of all proposed amendments and revisions to these By-Laws and a copy of the proposed amendment(s) must be provided to Members at least seven days prior to any regular or special General Meeting. Inclusion in the Newsletter will fulfill this requirement. The proposed amendment(s) will be considered and voted on at that General Meeting. The amendment(s) must be approved by two-thirds of the voting Members present. Inclusion in newsletter or emails to members will fulfill this requirement.

Section 2. By a two-thirds vote of the Board, a committee may be appointed to submit a revised set of By Laws as a substitute for the existing By Laws, to become effective only by a majority vote at a General Meeting of the Association. The requirements for adoption of a revised set of By Laws shall be the same as in the case of an amendment.

Article XI: Elections

Section 1. Board members serve for the term of two years. The President and the Directors of Membership, Promotions, Administration, and Infrastructure shall be elected in odd numbered years. Directors of Communication, Finance, Historic Preservation and Public Safety shall be elected in even numbered years.

Section 2. Election of the President and Directors shall be held every two years as necessary based on individual staggered terms at the August General Membership Meeting by paper ballot. If there is only one candidate for office, by motion from the floor the election may be by voice vote. All Board terms shall end on August 31st of the expiration year of the term.

Section 3. Nomination of officers shall be made by a nominating committee of five members: two voting members and an alternate from the Board to be elected no later than the July Board meeting, and three voting members and an alternate from the General Membership to be elected no later than
the July General Meeting. Candidates for Board positions must be Members in Good Standing (dues paid 10 days prior) by the date of the election. The consent of each candidate must be obtained before his or her name is placed in nomination. Additional nominations may be made from the floor with the consent of the floor nominee, who must be present. Two tellers, appointed by the President, shall count the ballots. No director may serve on the nominating committee if he or she intends to run again for the board.

Section 4. All vacancies in office, including that of the President, shall be filled by the Board and confirmed by the majority of the membership present at the next general meeting.

Section 5. Terms shall be limited to two consecutive terms by the same individual in one office.

Article XII: Board of Directors

Section 1. The voting Board shall consist of a President and eight Directors. The Home Tour Director, Assistant Home Tour Director, and Committee Chairpersons and Committee members shall be considered ex-officio non-voting board members.

Section 2. Qualifications and Requirements for Board Members:

A. Must be a voting Association Member in Good Standing.
B. The President of the Association must be a Fairmount resident.
C. A minimum of six Directors must be residents of the Fairmount Neighborhood.
D. Board Members of any other neighborhood's Neighborhood Association or equivalent may not serve as President or Directors due to a possible conflict of interest.
E. Board Members must be committed and actively participate toward the betterment of the neighborhood, plus actively participate in Association functions, particularly the Annual Home Tour.
F. They must work with others in a professional manner, regardless of personal conflict.
G. Failure to attend three consecutive meetings (Board and General Membership Meetings) without an acceptable excuse given to the President shall be considered a formal resignation.
H. Board members must sign the Conflict of Interest Policy each year in September.

Section 3. Board Members may be removed from office (by a two-thirds vote of the Board Members present) if the Board Member:

A. No longer meets qualifications in Section 2.
B. Moves out of the neighborhood.
C. Acts contrary to Association By Laws or interest or violates the terms of the Conflict of Interest Policy.
Section 4. Duties of the Board shall be:

A. To transact necessary business in the intervals between General Membership meetings, and other such business as may be referred to it by the Membership, and to present a report of such at the General Membership Meetings.
B. To create Committees as needed.
C. To approve plans and supervise work of Committees.
D. To prepare and submit to the General Membership for approval, budgets for their term.
E. To turn over to the succeeding Board, all records and properties of their office.
F. Annually, approve and ratify the Conflict of Interest Policy.

Section 5. Regular meetings of the Board shall be held at a time and place to be decided by the Board. A majority of the voting Members of the Board shall constitute a quorum. Special meetings of the Board may be called by the President or by the request of four voting Board Members. Due diligence must be made to notify all Board Members at least three days prior of the time, place, and reason for the special meeting.

Article XIII: Duties of the Voting Board of Directors

Section 1. President. – ODD YEARS

The President shall preside at all meetings of the Association and of the Board;
Appoint chairs of and monitor the action of committees;
Be a member ex-officio of all committees except the nominating committee;
Act in accordance with the rules of the Fairmount Association;
Oversee the activities of the Directors;
Vote in meetings of the General Membership and of the Board only in case of a tie;
Be the official spokesperson for the Fairmount Association;
Prepare a written agenda for all meetings and
Perform all other duties pertaining to the office.

Section 2. Directors.

All Directors shall act as aides to the President;
Recruit and supervise assistants necessary to fulfill their responsibilities of office; report all activities of their assigned committees to the Board of Directors on a regular basis.
and perform the duties of the President in the absence of that officer, in the following order:

A. The Director of Membership Services shall: - ODD YEARS
Keep an accurate membership roster and make available current lists of members names, addresses and telephone numbers to officers and committee chairs. Be responsible for generating new Members and communicating with new residents in the neighborhood. Arrange General Membership Meeting programs in coordination and consultation with Board. Oversee social activities and coordinate refreshments at meetings. Be sure that meeting reminder signs are placed around the neighborhood the weekend prior to the general membership meeting, and that they are picked up afterward.

B. The Director of Communication shall: EVEN YEARS

Be responsible for the editing, publication and distribution of the monthly newsletter and other printed material as needed as well as the development and collection of newsletter advertising income. Oversee notification of members of meetings and other activities by voice, written or other electronic communication. Act as a public information officer for the association and coordinate with the media. Be responsible for the website. Oversee the "Yard of The Month" project.

C. the Director of Promotions shall: ODD YEARS

Oversee the Annual Home Tour. Be responsible for training of an Assistant (who is appointed by the Board and approved by the General Membership) to take over this office in the future. Promote development in the neighborhood.

D. The Director of Finance shall: EVEN YEARS

Keep an accurate record of receipts and expenditures, coordinate and oversee collection of funds, make disbursements of funds and deposit all funds in the name of the Fairmount Association in financial institutions as designated by the Board. Present an accurate financial statement at every regular meeting of the Association, and at other times when requested by the President or the Board. Submit all vouchers, receipts, cancelled checks and other records to an auditing committee for annual review, no more than 15 days following the committee appointment.
Section 1. Committees may be created by the Board as required to promote the objectives and interests of the Association. Committee chairs shall be appointed by the President and its members shall be selected by the respective Committee Chairs and approved by the Board.

