

# KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION

Date: December 1, 2022

To: Board of Commissioners

From: Benjamin M. Bentley, Secretary

Subject: **SPECIAL AGENDA**  
Special Board Meeting of the Board of Commissioners  
**Tuesday, December 6, 2022, 5 p.m.**  
901 N. Broadway Street  
Knoxville, TN 37917

1. Call to Order.
2. Approval is requested to execute the minutes for the meeting held on October 27, 2022. [\(Item 2 Attachment\)](#)
3. Motion to add, delete or postpone agenda items.
4. Reports of officers and special presentations.

## **NEW BUSINESS**

### **REDEVELOPMENT/LEGAL SERVICES (Brad Peters)**

5. Resolution regarding Bell Street 2 LP authorizing the carryforward of the bond authority allowing issuance of the bonds to finance the Project within three calendar years. [\(Item 5 Attachment\)](#)
6. Resolution regarding a payment in lieu of tax transaction (PILOT) with Central Terrace LP. [\(Item 6 Attachment\)](#)
7. Resolution regarding a payment in lieu of tax transaction (PILOT) with Callahan Flats LP. [\(Item 7 Attachment\)](#)
8. Resolution regarding a payment in lieu of tax transaction (PILOT) with DGA Holston LP. [\(Item 8 Attachment\)](#)
9. Resolution regarding a payment in lieu of tax transaction (PILOT) with DGA Grosvenor Square LP. [\(Item 9 Attachment\)](#)

10. Final Resolution authorizing issuance of not to exceed \$27,500,000 collateralized multifamily housing bonds (Grosvenor Square Project) Series 2022. [\(Item 10 Attachment\)](#)

11. Final Resolution authorizing issuance of not to exceed \$15,000,000 collateralized multifamily housing bonds (Willow Place Project) Series 2022. [\(Item 11 Attachment\)](#)

**ADMINISTRATION** (Jim Barker)

12. Approval is requested to award contract for trash collection services with Waste Connections of Tennessee, Inc. [\(Item 12 Attachment\)](#)

**EXECUTIVE** (Ben Bentley)

13. Resolution relating to tax increment financing for redevelopment of Station South Townhomes in the South Waterfront Redevelopment Area. [\(Item 13 Attachment\)](#)

14. Approval is requested to enter into an amended and restated employment agreement with Ben Bentley [\(Item 14 Attachment\)](#)

Unfinished Business

Public Forum

Adjournment

The next agenda review meeting will be on **January 19, 2023**

The next board meeting will be held on **January 26, 2023**

# KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION

## BOARD MEETING MINUTES

The Board of Commissioners of the Knoxville's Community Development Corporation met on **October 27, 2022** at 901 N. Broadway, Knoxville, Tennessee.

The meeting was called to order and a quorum declared present at 5:02 p.m.

**Present:** Chair Robert Whetsel  
Vice Chair Kimberly Henry  
Treasurer Scott Broyles  
Commissioner Robyn McAdoo  
Commissioner Kathy Hill

**Absent:** Commissioner John Winemiller  
Commissioner Felix Harris

Approval to execute the minutes for the *regular* meeting held on September 29, 2022. **Commissioner Broyles moved to approve. Commissioner Henry seconded the motion. All other Commissioners present voted "Aye."**

### NEW BUSINESS

#### REDEVELOPMENT/LEGAL SERVICES (Brad Peters)

Approval to grant a Certificate of Completion and Release for 1122 Texas Avenue (081ID036) to SEEED, Inc. **Commissioner McAdoo moved to approve. Commissioner Henry seconded the motion. All other Commissioners present voted "Aye."**

Approval to grant a Certificate of Completion and Release for 1543 Minnesota Avenue (081PE025) to Michael Haynes Construction, Inc. **Commissioner Broyles moved to approve. Commissioner McAdoo seconded the motion. All other Commissioners present voted "Aye."**

Approval to grant a Certificates of Completion and Release for the properties at 1540 Minnesota Avenue (081PF001) and 3401 Bishop Street 080MC009) to East Tennessee Housing Development Corporation (ETHDC). **Commissioner Henry moved to approve. Commissioner Broyles seconded the motion. All other Commissioners present voted "Aye."**

Resolution authorizing issuance of not to exceed \$27,500,000 collateralized multifamily housing bonds (Grosvenor Square Project) Series 2022. **Commissioner Broyles moved to approve. Commissioner McAdoo seconded the motion. Commissioner Henry was recused. All other Commissioners present voted "Aye." Resolution No. 2022-34 is attached.**

Resolution authorizing issuance of not to exceed \$15,000,000 collateralized multifamily housing bonds (Willow Place Project) Series 2022. **Commissioner Broyles moved to approve.**

**Commissioner McAdoo seconded the motion. Commissioner Henry was recused. All other Commissioners present voted "Aye." Resolution No. 2022-35 is attached.**

Resolution authorizing the execution of documents relating to the tax increment financing for a redevelopment project at 203 South Gay Street and authorizing an amendment to the purchase and sale agreement and related exhibits. **Commissioner Broyles moved to approve. Commissioner Henry seconded the motion. All other Commissioners present voted "Aye." Resolution No. 2022-36 is attached.**

**POLICIES & STRATEGIC PARTNERSHIPS (Marisa Moazen)**

Resolution regarding the authorization to accept HUD Choice Neighborhoods implementation funding. **Commissioner Henry moved to approve. Commissioner McAdoo seconded the motion. All other Commissioners present voted "Aye." Resolution No. 2022-37 is attached.**

**EXECUTIVE (Ben Bentley)**

Resolution authorizing the execution of the Stadium Area Infrastructure Redevelopment and Loan Agreement with the City of Knoxville. **Commissioner Broyles moved to approve. Commissioner Henry seconded the motion. Commissioner McAdoo was recused. All other Commissioners present voted "Aye." Resolution No. 2022-38 is attached.**

**PUBLIC FORUM**

None

**UNFINISHED BUSINESS**

None

**ADJOURNMENT**

With no further business to come before the Board, the meeting adjourned by consent at 5:23 p.m.

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Robert Whetsel, Chair

Approved:

**ATTEST:**

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Benjamin M. Bentley, Secretary

Approved:



## BOARD ACTION FORM

|   |  |
|---|--|
| <b>MEETING DATE</b>   | December 6, 2022   |
| <b>AGENDA ITEM DESCRIPTION</b>  | Resolution regarding Bell Street 2 LP seeking authorization to carryforward \$35M in multifamily housing tax exempt bonds to 2023 awarded by THDA for Phase 3 of the Austin Homes redevelopment.   |
| <b>SUBMITTED BY</b>   | <b>Name, Title / Department:</b> Brad Peters, VP   |
| <b>MEETING TYPE</b>   | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual   |
| <b>CLASSIFICATION</b>   | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval   |
| <b>BUDGET / FINANCIAL IMPACT</b>  | <b>Budgeted:</b> \$ 0 <b>Expenditure:</b> \$ 0<br><b>Source of Funds:</b> n/a  |
| <b>APPROVAL / REVIEWS</b>   | <input checked="" type="checkbox"/> Department Head /VP <input type="checkbox"/> Budget/Finance<br><input type="checkbox"/> Executive Director/CEO <input checked="" type="checkbox"/> Legal Counsel: Bass Berry Sims (Jay Moneyhun)<br><b>Other – Name/Title:</b> |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>Seeking authorization to carryforward \$35M of multifamily housing tax exempt bonds to 2023. The \$35M of bonds represents the entire volume cap that was awarded by THDA for Phase 3 of Austin Homes redevelopment. The carryforward is required due to the complexity of the deal and the timing considerations associated with the HUD Section 202 grant. In order to carryforward the bonds, IRS form 8328 needs to be prepared and delivered to the IRS.</p> <p><b>2. Why is the action needed now?</b><br/>The \$35M bond allocation to KCDC was made in 2022 and in order to preserve the \$35M of volume cap for Phase 3 of Austin and to utilize the bonds for the development, the IRS 8328 form needs to be completed and turned into the IRS by the end of the year. Due to complexities around the Section 202 grant, closing of the bonds is not expected to happen until the middle part of 2023.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>KCDC - issuer of the bonds and parent of the Class B Limited Partner of Bell Street 2 LP, the owner/borrower entity for Phase 3.<br/>THDA - Allocator of private activity bonds<br/>Bass Berry - KCDC bond counsel</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>It will be important that KCDC continues to collaborate with HUD and other project stakeholders in order to get the project into position to close on the issuance and sale of bonds in 2023.</p> |  |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>  | The board approved KCDC to be issuer of these bonds in February 2022.  |
| <b>ATTACHMENTS</b>  | Resolution, IRS form 8328 template   |