Section 2. Committees shall meet as necessary to accomplish the committee objectives.

Section 3. All committee terms expire with the Board on August 31st of each year.

Section 4. Committees may be dissolved at any time by the Board.

Section 5. All committee members shall sign the Conflict of Interest Policy annually.

Article XV: Enactment

These By Laws shall become effective August 1, 2013 and shall supersede all previous By Laws of The Fairmount Association.
have custody of all records relating to the Association, including copies of financial
records and arrange an annual audit of the Association’s finances with a Certified
Public Account.
Maintain a list of location and custodian of all Association assets.
Submit all records to an auditing committee for annual review, no more than 15 days
following the committee appointment.
E. The Director of Administration shall: ODD YEARS
Keep the minutes of all meetings of the General Membership and of the Executive Board
and make printed copies available at the next regular meeting.
Ensure meetings are conducted in accordance with proper procedure (Association By
Laws and Roberts Rules of Order).
Prepare and maintain copies of all correspondence of the Fairmount Association as
designated by the President, Executive Board or General Membership.
F. The Director of Historic Preservation shall: EVEN YEARS
Oversee Historic District Issues and Guidelines.
Serve as liaison from the Association to the HCLC, and other Historic Agencies, as well
as with the Archivist.
E. The Director of Public Safety shall: EVEN YEARS
Act as liaison to City Crime Prevention organizations such as Citizens on Patrol and
Crime Watch.
Act as liaison to Fort Worth Police and Fire Departments and emergency medical
services.
F. The Director of Infrastructure shall: ODD YEARS
Oversee neighborhood Public Works (streets, parks, transportation), and beautification.
Act as liaison with Code Enforcement, Public Utilities, and other City Services.
Oversee that Fairmount Park is being maintained by Park and Recreation, and the
greenspace on Allen Avenue between 5th and Smith is maintained by the
neighborhood.
Oversee the neighborhood cleanups, specifically including Allen Avenue (bi-monthly)
and neighborhood-wide prior to Home Tour.

Article XIV: Committees and Their Duties
City Council Representatives  
City of Fort Worth  
and  
Megan Lasch of Saigebrook Developments  
200 Texas St.  
Fort Worth, TX 76102  

Re: TDHCA application #19285 The Everly

To City Council and Megan Lasch,

We are writing to inform you of the Fairmount Neighborhood Association’s support of the TDHCA application #19285 The Everly: The application for state funding for the property at 1801 8th Street, Fort Worth, TX 76110.

Megan Lasch presented the concept of an affordable senior housing development to residents at a meeting on December 10th 2018 and at our regularly held Neighborhood Association meeting on January 28th 2018. At the neighborhood’s general assembly on the 28th, she requested memberships vote to provide a letter of support for their state application for funding. The membership voted in support of this project with a vote of 20 in favor and 11 opposed.

Lasch has assured the neighborhood that there will be a high level of community involvement during the progression of the design, especially concerning a residential lot with issues relating to proposed parking. We look forward to staying involved as this project moves forward.

Please accept this letter the neighborhood’s support of TDHCA application #19285.

Sincerely,

Sara Karashin  
President  
Fairmount Neighborhood Association
2019 HTC
Full Application

Part 9

TDHCA Review Tabs
Multifamily Finance Division staff will place scanned copies of deficiency documents behind this tab in the application .pdf
In the course of the Department’s Housing Tax Credit Eligibility/Selection/Threshold and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §11.1(d)(2) and described in §11.201(7), §11.201(7)(A) and §11.201(7)(B) of the 2019 Uniform Multifamily Rules was identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

1. Revise the Undesirable Site Features section of the Development Owner’s Certification to leave the first space blank (originally filled-in with an “X”) and “X” the last blank space.
2. Submit receipt for $45,000 due three days after end of Feasibility Period.
3. Submit the parking lease referenced in paragraph 4(n) of the purchase contract.
4. For items 6-11 of Schedule C of the title commitment, explain the possible effects of these items on the currently contemplated sale, including any actions necessary on the part of the seller and/or buyer to relieve the transaction of impediments related to these items.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §11.201(7)(B) of the 2019 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be resolved to the satisfaction of the Department by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day will be suspended from further processing, and the Applicant will be notified to that effect, until the deficiencies are resolved. If, during the period of time when the Application is suspended from review, Direct Loan funds become oversubscribed, the Applicant will be informed that unless the outstanding item(s) are resolved within one business day the Application will be terminated. For purposes of priority under the Direct Loan set-asides, if
the outstanding item(s) are resolved within one business day, the date by which the item is
submitted shall be the new received date pursuant to §13.5(c) of the 2019 Multifamily Direct
Loan Rule. Applicants should be prepared for additional time needed for completion of staff
reviews.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all
documentation at the same time and in only one file using the Department’s Serv-U HTTPs
System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff
member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process,
contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also
contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 11.1(h) of the 2019 QAP and Uniform Multifamily
Rules as they apply to due diligence, applicant responsibility, and the competitive nature of
the program for which they are applying.

**All deficiencies must be corrected or clarified by 5 pm Austin local time on Friday, April 26,
2019. Please respond to this email as confirmation of receipt.**

About TDHCA
The Texas Department of Housing and Community Affairs administers a number of state and federal
programs through for-profit, nonprofit, and local government partnerships to strengthen
communities through affordable housing development, home ownership opportunities,
weatherization, and community-based services for Texans in need. For more information, including
current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Thanks,

Ben Sheppard
Specialist, Multifamily Finance
Texas Department of Housing and Community Affairs
Ph. 512.475.2122

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are
important limitations and caveats (Also see 10 TAC §10.2(b)).*
Please set forth the calculation of the end of the Feasibility Period starting with the effective date.

Thanks,

Ben Sheppard
Specialist, Multifamily Finance
Texas Department of Housing and Community Affairs
Ph. 512.475.2122

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).*
Good afternoon,

In regards to the above referenced transaction, and pursuant to paragraph 2a of the Addendum to Contract, as amended by the 2nd Amendment to Contact, we would like to acknowledge receipt of $40,000.00 from the Purchaser today as the Second Deposit.