## **RESOLUTION NO. 2022-\_\_\_\_\_**

### **RESOLUTION OF THE BOARD OF COMMISSIONERS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION REGARDING BELL STREET 2 LP**

**WHEREAS**, Bell Street 2 LP, a Tennessee limited partnership in which an affiliate of Knoxville's Community Development Corporation ("KCDC") is the Class B Limited Partner (the "Applicant"), is considering the acquisition, construction and equipping of an approximate 161-unit housing facility for very-low, low and/or moderate-income citizens to be on certain property located near the intersection of South Bell Street, Elston Turner Drive and Austin Homes Blvd. (the "Project"), which property includes tax parcel numbers 095AH02501, 095HC001, a portion of 095HC003, and a portion of 095HC00201 in Knoxville, Tennessee; and

**WHEREAS**, the acquisition, construction and equipping of such facilities will constitute a "project" within the meaning of T.C.A. § 13-20-101; and

**WHEREAS**, KCDC previously adopted a Preliminary Bond Resolution and executed a letter of intent in support of the above-described project; and

**WHEREAS**, the Tennessee Housing Development Agency ("THDA") has issued a firm commitment letter pursuant to which THDA has committed \$35,000,000 in multifamily tax exempt bond authority for the Project (the "Commitment Letter"); and

**WHEREAS**, the Board of Commissioners of KCDC desires to (a) authorize a carryforward of the bond authority (the "Carryforward"), which will allow the issuance of the bonds to finance the Project or another eligible project to occur within the following three calendar years and (b) authorize the Authorized Officers of KCDC to execute, file and deliver any documents, agreements, certificates, filings or other documentation necessary to document the Carryforward (including IRS Form 8328) and to report the Carryforward to the Internal Revenue Service as required by law (collectively, the "Carryforward Documents").

**NOW, THEREFORE, BE IT RESOLVED BY KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION** as follows:

1. KCDC hereby finds that the Carryforward is in the best interests of KCDC and will benefit the Project.
2. The Chairman or the Executive Director of KCDC is hereby authorized to execute the Carryforward Documents. The officers of KCDC are hereby further authorized to take such further action as is necessary to carry out the intent and purposes of this resolution.

Approved this 6<sup>th</sup> day of December, 2022.

**KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION**

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

34523708.1

**Carryforward Election of Unused  
Private Activity Bond Volume Cap**  
(Under Sections 146(f) and 142(k))  
Go to [www.irs.gov/Form8328](http://www.irs.gov/Form8328) for the latest information.

OMB No. 1545-0047

Enter the calendar year for which the election is made:

**Part I Reporting Authority**

|   |            |  |
|---|------------|--|
| State name for qualifying public educational facility bond or issuer's name for all other bonds |            | Reporting Authority's EIN  |
| Number, street (or P.O. box if mail is not delivered to street address)                         | Room/suite | Report number (For IRS Use Only)                                 |
| City or town, state, and ZIP code   |            | 9 <input type="text"/> <input type="text"/> <input type="text"/> |

**Caution:** Part II is **only** for section 146(f) filers. Part III is **only** for qualifying public educational facility bond filers.

**Part II Unused Volume Cap and Carryforward Under Section 146(f)**

| Computation of Unused Volume Cap        |   |            |
|---|---|------------|
| 1                                       | Total volume cap of the issuer for the calendar year . . . . .  | <b>1</b>   |
| 2                                       | Aggregate amount of private activity bonds issued to date that are taken into account under section 146. See instructions . . . . . | <b>2</b>   |
| 3                                       | Total amount of volume cap exchanged for authority to issue mortgage credit certificates. See instructions . . . . .                | <b>3</b>   |
| 4                                       | Total amount of volume cap allocated to private activity portion of governmental bonds. See instructions . . . . .                  | <b>4</b>   |
| 5                                       | Add lines 2 through 4 . . . . .   | <b>5</b>   |
| 6                                       | Unused volume cap (subtract line 5 from line 1) . . . . .   | <b>6</b>   |
| Purpose and Amount of Each Carryforward |   |            |
| 7                                       | Qualified student loan bonds . . . . .  | <b>7</b>   |
| 8                                       | Qualified mortgage bonds or mortgage credit certificates . . . . .  | <b>8</b>   |
| 9                                       | Qualified redevelopment bonds . . . . .   | <b>9</b>   |
| 10                                      | Exempt facility bonds:  |            |
| a                                       | Mass commuting facilities (section 142(a)(3)) . . . . .   | <b>10a</b> |
| b                                       | Water furnishing facilities (section 142(a)(4)) . . . . .   | <b>10b</b> |
| c                                       | Sewage facilities (section 142(a)(5)) . . . . .   | <b>10c</b> |
| d                                       | Solid waste disposal facilities (section 142(a)(6)) . . . . .   | <b>10d</b> |
| e                                       | Qualified residential rental projects (section 142(a)(7)) . . . . .   | <b>10e</b> |
| f                                       | Facilities for the local furnishing of electric energy or gas (section 142(a)(8)) . . . . .   | <b>10f</b> |
| g                                       | Local district heating or cooling facilities (section 142(a)(9)) . . . . .  | <b>10g</b> |
| h                                       | Qualified hazardous waste facilities (section 142(a)(10)) . . . . .   | <b>10h</b> |
| i                                       | High-speed intercity rail facilities (section 142(a)(11)) . . . . .   | <b>10i</b> |
| j                                       | Qualified enterprise zone facility bonds (section 1394(a)-(e)) . . . . .  | <b>10j</b> |
| k                                       | Qualified broadband projects (section 142(a)(16)) . . . . .   | <b>10k</b> |
| l                                       | Qualified carbon dioxide capture facilities (section 142(a)(17)) . . . . .  | <b>10l</b> |
| 11                                      | Total carryforward amount (add lines 7 through 10l) (not to exceed line 6) . . . . .  | <b>11</b>  |

**Part III Unused Volume Cap and Carryforward Under Section 142(k) (Qualifying Public Educational Facility Bonds)**

|    |  |           |
|----|--|-----------|
| 12 | Total volume cap for the calendar year . . . . .                                       | <b>12</b> |
| 13 | Total amount of bonds issued under section 142(k) for the calendar year . . . . .      | <b>13</b> |
| 14 | Unused volume cap available for carryforward (subtract line 13 from line 12) . . . . . | <b>14</b> |
| 15 | Amount elected to carryforward (not to exceed line 14) . . . . .                       | <b>15</b> |

|                               |   |      |
|-------------------------------|---|------|
| <b>Sign Here</b>              | Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. |      |
|                               | Signature of authorized public official   | Date |
| Type or print name and title. |   |      |

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future Developments**

For the latest information about developments related to Form 8328 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/Form8328](http://www.irs.gov/Form8328).

**Purpose of Form**

Form 8328 is filed by the issuing authority of private activity bonds to elect to carry forward its unused volume cap for one or more carryforward purposes (see section 146(f)). If the election is made, bonds issued with respect to a specified carryforward purpose are not subject to the volume cap under section 146(a) during the 3 calendar years following the calendar year in which the carryforward arose, but only to the extent that the amount of such bonds does not exceed the amount of the carryforward elected for that purpose.