Please let us know if you have any questions or if you need anything further at this time.

Thanks,

Alicia Newburn  
Escrow Officer & Assistant  
Rattikin Title Company  
201 Main Street, Suite 800 | Fort Worth, TX 76102

O: 817-334-1309  
F: 817-877-4237  
E: ANewburn@RattikinTitle.com  
W: www.rattikintitle.com

WARNING! WIRE FRAUD ADVISORY – CALL BEFORE YOU WIRE!

ONLINE BANKING FRAUD IS PREVALENT.

- Wire fraud schemes involve Business Email Compromise.
- If you receive an email or any other communication containing wire transfer instructions from RATTIKIN TITLE COMPANY OR ANY OTHER SOURCE, CALL immediately to voice verify the information prior to sending funds.
- Rattikin Title Company WILL NOT ALTER WIRING INSTRUCTIONS – any communication to change them should be considered fraudulent.

The information contained in this email is intended only for the individual or entity to which it is addressed. Its content (including any attachments) may contain confidential or privileged information or both. If you are not an intended recipient, you are prohibited from using, disclosing, disseminating, copying or printing its contents, or taking action in reliance on the content of this communication. If you received this email in error, please notify the sender and purge all copies from your system. Unauthorized interception of this email transmission, or its contents, is a violation of Federal criminal law.
CONTRACT TIMELINE

CLIENT MATTER NO.: 46693.0026

Seller: William Opportunity Trust

Buyer: Saigebrook Development, LLC and/or assigns

Property: 1801, 1805, 1809, 1813, 1821 and 1808 Hurley Avenue, Fort Worth, TX 76110

Time. Time is of the essence in this contract. The parties require strict compliance with the times for performance. If the last day to perform under a provision of this contract falls on a Saturday, Sunday, or legal holiday, the time for performance is extended until the end of the next day which is not a Saturday, Sunday, or legal holiday.

COMMERCIAL CONTRACT- EFFECTIVE DATE: 12/20/18 (Page 13 of Commercial Contract)

AMENDMENT TO COMMERCIAL CONTRACT DATE: 2/21/19

SECOND AMENDMENT TO COMMERCIAL CONTRACT DATE: 3/29/19

INITIAL DEPOSIT $15,000 RECEIVED BY RATTIKIN TITLE COMPANY ON 12/24/18; $5,000 RECEIVED BY RATTIKIN TITLE COMPANY ON 4/1/19 (Section 5, Page 2 of Commercial Contract; Section 3, Page 1, Second Amendment)

- Not later than 3 days after the Effective Date

FEASIBILITY PERIOD: ENDS 4/19/19 (Section 7 B Commercial Contract)

- 120 days from the Effective Date

OBTAIN TITLE AND SURVEY: Due 4/19/19 within the Feasibility Period (Section 1(a) Addendum to Commercial Contract)

- Within the Feasibility Period, Buyer may, at its sole expense, obtain (i) a title insurance commitment (the “Title Commitment”) for a fee owner's title insurance policy covering the Property from a title insurance company selected by Buyer and (ii) a survey of the Property (the “Survey”).

TITLE AND SURVEY OBJECTION: Due 4/19/19 within the Feasibility Period (Section 1(b) Addendum to Commercial Contract) (Title/Survey Objection Letter sent 2/5/19)

- Buyer shall, no later than the end of the Feasibility Period, notify Seller in writing specifying any objections to matters shown on the Title Commitment or the Survey.
SECOND DEPOSIT ($40,000): - Due 4/23/19 (Section 2 Addendum to Commercial Contract; Section 3(b) Second Amendment, Page 1) (Received by Rattikin Title 4/22/19):

- 2 business days following the expiration of the Feasibility Period

STEP DEPOSITS (Section 2 Addendum to Commercial Contract):

- If the Contract has not been terminated by Buyer by 5:00 p.m. Central Time on February 28, 2019, $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, termination of the Contract due to condemnation;

- If the Contract has not been terminated by Buyer by 5:00 p.m. Central Time on March 31, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $20,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, termination of the Contract due to condemnation;

- If the Contract has not been terminated by Buyer by 5:00 p.m. Central Time on April 30, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $30,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, termination of the Contract due to condemnation;

- If the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on May 31, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $40,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, or termination of the Contract due to condemnation;

- If the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on June 30, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $50,000.00, unless Closing does not occur as a result of a default by Seller, Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, or termination of the Contract due to condemnation; and

- If the Contract has not been terminated by Buyer in accordance with the terms hereof by 5:00 p.m. Central Time on July 31, 2019, an additional $10,000.00 of the Escrow Deposit shall be deemed hard and non-refundable to Buyer, for an aggregate hard Escrow Deposit of $60,000.00, unless Closing does not occur as a result of a default by Seller,
Seller's inability to deliver indefeasible title subject only to the Permitted Exceptions at Closing, or termination of the Contract due to condemnation.

**CLOSING DATE: 9/3/19* (Section 7 Addendum to Commercial Contract)**

- *Actual date falls on Saturday, August 31, 2019

- Outside Closing Date of 12/31/19 - Buyer has the right to extend the Closing Date by exercising up to 4 consecutive 30-day contract extensions (provided, however, the Closing Date will be no later than 12/31/19). Each extension shall be accompanied by an extension fee in the amount of $15,000 (payable within 2 business days of the previously scheduled closing date).
1. Please see attached revised Owner Development Certification with the Undesirable Site Features box checked for the railroad located within 500 feet of the site. Applicant plans to engage a third party to perform noise assessment as well as implement sound mitigation as required by 11.101(a)(2)(E)(ii).

2. Please see the attached earnest money receipt for $5,000 along with the amended agreement. The $45,000 receipt is due 3 days after the end of the Feasibility Period-- Tuesday, April 23, 2019. It will be forwarded when available.

3. Please see attached parking lease referenced in paragraph 4(n) of the purchase contract.

4. Explanation of items 6-11 of Schedule C of the title commitment:
   a. Items 6, 7 and 8 are Deeds of Trust that must be released/satisfied at or prior to closing per Section 1(c)(ii) of the PSA Addendum. Typically, proceeds from the sale will be used to pay off the existing loans;
   b. Item 9 is a labor lien (for $264.70) that is required to be released/satisfied at or prior to closing per Section 1(c)(iii) of the PSA Addendum. As with 1 above, proceeds from the sale of the Property are typically used to pay-off existing encumbrances;
   c. Item 10 is a standard requirement where trusts are involved to establish authority of the trustee to convey the real property;
   d. Item 11 is also a standard title requirement that requires the joinder of the spouse of the Trustee if the property is the Trustee’s homestead.
Development Owner Certification, Acknowledgement and Consent

All defined terms used in this certification and not specifically defined herein have the meanings ascribed to them in Chapter 2306 of the Tex. Gov’t Code, §42 of the Internal Revenue Code, and § 11.1(d) of the Qualified Allocation Plan.

The undersigned, in each and all of the following capacities in which it may serve or exist -- Applicant, Development Owner, Developer, Guarantor of any obligation of the Applicant, and/or Principal of the Applicant and hereafter referred to as “Applicant” or “Development Owner,” whether serving in one or more such capacities, is hereby submitting its Application to the Department for consideration of Department funding.

Applicant hereby represents, warrants, acknowledges and certifies to the Department and to the State of Texas that:

The Development will adhere to the Texas Property Code relating to security devices and other applicable requirements for residential tenancies, and will adhere to local building codes or, if no local building codes are in place, then to the most recent version of the International Building Code.

This Application and all materials submitted to the Department constitute records of the Department subject to Tex. Gov’t Code, Chapter 552. All persons who have a property interest in the Application, along with all plans and third-party reports, acknowledge that the Department may publish them on the Department’s website, release them in response to a request for public information, and make other use of the information as authorized by law. This includes all Third Party reports, which will be posted in their entirety on the Department’s website, as they constitute a part of the Application. The Application is in compliance with all requirements related to the eligibility of an Applicant, Application and Development as further defined in 10 TAC §§11.101 and 11.202 of the Qualified Allocation Plan. Any issues of non-compliance have been disclosed.

All representations, undertakings and commitments made by Applicant in the Application process for Development assistance expressly constitute conditions to any Commitment, Determination Notice, Carryover Allocation, or Direct Loan Commitment for such Development which the Department may issue or award, and the violation of any such condition shall be sufficient cause for the cancellation and rescission of such Commitment, Determination Notice, Carryover Allocation, or Direct Loan Award Letter, Commitment or Contract by the Department. To the extent allowed under Tex. Gov’t Code §2306.6720, if any such representations,
undertakings and commitments concern or relate to the ongoing features or operation of the Development, they shall each and all be enforceable even if not reflected in the Land Use Restriction Agreement. All such representations, undertakings and commitments are also enforceable by the Department and the residents of the Development, including enforcement by administrative penalties for failure to perform, in accordance with the Land Use Restriction Agreement.

When providing a Pre-Application, Application or other materials to a state representative, local governmental body, Neighborhood Organization, or anyone else to secure support or approval that may affect the Applicant’s competitive posture, an Applicant must disclose in accordance with the Department’s rules those aspects of the Development that may not have been determined or selected or may be subject to change, such as changes in the amenities ultimately selected and provided.

The Development Owner is and will remain in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), the Fair Housing Amendments Act of 1988 (42 U.S.C. §§3601 et seq.), the Civil Rights Act of 1964 (42 U.S.C. §§2000a et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. §§701 et seq.), Fair Housing Accessibility, the Texas Fair Housing Act; and the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, and the Texas Accessibility Standards. (§2306.257; §2306.6705(7))

The Development Owner has read and understands the Department’s fair housing educational materials posted on the Department’s website as of the beginning of the Application Acceptance Period.

All Applications proposing Rehabilitation (including Reconstruction) will be treated as substantial alteration, in accordance with 10 TAC Chapter 1, Subchapter B.

The Development Owner will establish a reserve account consistent with Tex. Gov’t Code §2306.186, and as further described in §11.302(d)(2)(I) of the Qualified Allocation Plan, relating to Replacement Reserve Account requirements.

The Development will operate in accordance with the applicable compliance monitoring requirements found in Chapter 10, Subchapter F.

The Development Owner agrees to implement a plan to use Historically Underutilized Businesses (HUB) in the development process consistent with the Historically Underutilized Business Guidelines for contracting with the State of Texas. The Development Owner will be
required to submit a report of the success of the plan as part of the cost certification documentation, in order to receive IRS Forms 8609 or, if the Development does not have Housing Tax Credits, release of retainage.

The Applicant will attempt to ensure that at least 30% of the construction and management businesses with which the Applicant contracts in connection with the Development are Minority Owned Businesses as further described in Tex. Gov’t Code §2306.6734.

The Development Owner will specifically market to veterans through direct marketing or contracts with veteran’s organizations. The Development Owner will be required to identify how they will specifically market to veterans and report to the Department in the annual housing report on the results of the marketing efforts to veterans. Exceptions to this requirement must be approved by the Department.

**Accessibility Requirements**

The Development Owner understands that in accordance with Section 504 of the Rehabilitation Act of 1973 and implemented at 24 C.F.R. Part 8, if the Development includes the New Construction or substantial rehabilitation of multifamily units (4 or more units per building), at least five percent (5%) of all dwelling units will be designed and built to be accessible for persons with mobility impairments. A unit that is on an accessible route and is adaptable and otherwise compliant with the 2010 ADA Standards with the exceptions listed in “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities” (Federal Register 79 FR 29671) meets this requirement. In addition, at least two percent (2%) of all dwelling units will be designed and built to be accessible for persons with hearing or vision impairments.

The Development Owner understands that regardless of building type, all Units accessed by the ground floor or by elevator (“affected units”) must meet the requirements at 10 TAC §11.101(b)(8)(B).

The Development Owner certifies that all accessible Units under 10 TAC Chapter 1, Subchapter B, will be dispersed throughout the Development.