**BOARD ACTION FORM**

|   |   |
|---|---|
| <b>MEETING DATE</b>   | December 6, 2022  |
| <b>AGENDA ITEM DESCRIPTION</b>  | Resolution regarding a payment in lieu of tax transaction (PILOT) with Central Terrace, LP.   |
| <b>SUBMITTED BY</b>   | <b>Name, Title / Department:</b> Brad Peters, VP  |
| <b>MEETING TYPE</b>   | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual  |
| <b>CLASSIFICATION</b>   | <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Approval  |
| <b>BUDGET / FINANCIAL IMPACT</b>  | <b>Budgeted:</b> \$ <u>na</u> <b>Expenditure:</b> \$ <u>na</u><br><b>Source of Funds:</b> KCDC will receive fee of \$35,000   |
| <b>APPROVAL / REVIEWS</b>   | <input checked="" type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input type="checkbox"/> Legal Counsel: _____<br>Other – Name/Title: _____ |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>The objective of this action is to obtain authorization to execute documents to provide a payment in lieu of taxes to the Central Terrace affordable housing development, the construction of a 112-unit housing facility for low and moderate income citizens. KCDC first received a letter of support from the mayor and this supports our goal of promoting affordable housing in the area.</p> <p><b>2. Why is the action needed now?</b><br/>Closing for the project is happening soon.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>Central Terrace, LP - The developer who is to building the development, and who will lease back the property from KCDC.<br/>KCDC-Owner for purposes of the PILOT</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>KCDC will have minimal exposure in connection with holding nominal title to the property.</p> |   |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>  | In 2015, Tenn. Code Ann. § 48-101-312 was amended to permit housing authorities, in certain circumstances, to provide property tax abatement for low-income housing tax projects upon the receipt of a support letter from the mayor.               |
| <b>ATTACHMENTS</b>  | Resolution, Support Letter, Map and Map   |

## **RESOLUTION NO. 2022-\_\_\_**

### **RESOLUTION OF THE BOARD OF COMMISSIONERS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION REGARDING A PAYMENT IN LIEU OF TAX TRANSACTION WITH CENTRAL TERRACE, LP**

**WHEREAS**, the Board of Commissioners of Knoxville's Community Development Corporation ("KCDC") has met pursuant to proper notice; and

**WHEREAS**, KCDC is the housing, redevelopment and urban renewal authority of the City of Knoxville, Tennessee (the "City") and is duly incorporated pursuant to Sections 13-20-101 et seq., Tennessee Code Annotated; and

**WHEREAS**, to induce Central Terrace, LP, a Tennessee limited partnership (the "Applicant"), to acquire, construct and equip Central Terrace, an 112-unit housing facility for low and moderate income citizens (the "Project"), KCDC will acquire certain real and personal property related to the Project, and KCDC will lease said property to the Applicant on the terms and conditions set forth in the Lease referenced herein; and

**WHEREAS**, KCDC has received a letter from the Mayor of the City expressing her support for the Project pursuant to Tenn. Code Ann. § 48-101-312(b)(4)(C); and

**WHEREAS**, there has been submitted to KCDC a form of Lease (the "Lease"), between KCDC and the Applicant, which provides certain payments in lieu of tax as provided therein and which KCDC proposes to execute to carry out the transaction described above, a copy of which instrument shall be filed with the records of KCDC.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION:**

1. It is hereby found and determined that the acquisition and ownership of the Project will promote industry, trade, commerce and housing in the State of Tennessee and will increase the availability of affordable housing and employment in the City.

2. The Chairman or the Vice Chairman of KCDC is hereby authorized and directed to execute, and, where requested, the Secretary or Assistant Secretary is authorized to attest, and/or any other officer of KCDC, acting alone or in combination with one another (individually and collectively the "Authorized Officers"), is (are) hereby authorized and empowered to execute the Lease and deliver the Lease to the Applicant.

3. KCDC is hereby authorized and directed to own the Project pursuant to the terms of the Lease.

4. The Lease shall be in substantially the form submitted, which is hereby approved, with such completions, omissions, insertions and changes as may be approved by the officer executing it, his or her execution to constitute conclusive evidence of his or her approval of any such omissions, insertions and changes.

5. The officers of KCDC are hereby authorized and directed to execute, deliver and file such other certificates and instruments and to take all such further action as they may consider necessary or desirable in connection with the consummation of the transactions described above, including, without limitation, executing such documents as any lender of the Applicant may request in connection with its liens on the Project.

6. Any authorization herein to execute any document shall include authorization to record such document where appropriate.

7. All other acts of the officers of KCDC which are in conformity with the purposes and intent of this resolution are hereby approved and confirmed.

Approved this 6<sup>th</sup> day of December, 2022.

**KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION**

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



October 20, 2022

Benjamin Bentley  
Knoxville's Community Development Corporation  
901 N. Broadway  
Knoxville, Tennessee 37917

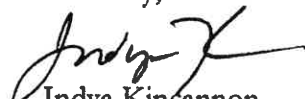
**Re: Support Letter for Central Terrace Affordable Housing Project**

Dear Mr. Bentley:

I understand that Knoxville's Community Development Corporation ("KCDC"), through its proposed lessee, Central Terrace, LP, is undertaking the acquisition and construction of multi-family apartments located at 4502 Fennel Road, currently owned by Signal Mountain Group, LLC. I understand that this project entails constructing a 112-unit apartment development providing affordable and workforce housing for the local community. To provide financing for this project, Central Terrace, LP, has received, among other sources of funds, an allocation of low-income housing tax credits from the Tennessee Housing Development Agency to ensure these apartments remain as affordable housing for the next 30 years.

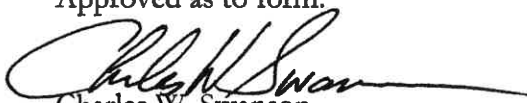
Pursuant to Section 48-101-312 of the Tennessee Code Annotated, and because the City has not formed a health, educational, and housing facility corporation, KCDC is permitted to enter into an agreement for payments in lieu of taxes with respect to this project provided that I, as the chief executive officer of the City, provide a letter in support of the project. Please accept this letter as evidence of my support of this project for payments in lieu of taxes for a term of up to 20 years with the payment amount set at \$5,841.68 to the City of Knoxville and \$4,211.00 to Knox County. The construction of these apartments and the provision of affordable housing for low-income residents are important goals of the City, and this project is consistent with those goals.