The Development Owner certifies that representations made in the Architect Certification are true and correct, and understands that the Department evaluation of architectural drawings may not include an assessment of accessibility. The Development Owner is responsible for any modifications necessary to meet accessibility requirements identified at the final construction inspection.
Unused Credit or Penalty Fee *(select one box as applicable)*

_____ The Applicant returned a full credit allocation after the Carryover Allocation deadline required for that allocation and is subject to the Unused Credit or Penalty Fee pursuant to §11.901(16) of the Qualified Allocation Plan.

X The Applicant certifies that no disclosure regarding §11.901(16) of the Qualified Allocation Plan is necessary.

Termination of Relationship in an Affordable Housing Transaction *(select one box as applicable)*

_____ The Applicant has disclosed, in the Application, any Principal or any entity or Person in the Development ownership structure who was or is involved as a Principal in any other affordable housing transaction that has terminated, voluntarily or involuntarily, within the past 10 years or plans to or is negotiating to terminate their relationship with any other affordable housing development. The disclosure identified the person or persons and development involved, the identity of each other development and contact information for the other Principals of each such development, a narrative description of the facts and circumstances of the termination or proposed termination, and any appropriate supporting documents. The Applicant has read and understands §11.202(1)(M) of the Qualified Allocation Plan related to such disclosure.

X The Applicant certifies that no disclosure regarding §11.202(1)(M) of the Qualified Allocation Plan is necessary.

Voluntary Compliance Agreement with any Governmental Agency *(select one box as applicable)*

_____ The Applicant has disclosed, in the Application, any Principal or any entity or Person in the Development ownership structure who was or is involved as a Principal in any other affordable housing transaction that entered into a voluntary compliance agreement (or similar agreement) with any governmental agency that is the result of negotiation regarding noncompliance of any affordable housing Development with any requirements. The disclosure identified the person or persons and development involved, the identity of each other development, contact information for the other Principals of each such development, a narrative description of the facts and circumstances of the agreement or proposed agreement, and any appropriate supporting documents. The Applicant has read and understands §11.202(1)(N) of the Qualified Allocation Plan related to such disclosure.
The Applicant certifies that no disclosure regarding §11.202(1)(N) of the Qualified Allocation Plan is necessary.

The Applicant certifies that for any Development proposing New Construction or Reconstruction and located within the one-hundred (100) year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, the Development Site will be developed in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. The Applicant certifies that, floodplain maps will be used and the Development Site will comply with regulations as they exist at the time of commencement of construction. Applicant further certifies that, for any Development proposing Rehabilitation (excluding Reconstruction) that is not a HUD or TRDO-USDA assisted property, the Development Site is not located in the one-hundred year floodplain unless the existing structures already meet the requirements for New Construction or Reconstruction, as certified to by a Third Party engineer, or unless the state or local government has undertaken and can substantiate sufficient mitigation efforts and such documentation is submitted in the Application.

**Undesirable Site Features** *(select one of the boxes as applicable)*

- [ ] The Development **is not** located in an area with undesirable site features as further described in §11.101(a)(2) of the Qualified Allocation Plan.

- [x] The proposed Development is Rehabilitation (excluding Reconstruction) with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (“VA”) and an exemption was requested prior to the filing of an Application or is being requested with the Application in accordance with §11.101(a)(2) of the Qualified Allocation Plan.

- [ ] The proposed Development is Historic Preservation pursuant to §11.9(e)(6) of the Qualified Allocation Plan, is located in an area with an undesirable site feature and an exemption was requested prior to the filing of an Application or is being requested with the Application.

- [ ] The proposed Development is New Construction, is located in an area with an undesirable site feature and a copy of the local ordinance that regulates the proximity of such feature to a multifamily development is included in the Application.

- [x] The proposed Development **is** located in an area with an undesirable site feature and mitigation to be considered by staff and the Board is included in the Application.
Neighborhood Risk Factors (select one of the main boxes as applicable)

X__ The Development Owner certifies that the Development is not located in an area with any of the neighborhood risk factors described in §11.101(a)(3) of the Qualified Allocation Plan and that no disclosure is necessary;

_____ The Development Owner certifies that the Development is located in an area with the following neighborhood risk factors and the Neighborhood Risk Factors Report is submitted with the Application (select all that apply):

_____ in a census tract with a poverty rate above 40% for individuals (or 55% for Developments in regions 11 and 13);

_____ in a census tract (or for any adjacent census tract with a boundary less than 500 feet from the proposed Development Site that is not separated from the Development Site by a natural barrier such as a river or lake, or an intervening restricted area, such as a military installation) in an Urban Area and the rate of Part I violent crimes is greater than 18 per 1,000 persons (annually) as reported on neighborhoodscout.com;

_____ is located within 1,000 feet of a blighted or abandoned area as further described in §11.101(a)(3)(B)(iii) of the Qualified Allocation Plan;

_____ is located in the attendance zones of an elementary, middle, or high school that does not have a 2018 Met Standard rating by the Texas Education Agency, unless the school is “Not Rated” because it meets the TEA Hurricane Harvey Provision, in which case the 2017 rating will apply. Elderly Developments are exempt from the requirement to disclose the presence of this characteristic.

The Development will include all of the mandatory Development amenities required in §11.101(b)(4) of the Qualified Allocation Plan at no charge to all residents (market rate and low-income) and written notice of such amenities will be provided to the residents.

The Development will satisfy the minimum point threshold for common amenities as further described in §11.101(b)(5) of the Qualified Allocation Plan. These amenities must be for the benefit of all residents (market rate and low-income), meet accessibility standards, be sized appropriately to serve the proposed Target Population, be made available throughout normal business hours, and be maintained throughout the Affordability Period. The residents must be provided written notice of the amenity elections made by the Development Owner.

The Development will meet the minimum size of Units as further described §10.101(b)(6)(A) of the Qualified Allocation Plan.
The Development (excluding competitive Housing Tax Credit Applications) will include enough unit and development construction features to meet the minimum number of points as further described in §11.101(b)(6)(B) of the Qualified Allocation Plan.

The Development (excluding competitive Housing Tax Credit Applications) will include enough resident supportive services, at no charge to the residents, be accessible to all residents (market rate and low-income), and maintained throughout the Affordability Period, to meet the required minimum number of points as further described in §11.101(b)(7) of the Qualified Allocation Plan, and offered in accordance with §10.619 of the Uniform Multifamily Rules. The tenant must be provided written notice of the elections made by the Development Owner.

If income averaging is elected, Unit Designations for all units identified as 20%, 30%, 40%, 50%, 60%, 70% and 80% Units will be dispersed across all Unit Types in a manner that does not violate fair housing laws, as required by 10 TAC §10.605(c), effective February 28, 2019.

If the Applicant is applying for Multifamily Direct Loan funds and the Development consists of New Construction, the Applicant further certifies that the Development meets the Construction Site Standards in 24 C.F.R §983.57(e).

If the Development has an existing LURA with the Department, the Development Owner will comply with the existing restrictions.

The Development Owner will comply with any and all notices required by the Department.

None of the criteria in subparagraphs (A) – (N) of §11.202(1) of the Qualified Allocation Plan, related to ineligible Applicants, applies to those identified on the organizational chart for the Applicant, Developer and Guarantor.

The individual whose name is subscribed hereto, in his or her individual capacity, on behalf of Applicant, and in all other related capacities described above, as applicable, expressly represents, warrants, and certifies that all information contained in this certification and in the Application, including any and all supplements, additions, clarifications, or other materials or information submitted to the Department in connection therewith as required or deemed necessary by the materials governing the multifamily funding programs are true and correct and the Applicant has undergone sufficient investigation to affirm the validity of the statements made. Further, the Applicant hereby expressly represents, warrants, acknowledges and certifies that the individual whose name is subscribed hereto has read and understands all the information contained in this form of the Application.

By signing this document, the undersigned, in their individual capacity, on behalf of Applicant, whether formed or to be formed, and in all other related capacities described above, is
affirming under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification, and subject to criminal penalties as defined by Tex. Penal Code §§37.01 et seq., and subject to any and all other state or federal laws regarding the making of false statements to governmental bodies or the providing of false information in connection with the procurement of allocations or awards, that the Application and all materials relating thereto constitute government documents and that the Application and all materials relating thereto are true, correct, and complete in all material respects.
2019 REVISED Development Owner's Certification

By:

Signature

Lisa M. Stephens

Printed Name

President

Title

2-18-19

Date

THE STATE OF Texas

COUNTY OF Tarrant

Before me, a notary public, on this day personally appeared Lisa M. Stephens, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared and certified that the statements therein contained are true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of February, 2019

KATHERINE E. JOHNSON
Notary Public Signature

Notary Public Signature

KATHERINE E. JOHNSON
Notary ID # 130604635
My Commission Expires
March 29, 2020
Good afternoon,

We would like to acknowledge receipt of $5,000.00 from the Purchaser today pursuant to the 2nd Amendment to Contract.

Please let us know if you need anything further at this time.

Thanks,

Alicia Newburn
Escrow Officer & Assistant
Rattikin Title Company
201 Main Street, Suite 800 | Fort Worth, TX 76102

O: 817-334-1309
F: 817-877-4237
E: ANewburn@RattikinTitle.com
W: www.rattikintitle.com

WARNING! WIRE FRAUD ADVISORY – CALL BEFORE YOU WIRE!

Online banking fraud is prevalent.

- Wire fraud schemes involve Business Email Compromise.
- If you receive an email or any other communication containing wire transfer instructions from RATTIKIN TITLE COMPANY OR ANY OTHER SOURCE, CALL immediately to voice verify the information prior to sending funds.
- Rattikin Title Company WILL NOT ALTER WIRING INSTRUCTIONS – any communication to change them should be considered fraudulent.

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Shay/Alicia:

Attached please find the executed Second Amendment to Commercial Contract.

Per the amendment, the additional $5,000 deposit will be sent on Monday. Please confirm once it has been received.

Thanks,

Taylor

P. Taylor Yawney
Attorney at Law
SECOND AMENDMENT TO COMMERCIAL CONTRACT – UNIMPROVED PROPERTY

THIS SECOND AMENDMENT TO COMMERCIAL CONTRACT – UNIMPROVED PROPERTY (this “Amendment”) is entered into as of the 29 day of March, 2019, by and between DON HOWARD WILLIAMS, JR., AS TRUSTEE OF WILLIAMS OPPORTUNITY TRUST (“Seller”), and SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company (“Purchaser”).

RECITALS

WHEREAS, Seller and Purchaser heretofore entered into that certain Commercial Contract – Unimproved Property dated December 20, 2018 (the “Contract”), as modified and supplemented by that certain Addendum to Commercial Contract – Unimproved Property of even date therewith (the “Addendum”), as amended by that certain Amendment to Commercial Contract – Unimproved Property dated February 21, 2019 (the “First Amendment”; and together with the Contract and the Addendum, collectively, the “Agreement”), for the sale of that certain real property located in Tarrant County, Texas; and

WHEREAS, Purchaser and Seller desire to amend the Agreement as more particularly set forth herein.

NOW THEREFORE, in consideration of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, Seller and Purchaser hereby agree as follows:

1. RECITALS: The above recitals are true and correct and incorporated into this Amendment by this reference.

2. DEFINITIONS: Any capitalized terms not defined in this Amendment shall have the meaning given to such term in the Agreement.

3. DEPOSIT: Notwithstanding anything in the Agreement to the contrary, the parties hereby agree that payment of the Escrow Deposit shall be made as follows:

   (a) The parties acknowledge and agree that the amount of and payment of the “Initial Deposit” as set forth in the Agreement is hereby deleted in its entirety and replaced with the following:

      (i) The parties acknowledge that the Purchaser has previously deposited as an initial earnest money deposit with Escrow Agent the sum of $15,000.00.

      (ii) On or before April 1, 2019, Purchaser shall deposit with Escrow Agent an additional $5,000.00 (which, together with the $15,000.00 previously deposited with Escrow Agent (for a total of $20,000.00), is referred to as the “Initial Deposit”).

   (b) The parties acknowledge and agree that the term “Second Deposit”, as defined in Section 2(a) of the Addendum, shall mean $40,000.00, payable to Escrow Agent within two
(2) business days following the expiration of the Feasibility Period.

4. **FULL FORCE AND EFFECT:** Except as specifically modified by this Amendment, all other provisions of the Agreement remain in full force and effect. To the extent of any conflict between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall control.