Sincerely,



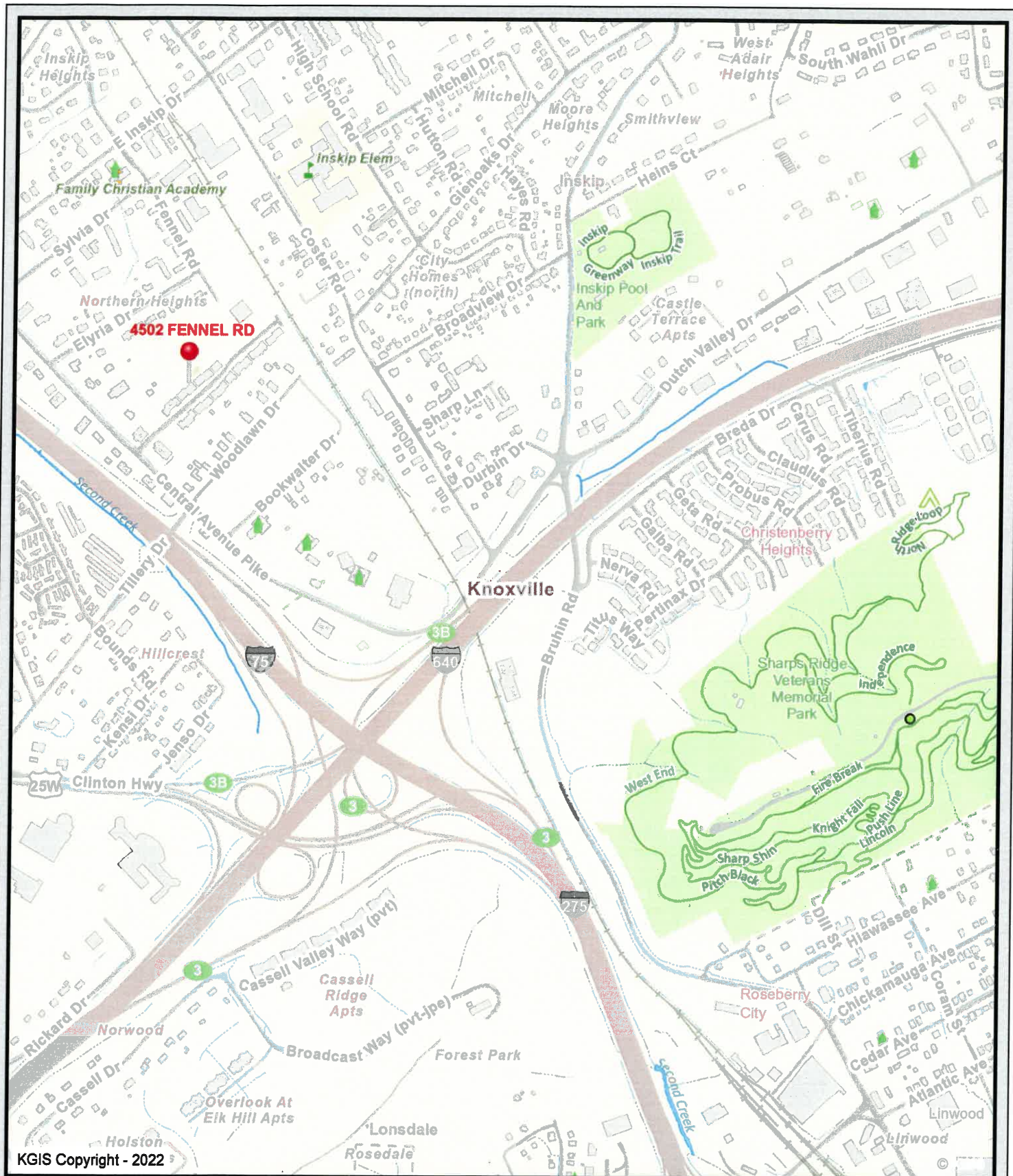
Indya Kincannon  
Mayor

Approved as to form:



Charles W. Swanson  
Director of Law





## Central Terrace

Knoxville - Knox County - KUB Geographic Information System

KGIS makes no representation or warranty as to the accuracy of his map and its information nor to its fitness for use. Any user of this map product accepts the same AS IS, WITH ALL FAULTS, and assumes all responsibility for the use thereof, and further covenants and agrees to hold KGIS harmless from any and all damage, loss, or liability arising from any use of this map product.



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KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION

(a housing and redevelopment authority of  
the City of Knoxville, Tennessee organized under Tennessee law)

TO

CENTRAL TERRACE, LP

(a Tennessee limited partnership)

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LEASE

DATED AS OF \_\_\_\_\_, 2022

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This instrument prepared by:  
BASS, BERRY & SIMS PLC (JPM)  
900 S. Gay Street, Suite 1700  
Knoxville, Tennessee 37902

## LEASE

This Lease, made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2022 ("Commencement Date"), by and between KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §§ 13-20-101, et seq. ("Lessor"), and CENTRAL TERRACE, LP, a Tennessee limited partnership ("Lessee").

### WITNESSETH:

WHEREAS, Lessor is a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §§ 13-20-101, et seq., as amended (the "Act"), and is the fee simple owner of the Leased Land (as defined below) pursuant to that Acquisition Deed dated on or about the date hereof, Lessor is authorized under the Act to acquire, whether by purchase, exchange, gift, lease, or otherwise, and to own, lease and dispose of properties for the purpose of providing safe and sanitary dwelling accommodations for persons of low income;

WHEREAS, in order to encourage Lessee to cause the acquisition, construction and equipping of a 112-unit housing facility for low and moderate-income citizens to be known as Central Terrace generally located at 4502 Fennel Road, Knoxville, Tennessee (the "Project"), thereby furthering the purposes of the Act, Lessor desires to lease to Lessee and Lessee desires to rent from Lessor certain real property and equipment hereinafter more particularly described, on the terms and conditions set forth herein; and

WHEREAS, pursuant to Tenn. Code Ann. § 48-101-312(b)(4)(C), the Mayor of the City of Knoxville, Tennessee submitted a letter dated October 20, 2022, to the Lessor supporting the Project and approving the Lessor to negotiate and accept from Lessee payments in lieu of ad-valorem taxes; and

NOW, THEREFORE, Lessor, for and in consideration of the payments hereinafter stipulated to be made by Lessee, and the covenants and agreements hereinafter contained to be kept and performed by Lessee, does by these presents demise, lease and let unto Lessee, and Lessee does by these presents, lease and rent from Lessor, for the Term (as defined below) and upon the conditions hereinafter stated, the Leased Land (as defined below) described in Exhibit A attached hereto, and incorporated herein by reference, together with all facilities and improvements now existing or hereafter constructed thereon by Lessee or otherwise and the Equipment (as defined below) described in Exhibit B attached hereto and incorporated herein by reference;

UNDER AND SUBJECT, however, to deed restrictions, covenants, easements, reservations, rights of way and other encumbrances applicable to the real property and equipment to be leased and existing as of the date hereof and any other encumbrance hereafter existing that is not created by Lessor; and

UNDER AND SUBJECT to the following terms and conditions:

### ARTICLE I. Definitions

Section 1.01 In addition to the words, terms and phrases elsewhere defined in this Lease, the following words, terms and phrases as used in this Lease shall have the following respective meanings:

"Acquisition Deed" shall mean the deed pursuant to which Lessor acquires title to the Leased Land.

"Act" shall mean Tenn. Code Ann. §§ 13-20-101, et seq., as amended.

"Additional Rent" shall mean the amounts described in Section 4.02,

"Basic Rent" shall mean the amounts described in Section 4.01.

"Buildings" shall mean the Buildings to be constructed on the Leased Land by Lessee pursuant to Article XI.

"City" shall mean the City of Knoxville, Tennessee.

"Completion Date" shall mean the earlier of (i) [two years after the date hereof] and (ii) the date that the construction of the Buildings described in Article XI is substantially complete, as evidenced by the issuance of a certificate of occupancy. Lessee shall provide a certificate to Lessor evidencing the Completion Date no later than thirty (30) days after the occurrence of the Completion Date.

"County" shall mean Knox County, Tennessee.

"Equipment" shall mean the machinery, equipment and other tangible personal property described on Exhibit B attached hereto as from time to time supplemented.

"Force Majeure" means fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, pandemic, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the applicable party's reasonable control. Where this Lease expressly provides that a party's obligations are subject to Force Majeure, then delay or non-performance on the part of such party will be excused upon the occurrence and during the continuance of such event of Force Majeure, provided that such party promptly gives the other party written notice of the occurrence and abatement of such event of Force Majeure.

"Investor Limited Partner" shall mean collectively, WNC Holding, LLC, a California limited liability company, as the investor limited partner of Lessee, and WNC Housing, L.P., a California limited partnership, as special limited partner of Lessee, and each of their successors and assigns.

"Lease" shall mean this instrument as originally executed or as it may from time to time be supplemented or amended by one or more instruments supplemental hereto.

"Leased Land" shall mean the real property described in Exhibit A attached hereto.

"Leased Property" shall mean the Equipment and the Leased Land, together with the Buildings and related improvements.

"Lender" shall mean Churchill Mortgage Construction LLC, a Florida limited liability company, and its successors and assigns.

"Lessee" shall mean Central Terrace, LP, a Tennessee limited partnership.

"Lessor" shall mean Knoxville's Community Development Corporation, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Act.

"Rent" shall mean collectively, the Basic Rent and the Additional Rent,

"Tax Credits" shall mean any low income housing tax credits available at the Leased Property pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

"Tax Year" shall mean each annual period beginning on January 1 of each year and ending on December 31 of that year.

"Term" shall mean the term described in Article III.

## **ARTICLE II.**

### **Representations**

**Section 2.01**    **Representations of Lessee.** Lessee makes the following representations and warranties to induce Lessor to enter into this Lease:

(a)    Lessee is a limited partnership duly formed, existing and in good standing under the laws of the State of Tennessee (the "State"), has full power and authority to enter into this Lease and to perform all obligations contained herein and therein, and has, by proper action, been duly authorized to execute and deliver this Lease and, when executed and delivered by the parties thereto, this Lease will constitute the valid and binding obligation of Lessee enforceable in accordance with its terms.