5. **AUTHORITY:** Seller and Purchaser represent and warrant to the other that such party has the full right, power, and lawful authority to enter into, execute, and perform under this Amendment and that such actions do not violate any other agreement, covenant, or restriction placed upon such party. Seller and Purchaser further represent and warrant to the other that the person signing this Amendment on its behalf has been duly authorized to sign this Amendment.

6. **GOVERNING LAW:** This Amendment shall be governed by the laws of the State of Texas, without application of its conflict of law principles.

7. **BINDING EFFECT:** This Amendment shall be binding upon, and shall inure to the benefit of, Seller, Purchaser, and their respective successors or assigns.

8. **HEADINGS:** The headings contained in this Amendment are for convenience of reference only and shall not be construed as limiting or defining in any way the provisions of this Amendment.

9. **COUNTERPARTS:** This Amendment may be executed in counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument. Any signature delivered by facsimile or other forms of electronic transmission, such as a PDF, shall be considered an original signature by the sending party.

{remainder of this page intentionally left blank}
IN WITNESS WHEREOF, Seller and Purchaser have executed this Amendment as of the date and year first above written.

SELLER:

________________________________
Don Howard Williams, Jr., as Trustee of Williams Opportunity Trust

PURCHASER:

SAIGEBROOK DEVELOPMENT, LLC, a Florida limited liability company

By: ____________________________________________
Lisa M. Stephens, President
LEASE AGREEMENT

This Lease Agreement (hereinafter referred to as the "Lease") is made and entered into this 15th day of February, 2019 (the "Effective Date"), by and between Williams Opportunity Trust (hereinafter referred to as "Lessor"), and Fort Worth Surgicare Partners, Ltd. d/b/a Baylor Surgical Hospital of Fort Worth (hereinafter referred to as "Lessee").

WITNESSETH:

1. Premises; Lease:

Lessor is the owner of a lot located at 1801-13 8th Avenue, Fort Worth, TX (including 1808 Hurley Avenue; the legal description of which is "Lots 1, 2, 3, 4, 5, 6, 7, 8, 27, 28, and 29. Block 11. Fairmount Addition, an addition to the City of Fort Worth, Tarrant County, Texas, according to plat recorded in Volume 63, Page 25, Plat Records, Tarrant County, Texas"), hereinafter referred to as the "Premises." Lessor leases the Premises to Lessee, and Lessee leases the Premises from Lessor, upon the terms and conditions set forth in this Lease.

2. Quiet Possession:

Lessor covenants and agrees with Lessee that so long as Lessee keeps and performs all the covenants and conditions to be kept and performed by Lessee, including but not limited to payment of monthly rental. Lessee shall have quiet, undisturbed and continued possession of the Premises, free from claims, disturbance or interference by Lessor.

3. Term:

This Lease shall commence on the Effective Date and continue for a period of five (5) years thereafter (the "Term"). Lessee may cancel this Lease for any reason after the second anniversary of the Effective Date by giving Landlord not less than one hundred twenty (120) days advance written notice of termination. In the event the Lease is so terminated, neither party shall have any obligations hereunder other than with respect to those covenants that expressly survive the termination or expiration of this Lease.

4. Rent and Security Deposit:

(a) Lessee agrees to pay Lessor a monthly rental equal to Eight Thousand Nine Hundred Fifty Dollars ($8,950.00) (the "Rent"). in advance not later than the fourth day of each month during the Term. The Rent shall be prorated for any partial month in the event of termination prior to the end of the Term. The monthly rental rate shall increase on each anniversary of the Effective Date in an amount equal to two percent (2%) of the Rent payable during the immediately preceding twelve (12) month period.

(b) Landlord does not require a security deposit.

5. Maintenance and Repair:
(a) Lessee shall be solely responsible for completing all required maintenance and repair to the Premises as may be necessary or appropriate for Lessee’s use of the Premises. Lessee agrees to use reasonable diligence in the care, protection and maintenance of the Premises during the term of this Lease, and to surrender the Premises at the termination of this Lease in as good condition as received, ordinary wear and tear and casualty damage excepted. 

(b) Subject to Lessee having obtained all requisite governmental approvals and permits, Lessee at Lessee’s expense shall have the right to do any or all of the following: install and alter driveways, curb-cuts, and paving, stripe parking areas, and plant and remove trees and shrubs, all as Lessee deems appropriate or necessary to its use of the Premises.

(c) Lessor shall have no obligation with respect to the condition, maintenance, or repair of any of the sidewalks which may be adjacent to or adjoin the Premises.

(d) Except as otherwise provided in the Lease, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and agents, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee’s tenancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees.

6. Alterations and Improvements:

(a) Lessee may make alterations and improvements, including the installation of appropriate signage, at Lessee’s expense, to the Premises as may be required for the purpose of Lessee’s business.

(b) Lessee may (if not in default hereunder) prior to the expiration of the Lease or any extension thereof, remove all fixtures and equipment which have been placed on the Premises by Lessee.

7. Use of Premises:

The Premises shall be used by Lessee for the purpose of operating a parking lot for use by the Lessee’s customers and agents, for such ancillary purposes as are permitted by applicable governmental ordinances.

8. Insurance:

During the Term, Lessee agrees to maintain commercial general liability insurance with respect to Lessee’s operations on the Premises:
9. **Assignment and Subletting:**

Lessees shall not assign this Lease in whole or in part, or sublet all or any part of the Premises without the prior written consent of Lessor in each instance, which consent shall be granted or withheld in Landlord's sole discretion. Lessee expressly agrees that Landlord shall have the absolute right to refuse consent to any such assignment or sublease and that for the purposes of any statutory or other requirement of reasonableness on the part of Landlord such refusal shall be reasonable.

10. **Indemnity:**

Lessees shall defend, indemnify and hold Lessor harmless from and against any and all actions, costs, claims, losses, expenses and/or damages sustained by Lessor, including, without limitation, property damage and/or injury or death to any person or persons, (a) relating to Lessee's use and occupancy of the Premises, including but not limited to any complaints or claims from Lessee's invitees and customers, (b) attributable to the recklessness, carelessness or negligence of Lessee or any of its agents, servants, employees (including but not limited to its failure to pay applicable taxes under Section 12 of this Lease).