(b)    Neither the execution and delivery of this Lease, nor the consummation of the transactions contemplated herein by Lessee, nor the fulfillment of or compliance with the terms and conditions of this Lease, does or will conflict with or result in a breach of the terms, conditions or provisions of any restriction or internal governing document of Lessee or any agreement or instrument to which Lessee is now a party or by which it is bound, or any existing law, rule, regulation, judgment, order or decree to which it is subject, or constitutes a default under any of the foregoing or, except as contemplated hereby, results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Lessee under the terms of any instrument or agreement.

(c)    There are no proceedings pending, or to the knowledge of Lessee threatened, against or affecting Lessee in any court or before any governmental authority, arbitration board or tribunal which involve the possibility of materially and adversely affecting the properties, business, prospects, profits or condition (financial or otherwise) of Lessee, or the ability of Lessee to perform its obligations under this Lease. Lessee is not in default with respect to an order of any court, governmental authority, arbitration board or tribunal.

(d)    No event has occurred and no condition exists with respect to Lessee that would constitute an Event of Default under this Lease, as defined in Article XIV, or which, with the lapse of time or with the giving of notice, or both, would become such an Event of Default.

(e)    To the knowledge of Lessee, and in reliance upon, and except as disclosed in, an independent third-party report obtained by Lessee, there are no substances, materials, wastes, pollutants or contaminants located on the Leased Property that are regulated under any environmental law or regulation except those materials and substances that are maintained in compliance with such laws and regulations, and Lessee shall not permit material quantities of such substances, materials, wastes, pollutants or contaminants to exist on the Leased Property during the Term of this Lease except in compliance with such laws and regulations.

**Section 2.02**    **Representations of Lessor.** Lessor makes the following representations and warranties to induce Lessee to enter into this Lease:

(a) The Lessor is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to enter into this Lease and to perform all obligations contained herein, and has, by proper action, been duly authorized to execute and deliver this Lease and, when executed and delivered by the parties thereto, this Lease will constitute the valid and binding obligation of Lessor enforceable in accordance with its terms.

(b) Neither the execution and delivery of this Lease nor the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of this Lease, will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof, or of any corporate restriction or any agreement or instrument to which Lessor is a party or by which it is bound, or result in the creation or imposition of any lien of any nature upon any of the Leased Property of Lessor under the terms of the Act or any such law, ordinance, restriction, agreement or instrument.

### **ARTICLE III.**

#### **Lease Term**

Subject to the provisions contained in this Lease, this Lease shall be in full force and effect for a Term commencing on the date hereof and ending on the twentieth (20<sup>th</sup>) anniversary of the Completion Date, unless terminated earlier, in accordance with the terms hereof. Lessee shall provide a certificate to Lessor evidencing the Completion Date no later than thirty (30) days after the occurrence of the Completion Date.

Notwithstanding the foregoing, the Term of this Lease may be terminated upon exercise by Lessee of the purchase option described in Article XV hereof.

### **ARTICLE IV.**

#### **Rent**

**Section 4.01 Basic Rent.** Lessee will pay to Lessor without notice or demand, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, as Basic Rent on each January 1 during the Term, the sum of \$1.00. Lessor acknowledges that Lessee has prepaid the Basic Rent for the Term on the date hereof.

**Section 4.02 Additional Rent.** Lessee agrees to pay, as additional rent, all other amounts, liabilities and obligations which Lessee herein assumes or agrees to pay (including, without limitation, the obligations in Article XI hereof). Without limiting the foregoing, Lessor and Lessee recognize that the Leased Property has been conveyed to Lessor subject to or contemporaneously with the execution of a deed of trust securing the financing of the acquisition and construction of the Buildings on the Leased Land. Lessee agrees to make all payments of debt service relating to such financing. Lessor will execute and deliver commercially reasonable documents pledging its interest in the Leased Property, by joinder or otherwise, in connection with Lessee's financing or refinancing of the Leased Property. In the event of any failure on the part of Lessee to pay any amounts, liabilities or obligations described in this paragraph, Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of the Basic Rent.



## **ARTICLE V.**

### **Compliance with Laws; Permitted Contests;**

### **Lessee's Acceptance of Leased Property; Reports; Lease of Equipment; Net Lease**

**Section 5.01** Compliance with Laws. Lessee shall throughout the Term and at no expense to Lessor promptly cure any violations under all laws, ordinances, orders, rules, regulations and requirements of duly constituted public authorities, which are or shall become lawfully applicable to the Leased Property, the repair and alteration thereof, and the use or manner of use of the Leased Property, whether or not such laws, ordinances, orders, rules, regulations and requirements are foreseen or unforeseen, ordinary or extraordinary, and whether or not they shall involve any change of governmental policy or shall require structural or extraordinary repairs, alterations or additions, irrespective of the cost thereof.

**Section 5.02** Permitted Contests. Lessee shall not be required to comply or cause compliance with the laws, ordinances, orders, rules, regulations or requirements referenced in Section 5.01, so long as Lessee or Investor Limited Partner, as applicable, shall, at Lessee's expense, contest the same or the validity thereof in good faith, by appropriate proceedings. Such contest may be made by Lessee or Investor Limited Partner, as applicable, in the name of Lessor or of Lessee, or both, as Lessee shall determine and Lessor agrees that it will, at Lessee's expense, cooperate with Lessee or Investor Limited Partner, as applicable, in any such contest to such extent as Lessee may reasonably request. It is understood, however, that Lessor shall not be subject to any liability for the payment of any costs or expenses (including attorneys' fees) in connection with any such proceeding brought by Lessee or Investor Limited Partner, as applicable, and Lessee covenants to pay, and to indemnify and save harmless Lessor from, any such costs or expenses.

**Section 5.03** Acceptance of Leased Property. Lessee acknowledges that, as between Lessor and Lessee, it has examined the Leased Land and the state of Lessor's title thereto prior to the making of this Lease and knows the condition and state thereof, including, without limitation, the environmental and soil conditions, as of the first day of the term of this Lease, and accepts the same in said condition and state; that no representations as to the condition or state thereof have been made by representatives of Lessor; and that in entering into this Lease, Lessee is relying solely upon its own examination thereof. Lessee shall have sole and exclusive possession of the Leased Property during the Term.

**Section 5.04** Lease of Equipment. Lessor does hereby demise, lease and let unto Lessee, and Lessee does hereby lease and rent from Lessor, for the Term and upon the conditions herein stated, all Equipment. Lessee shall have sole and exclusive possession of the Equipment during the Term.

**Section 5.05** Net Lease. This is a "net lease" and the Rent, and all other sums payable hereunder to or for the account of Lessor shall be paid promptly and without set off, counterclaim, abatement, suspension, deduction, diminution or defense.

## **ARTICLE VI.**

### **Title and Tax Benefits**

**Section 6.01** No Conveyance of Title by Lessor. Lessor covenants and agrees that, except as set forth herein, during the Term of this Lease, it will not convey, pledge, encumber or suffer or permit the conveyance of, by any voluntary act on its part, its title to the Leased Property to any person, firm, corporation, or other entity whatsoever, irrespective of whether any such conveyance or attempted conveyance shall recite that it is expressly subject to the terms of this Lease unless such conveyance is consented, in writing, to by Lessee, its mortgagee and Investor Limited Partner. Lessor will not create any lien, encumbrance or charge upon its interest in the Leased Property except for any such lien,

encumbrance or charge otherwise created by this Lease or consented to by Lessee and Investor Limited Partner.

Section 6.02 Tax Benefits. During the Term, Lessee shall be entitled to all benefits under federal and state tax laws attributable to the ownership of the Leased Property, including, without limitation, the right to claim deductions for depreciation and the right to claim Tax Credits. Lessor shall execute and deliver other and further certificates, documents, and amendments to this Lease as reasonably requested by Lessee to confirm and establish that Lessee is the owner of the Leased Property for federal income and state franchise and excise tax purposes.

Section 6.03 Taxation of Improvements. This Lease is intended to be a lawful agreement between the Lessee and Lessor, as an instrumentality of a local government, for payments in lieu of taxes and therefore, the Buildings are assessed solely to Lessor and are subject to all applicable exemptions, all in accordance with Tennessee Code Annotated § 67-5-502(d).

## **ARTICLE VII.**

### **Taxes and Other Charges**

Section 7.01 Taxes and Other Governmental Charges. Lessee agrees, subject to the provisions of Section 7.04, to pay and discharge, as Additional Rent, punctually as and when the same shall become due and payable without penalty, all ad valorem taxes that at any time during the Term shall be or become due and payable by Lessor or Lessee and that shall be levied, assessed or imposed upon, or that shall be or become liens upon, the Leased Property or any portion thereof or any interest of Lessor or Lessee therein, under and by virtue of any present or future law, statute, regulation or other requirement of any governmental authority.

Section 7.02 Lessee Subrogated to Lessor's Rights. To the extent of any payments of Additional Rent by Lessee under this Article VII, Lessee shall be subrogated to Lessor's rights in respect to the proceedings or matters relating to such payments, and any recovery in such proceedings or matter shall be used to reimburse Lessee for the amount of such Additional Rent so paid by Lessee.

Section 7.03 Utility Services. Lessee agrees that Lessor is not, nor shall it be, required to furnish to Lessee or any other user of the Leased Property any gas, water, sewer, electricity, light, heat, power or any other facilities, equipment, labor, materials or services of any kind pursuant to this Lease and Lessee agrees that it shall pay all costs and expenses related to the foregoing.

### Section 7.04 Payments in Lieu of Taxes.

(a) Recognition of Tax Status. Lessee recognizes that under present law, including specifically the Act, the properties owned by Lessor are exempt from all taxation in the State.

(b) Administrative Provisions. In furtherance of the agreements in this Section, it is agreed by and between the parties hereto that Lessee, in cooperation with Lessor, shall cause all of the Leased Property, including but not limited to, the Leased Land, the Buildings, the Equipment located in the Buildings or on the Leased Land, each expansion of any Building, the Equipment located in each expansion of any Building, and any other Equipment conveyed to Lessor hereunder to be valued and assessed separately by the assessor or other official or officials charged with the responsibility of assessing privately owned property in the area where the Leased Property is located at the time such privately owned property is valued or assessed. Lessee, in cooperation with Lessor, shall cause to be applied to the appropriate taxable value of each such portion of the Leased Property the tax rate or rates



that would be applicable for state and local tax purposes if the property were then privately owned, and shall cause the county trustee or other official or officials charged with the responsibility of collecting taxes to submit annually to Lessor and Lessee a statement of the taxes which would otherwise then be chargeable to each such portion of the Leased Property. The right is reserved to Lessee to the same extent as if Lessee were the owner of the Leased Property to contest the validity or amount of any such assessment.

(c) Payments in Lieu of Taxes. In addition to Basic Rent and Additional Rent hereunder, Lessee and Lessor agree that Lessee shall pay directly to the City and the County: (i) for each Tax Year occurring during the period commencing on the date hereof through and including the day prior to the Completion Date, a payment in lieu of taxes equal to the ad valorem taxes that would otherwise be payable with respect to the Leased Property if such Leased Property were owned by Lessee and (ii) for each Tax Year occurring during the period commencing on the Completion Date through and including the twentieth (20<sup>th</sup>) anniversary of the Completion Date, an annual payment in lieu of taxes to the County equal to \$4,211.00 and an annual payment in lieu of taxes to the City equal to \$5,841.68. Notwithstanding anything to the contrary herein, the Investor Limited Partner shall have the right, but not the obligation, to pay the required payment in lieu of taxes to the County and the City on behalf of Lessee, and Lessor shall accept and recognize any such payment by Investor Limited Partner as if tendered by the Lessee.

Amounts payable with respect to any partial Tax Years included within the Term will be prorated based upon the actual number of days included within such Tax Year. Any payment due with respect to a Tax Year that is not paid prior to the termination or expiration of this Lease shall not be extinguished as a result of such termination or expiration and shall survive such termination or expiration.

Notwithstanding anything to the contrary contained in this Section, this Lease shall not be extended except pursuant to an amendment in writing and executed by both the Lessor and Lessee and with the written consent of Investor Limited Partner. Such reduction in taxes otherwise payable shall not apply with regard to any other tax assessed against Lessee, its income, its other real property or its personalty. In the event Lessee assumes ownership of the Leased Property, Lessee shall begin paying all applicable ad valorem and other taxes directly to the City and the County, as assessed, but shall not make, from the date of such acquisition, any in lieu payments with respect to such property other than those payments that were unpaid at the time of such acquisition.

Notwithstanding anything to the contrary contained in this Section, in the event that Lessee fails to complete the construction of the Buildings in accordance with Article XI hereof or the Leased Property becomes ineligible for Tax Credits due to a violation of the use restrictions (related to the Tax Credits) applicable to the Leased Property, then Lessee shall make a payment in lieu of taxes with respect to each Tax Year remaining in the Term on behalf of the Lessor to the City and the County in an amount equal to the ad valorem taxes that would otherwise be payable with respect to the Leased Property if such Leased Property were owned by Lessee.

(d) Credit for Taxes Paid. Nothing contained in this Section 7.04 is intended or shall be construed to require the payment by Lessee of any greater amounts in lieu of taxes than would be payable as taxes if the Leased Property were owned by Lessee. It is accordingly understood and agreed that the amount payable by Lessee in any year under the provisions of this Section 7.04 shall be reduced by the amount of any ad valorem taxes lawfully levied upon the Leased Property or any part thereof, or upon Lessee's leasehold estate therein, and actually paid by Lessee pursuant to the requirements of Section 7.01 hereof to the City and the County and to the extent that any such tax payments paid by Lessee pursuant to the requirements of Section 7.01 hereof for any year shall exceed the in-lieu-of-tax

payments for such year otherwise provided in this Section 7.04 the amount payable by Lessee in any subsequent year under the provisions of this Section 7.04 shall be reduced by such excess amount.

(e) Timing of Payments. Each payment in lieu of taxes required by this Section 7.04 with respect to any Tax Year or partial Tax Year shall be paid not later than February 28<sup>th</sup> of the following year.

(f) Reports. On behalf of Lessor, Lessee shall, during the term of this Lease, submit on or before October 1 of each year to the Tennessee State Board of Equalization the annual report required to be submitted by it.

(g) Payment Upon Termination or Expiration. Upon the termination of this Lease for any reason during a Tax Year, Lessee shall pay a pro-rated amount of the payments in lieu of taxes, if any, required by this Section 7.04 for the period that this Lease is in effect and for which no payments in lieu of taxes have been made up to the date of such termination.

(h) Cessation of Business. Except in the event Lessee shall terminate this Lease pursuant to Article IX of this Lease, in the event Lessee ceases the active operation (excluding temporary cessations due to Force Majeure events) of a low-income housing facility for eligible residents at the Leased Property, and notwithstanding any provision herein to the contrary, Lessee shall make payments in lieu of taxes beginning as of the date Lessee ceases such operation equal to the ad valorem taxes that Lessee otherwise would have been required to make with respect to the Leased Property if the Leased Property was owned by Lessee.

Section 7.05 Permitted Contests. Lessee shall not be required to pay any tax or assessment against the Leased Property or any part thereof, so long as Lessee or Investor Limited Partner, as applicable, shall, at Lessee's expense, contest the same or the validity thereof in good faith, by appropriate proceedings which shall operate to prevent the collection of the tax or assessment so contested or resulting from such contest and the sale of the Leased Property or any part thereof to satisfy the same. Such contest may be made by Lessee or Investor Limited Partner, as applicable, in the name of Lessor or of Lessee, or both, as Lessee or Investor Limited Partner, as applicable, shall determine, and Lessor agrees that it will, at Lessee's expense, cooperate with Lessee or Investor Limited Partner, as applicable, in any such contest to such extent as Lessee or Investor Limited Partner, as applicable, may reasonably request. It is understood, however, that Lessor shall not be subject to any liability for the payment of any costs or expenses (including attorneys' fees) in connection with any such proceeding brought by Lessee or Investor Limited Partner, as applicable, and Lessee covenants to pay, and to indemnify and save harmless Lessor from, any such costs or expenses.