11. **Destruction of, or Damage to Premises:**

If the Premises are totally destroyed by fire, storm, lightning, earthquake, or other casualty, and including destruction due to bombing, shelling, or other war damage, this Lease shall be terminated and of no further force or effect as of the date of such destruction. If the Premises are damaged but not wholly destroyed by any such casualty, Rent shall abate in such proportion as use of Premises has been destroyed, or made inaccessible or unusable, and Lessor shall restore the Premises to substantially the same condition as existed prior to such casualty as speedily as is commercially practicable, whereupon Lessee shall pay full Rent.

12. **Taxes and Assessments:**

Lessor will be responsible for payment of all ad valorem real property taxes and special assessments on the Premises. Lessee shall pay all personal property taxes, parking taxes and fees, sales taxes and any other fees and charges associated with its use and occupancy of the Premises for the purpose set forth in Section 7 herein.

13. **Termination by Lessee:**

In the event of the permanent closing to vehicular traffic of 8th Avenue adjacent to the Premises by the City of Fort Worth, and so long as Lessee is not in default of its obligations under this Lease, Lessee shall, at its option, have the right to terminate this Lease by giving Lessor thirty (30) days written notice of such termination, after which this Lease shall be of no further force or effect.

14. **Miscellaneous Provisions:**
It is mutually covenanted and agreed by and between the parties as follows:

(a) This Lease shall be construed under the laws of the State of Texas.

(b) This Lease contains the entire agreement between the parties, and no rights are created in favor of either party other than as specified or expressly contemplated in this Lease.

(c) Time is of the essence of this Lease and all of its provisions.

(d) No waiver of any of the terms, covenants, provisions, conditions, rules and regulations imposed by this lease, and no waiver of any legal or equitable relief or remedy, shall be implied by the failure of Landlord to assert any rights, declare any forfeiture, or for any other reason.

(e) The captions of the Articles of this Lease are inserted for identification only, and shall not govern the construction, nor alter, vary, or change any of the terms, conditions, or provisions of this Lease or any Article thereof.

(f) Each provision herein shall be deemed separate and distinct from all other provisions, and if any one of them shall be declared illegal or unenforceable, the same shall not affect the legality or enforceability of the other terms, conditions, and provisions hereof, which shall remain in full force and effect.

(g) In the event that either party institutes legal proceedings to enforce its rights hereunder, the prevailing party in such legal proceeding shall be paid all of the costs it incurs, including reasonable attorney’s fees.

15. Notices:

In the event notices are required to be sent under the provisions of this Lease, they will be mailed, postage prepaid by certified or registered mail, return receipt requested, addressed as follows:

Lessor:
Williams Opportunity Trust

Lessees:
Baylor Surgical Hospital of Fort Worth
1800 Park Place Avenue
Fort Worth, TX 76110

ATTN: Chief Executive Officer
donwilliamscem@gmail.com

Either party may, by such notice, designate a new or other address to which notice may be mailed.
IN WITNESS WHEREOF, the parties hereto have caused their names to be hereeto signed by their duly authorized officer on the date hereinbefore first written.

LEASOR:

[Signature]

WILLIAMS OPPORTUNITY TRUST

BY: DON HOWARD WILLIAMS, JR.
TRUSTEE

LESSEE:

[Signature]

FORT WORTH SURGICARE PARTNERS,
LTD., by its General Partner, THVG FORT WORTH GP, LLC

[Signature]

BY: JEFF ANDREWS, PRESIDENT
THVG FORT WORTH GP, LLC
In the course of the Department’s Housing Tax Credit **Eligibility/Selection/Threshold** and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §11.1(d)(2) and described in §11.201(7), §11.201(7)(A) and §11.201(7)(B) of the 2019 Uniform Multifamily Rules was identified. By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies. Any issue initially identified as an Administrative Deficiency may ultimately be determined to be beyond the scope of an Administrative Deficiency, and the distinction between material and non-material missing information is reserved for the Director of Multifamily Finance, Executive Director, and Board.

1. Revise the Undesirable Site Features section of the Development Owner’s Certification to leave the first space blank (originally filled-in with an “X”) and “X” the last blank space.

2. Submit receipt for $45,000 due three days after end of Feasibility Period.

3. Submit the parking lease referenced in paragraph 4(n) of the purchase contract.

4. For items 6-11 of Schedule C of the title commitment, explain the possible effects of these items on the currently contemplated sale, including any actions necessary on the part of the seller and/or buyer to relieve the transaction of impediments related to these items.

The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §11.201(7)(B) of the 2019 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be resolved to the satisfaction of the Department by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day will be suspended from further processing, and the Applicant will be notified to that effect, until the deficiencies are resolved. If, during the period of time when the Application is suspended from review, Direct Loan funds become oversubscribed, the Applicant will be informed that unless the outstanding item(s) are resolved within one
business day the Application will be terminated. For purposes of priority under the Direct Loan set-asides, if the outstanding item(s) are resolved within one business day, the date by which the item is submitted shall be the new received date pursuant to §13.5(c) of the 2019 Multifamily Direct Loan Rule. Applicants should be prepared for additional time needed for completion of staff reviews.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 11.1(h) of the 2019 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.

**All deficiencies must be corrected or clarified by 5 pm Austin local time on Friday, April 26, 2019. Please respond to this email as confirmation of receipt.**

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Thanks,

Ben Sheppard

Specialist, Multifamily Finance

Texas Department of Housing and Community Affairs

Ph. 512.475.2122

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).
Multifamily Finance Division staff will place scanned copies of scoring notices behind this tab in the application .pdf
Multifamily Finance Division staff will place documents related to Requests for Administrative Deficiencies behind this tab in the application .pdf
Real Estate Analysis Division staff will place scanned copies of RFI documents behind this tab in the application .pdf
Department staff will place scanned copies of appeal documents behind this tab in the application .pdf
Multifamily Finance Division staff will place scanned copies of public comment received behind this tab in the application .pdf
Multifamily Finance Division staff will place scanned copies of Commitment or Determination Notice documents behind this tab in the application.pdf
Multifamily Finance Division staff will place scanned copies of Direct Loan Program Award Letters behind this tab in the application .pdf
Multifamily Finance Division staff will place scanned copies of Carryover Allocation Agreement documents behind this tab in the application .pdf