## **ARTICLE VIII.**

### **Maintenance and Repair**

Lessor shall not be required to rebuild or to make any repairs, replacements or renewals of any nature or description to the Leased Property or to make any expenditures whatsoever in connection with this Lease or to maintain the Leased Property in any way. Lessee expressly waives the right contained in any law now or hereafter in effect to make any repairs at the expense of Lessor.

Lessee shall keep and maintain in good order, condition and repair (including any such repair as is required due to fire, storm or other casualty) the Leased Property and every part thereof and any and all appurtenances thereto. Lessee shall save Lessor harmless on account of claims for mechanics and materialmen's liens in connection with any work by Lessee, and any such liens shall exist only against Lessee's leasehold interest and shall be discharged, by bond or otherwise, within sixty (60) days after

filing. Lessee shall keep and maintain the Leased Property in accordance with all directions, rules and regulations of the proper officials of the government agencies having jurisdiction, at the sole cost and expense of Lessee. If any act or occurrence of any kind or nature (including any casualty) shall result in damage to or loss or destruction of the Leased Property, in whole or in part, and without diminution of any obligation of the Lessee in respect thereof under the approved mortgage, the Lessee, to the extent that insurance proceeds and other funds, if any, made available, shall promptly cause the restoration, reconstruction, and/or repair of the Leased Property as nearly as possible to its value, condition and character immediately prior to such casualty. If such insurance proceeds and other available funds are not sufficient or restoration is otherwise determined not feasible, such proceeds shall be applied as provided in the first priority mortgage loan documents.

#### **ARTICLE IX.**

##### **Condemnation**

If during the Term, all or any part of the Leased Property be taken by the exercise of the power of eminent domain or condemnation, Lessee shall be entitled to and shall receive the entire award for the taking. The total award shall be used to restore or repair the Leased Property to make the same usable and so that the remaining portions of the Leased Property, when complete, shall be substantially the same in character as the Leased Property prior to the partial taking. The restoration and repair of the Leased Property shall be done and accomplished by Lessee, except that Lessee shall not be required to expend more than the amount of the award available for such restoration and repair. If title to or control of all of the Leased Property shall be taken by the exercise of the power of eminent domain or condemnation, or if such use or control of a substantial part of the Leased Property shall be taken as to result in rendering a substantial part of the Leased Property untenable or of materially reduced value to Lessee, Lessee may, with the prior written consent of Investor Limited Partner, terminate this Lease and exercise the purchase option purchase to Article XV by giving written notice to the Lessor and thereafter shall have no further liability hereunder except as specifically provided herein, provided, as a condition of such termination, Lessor may require Lessee to remove all or a portion of the improvements from the remaining portion of the Leased Property if Lessee does not exercise such purchase option.

#### **ARTICLE X.**

##### **Insurance and Indemnification**

Section 10.01 Insurance. Lessee shall carry commercial general liability insurance covering the Leased Property and the use and occupancy of the same in a company or companies licensed to do business in the State under a policy satisfactory to Lessor both as to amount and coverage and shall provide evidence of same to Lessor. Lessor shall be listed as an additional insured on such policy. Lessee shall also insure all improvements on the Leased Property at their full replacement value, with Lessor being included as an additional insured, and Lessee shall provide evidence of same to Lessor. Each policy described above shall not be canceled without first giving Lessor not less than thirty (30) days prior written notice. Lessee shall provide to Lessor evidence of all insurance policies contemplated by this Section, including, upon request, annual certificates of continued coverage.

Section 10.02 Indemnification. Lessee covenants and agrees, at its expense, to pay, and to indemnify and save Lessor and its directors, agents and employees (collectively, the "Indemnified Parties") harmless against and from any and all claims by or on behalf of any person, firm, corporation, or governmental authority, arising from the occupation, use, possession, conduct or management of or from any work or activity done in or about the Leased Property or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, laws, ordinances, or regulations affecting the Leased Property or the occupancy or use thereof. Lessee also covenants and agrees, at its expense, to pay, and to indemnify and save the Indemnified Parties harmless against and

from, any and all claims, costs or expenses arising from (i) any condition, including any environmental condition, now existing or hereafter arising, on the Leased Property, (ii) any breach or default on the part of Lessee in the performance of any covenant or agreement to be performed by Lessee pursuant to this Lease, (iii) any act or negligence of Lessee, or any of its agents, contractors, servants, employees or licensees, (iv) the failure of the Acquisition Deed to convey title to the Leased Land to Lessor on the date hereof other than as described in the Acquisition Deed, (v) any disputes, demands or claims related to the title of the Leased Land or any liens or other encumbrances affecting the Leased Land (other than claims originating from an action in violation of Section 6.01 hereof), or (vi) any accident, injury or damage whatever caused to any person, firm or corporation in or about the Leased Property and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim referred to in this Section. In the event that any action or proceeding is brought against any Indemnified Party by reason of any such claims, Lessee, upon notice from such Indemnified Party, covenants to resist or defend such action or proceeding. Notwithstanding anything in this Lease to the contrary, Lessee shall not be required to indemnify any of the Indemnified Parties in the event of any acts of gross negligence or willful misconduct or intentional misconduct of any of the Indemnified Parties or for any claim or liability which the Indemnified Parties was not given the opportunity to contest. The indemnification provided shall survive termination of this Lease.

## **ARTICLE XI.**

### **Construction of Buildings; Alterations**

Lessee shall have the right to construct buildings and other improvements on the Leased Land from time to time and to make additions to and alterations of any such buildings and improvements and any existing buildings and improvements. All work done in connection with such additions, alterations, improvements or construction shall be done promptly, and in good and workmanlike manner, and in compliance with all applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate departments, commissions, boards and offices thereof. Lessee shall maintain or cause to be maintained, at all times when any work is in process in connection with such additions, alterations, improvements or construction, workmen's compensation insurance covering all persons employed in connection with such work and with respect to whom death or bodily injury claims could be asserted against Lessor, Lessee or the Leased Property.

Lessee covenants and agrees at its expense to cause the acquisition of the Leased Land and the construction of the apartment buildings, office or community buildings and improvements located on the Leased Land to include approximately 112 apartment units (the "Buildings"), and in connection therewith, Lessee agrees to incur capital expenditures for the acquisition of the Leased Land, the demolition of the existing structures and the construction of the Buildings in an aggregate amount of not less than \$29,000,000. It is understood and agreed that the Buildings, together with all other improvements or fixtures from time to time placed on the Leased Land, shall become the property of Lessor and part of the Leased Property, but shall be for the sole and exclusive use and benefit of Lessee during the Term, subject to the purchase option set forth in Article XV. Lessee agrees to complete the Buildings prior to the Completion Date, provided that such time period shall be extended in the event of an event of Force Majeure. The parties acknowledge and agree that the Lessee shall demolish any existing improvements or buildings on the Leased Land and no restrictions herein shall limit such demolition.

## **ARTICLE XII.**

### **Acquisition of Equipment**

**Section 12.01** Acquisition of Equipment. As of the date of this Lease, Lessee has acquired the Equipment, if any, shown on Exhibit B for location in the Buildings or on the Leased Land. In

furtherance of the foregoing, upon the execution of this Lease, Lessee shall convey the Equipment shown on Exhibit B to Lessor by a bill of sale in substantially the form of Exhibit C attached hereto and thereafter such Equipment shall become the property of Lessor, but shall be for the sole use and benefit of Lessee during the Term.

Unless Lessee gives Lessor written notice to the contrary, any machinery and equipment hereafter acquired by Lessee to be located on the Leased Land or any improvement thereon by means of a bill of sale in substantially the form of Exhibit C attached hereto, and thereafter such equipment likewise shall become the property of Lessor and part of the Equipment subject to the provisions hereof, but shall be for the sole use and benefit of Lessee during the Term, and Exhibit B shall be deemed to have been supplemented to include such equipment.

Any Equipment removed from the Leased Property, other than for ordinary maintenance, shall no longer be deemed part of the Leased Property for purposes of this Lease and, upon the written request of Lessee, shall be conveyed to Lessee pursuant to Article XV.

Section 12.02 Installation and Removal of Other Equipment. Lessee may at any time or times during the Term install or commence the installation on the Leased Land or any improvement thereon of any equipment in addition to the Equipment as Lessee may deem desirable, and Lessee may also remove any such equipment at its discretion. All such equipment shall be acquired and installed at the expense of Lessee and shall remain the property of Lessee and shall not be part of the Equipment unless otherwise added to Exhibit B.

Section 12.03 Alteration, Improvement, Removal and Modifications of Equipment by Lessee. Lessee may alter, improve and modify the Equipment from time to time as it may determine is desirable for its uses and purposes. Lessee shall be responsible for all costs of such alterations, improvements and modifications. All such alterations, improvements and modifications shall become a part of the Equipment and the property of Lessor as made. Lessee shall use its best efforts to cause all work done in connection with such alterations, improvements and modifications to be done in a good and workmanlike manner and in compliance with all laws, ordinances, orders, rules, regulations and requirements of all governmental authorities. Lessee may remove and dispose of any Equipment that Lessee determines is not necessary for Lessee's operations provided Lessee purchases such Equipment pursuant to Article XV.

### **ARTICLE XIII.**

#### **Subletting, Assignments and Mortgaging**

Section 13.01 Except for (i) leases in the ordinary course of business or otherwise desirable for operation of an apartment complex, (ii) a leasehold deed of trust pursuant to which Lessee mortgages its leasehold estate in the Leased Property, (iii) removal of the general partner of Lessee in accordance with the terms of its amended and restated partnership agreement (the "Partnership Agreement") or by the Lender pursuant to the loan documents related to the loan from the Lender to Lessee (the "Loan Documents") so long as any new general partner of Lessee is (A) the Investor Limited Partner or an affiliate thereof or (B) approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved, and (iv) any other transfer of a partnership interest of Lessee in accordance with the terms of its Partnership Agreement or by the Lender pursuant to the Loan Documents so long as (A) the Investor Limited Partner or an affiliate thereof remains a direct or indirect partner of Lessee or (B) the transferee is approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved (each of the foregoing being a "Permitted Transfer" which shall not require Lessor's consent), Lessee shall not have the right to sublet the Leased Property or assign or otherwise transfer its rights and

interest hereunder except with the prior written consent of Lessor or as explicitly permitted in this Lease. In the event that the Lender becomes the successor lessee hereunder pursuant to this section, the Lender shall be eligible to make the payments in lieu of taxes pursuant to Section 7.04 hereof; and further provided that any successor or assign of the Lender, or any purchaser at a foreclosure sale other than the Lender, shall be entitled to make payments in lieu of taxes pursuant to Section 7.04 hereof so long as Lessor has reasonably approved such person or entity, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved. If such successor or assign of the Lender or any purchaser at a foreclosure sale other than the Lender is not approved by Lessor (the "Non-Approved Party") in accordance with the foregoing sentence, then the Non-Approved Party shall make payments in lieu of taxes beginning as of the date of such assignment or purchase equal to the ad valorem taxes that Lessee otherwise would have been required to make with respect to the Leased Property if the Leased Property was owned by Lessee.

Section 13.02 If a mortgagee or Investor Limited Partner of Lessee shall have given Lessor, before any Event of Default shall have occurred hereunder, a written notice specifying the name and mailing address of the mortgagee or Investor Limited Partner, then Lessor shall not terminate this Lease by reason of the occurrence of any Event of Default hereunder unless Lessor shall have given the mortgagee and Investor Limited Partner a copy of its notice to Lessee of such Event of Default addressed to the mailing address last furnished by the mortgagee and Investor Limited Partner, and such Event of Default shall not have been cured by said mortgagee or Investor Limited Partner, as applicable, within the time permitted herein (which such time period, with respect to mortgagee and Investor Limited Partner, shall begin upon receipt of the respective notice by mortgagee and Investor Limited Partner), provided that mortgagee and Investor Limited Partner shall have the right to extend the period of time for the curing of any such Event of Default for an additional period of thirty (30) days from the date contained in the notice given pursuant to Section 16.03 herein, or in the case of an Event of Default which cannot be cured within said thirty (30) day period, for such additional period (not to exceed an additional sixty (60) days) as, with all due diligence and in good faith, is necessary to cure the Event of Default. Lessor acknowledges that it has received written notice that (a) Lender is a mortgagee hereunder, and that Lessor shall send notices required to be sent to a mortgagee hereunder to Lender at the address provided in Section 16.03 and (b) the Investor Limited Partner is an investor limited partner hereunder, and that Lessor shall send notices required to be sent to an investor limited partner hereunder to the Investor Limited Partner at the address provided in Section 16.03. Lessor acknowledges that any mortgagee and Investor Limited Partner, have the right, but not the obligation, to cure any Event of Default by Lessee under this Lease, and Lessor agrees to accept any such cure performed or tendered by any mortgagee or Investor Limited Partner, as applicable, within any applicable cure period as if it had been performed or tendered by Lessee.

Section 13.03 Lessee irrevocably directs that Lessor accept, and Lessor agrees to accept, performance by any such mortgagee or Investor Limited Partner of the Lessee's, as applicable, right to terminate this Lease granted to Lessee by Article XV hereof, regardless whether an Event of Default has occurred. After the date hereof, and in addition to any rights the mortgagee or Investor Limited Partner may have by virtue of this Lease, if, within ninety (90) days after the mailing of a notice of termination, or such later date as may be provided in this Lease following the expiration of the cure period, if any, afforded to the Lessee (the "Mortgagee/Investor Cure Period"), such mortgagee or Investor Limited Partner shall pay, or arrange to the satisfaction of Lessor for the payment of, a sum of money equal to any and all Basic Rent, Additional Rents, and other payments due and payable by Lessee hereunder with respect to the portion of the Leased Property to which such mortgagee or Investor Limited Partner claims an interest as of the date of the giving of notice of termination, in addition to their pro rata share of any and all expenses, costs and fees, including reasonable attorneys' fees, incurred by Lessor in preparation for terminating this Lease, and in acquiring possession of the Leased Property, then, upon the written request of such mortgagee or Investor Limited Partner made any time prior to the expiration of the

Mortgagee/Investor Cure Period, Lessor and the party making such request (or its nominee) (the "New Lessee") shall mutually execute prior to the end of such Mortgagee/Investor Cure Period a new Lease of the Leased Property (or such portion thereof as they have an interest in or mortgage on) for the remainder of the Term of this Lease and on the same terms and conditions, and with the same priority over any encumbrances created at any time by Lessor, its successors and assigns which Lessee has or had by virtue of this Lease; provided, however, that in addition to the above payments such New Lessee shall have paid to Lessor a sum of money equal to the Basic Rent and other payments for such portion of the Leased Property accruing from the date of such termination to the date of the commencement of the term of such new Lease, together with its pro rata share of all expenses, including reasonable attorneys' fees, incident to the preparation, printing, execution, delivery and recording of such new lease and provided, further, that such New Lessee is approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved. Such priority shall exist by virtue of the notice created by this Lease to any transferee of Lessor or person receiving an encumbrance from Lessor, and the priority shall be self-operative and shall not require any future act by Lessor. Such new Leases shall contain the same clauses subject to which this demise is made, and shall be at the rents and other payments for such portion of the Leased Property due Lessor and upon the terms as are herein contained. New Lessees under any such new Leases shall have the same right, title and interest in and to and all obligations accruing thereafter under this Lease with respect to the applicable portion of the Leased Property as Lessee has under this Lease. Nothing in this Section 13.03 shall require the Investor Limited Partner or mortgagee, as a condition to the exercise of its rights under this Section 13.03, to cure any default of Lessee not reasonably susceptible of being cured by any investor limited partner or mortgagee.

Section 13.04 Simultaneously with the making of such new leases, the party obtaining such new lease and all other parties junior in priority of interest in the Leased Property shall execute, acknowledge and deliver such new instruments, including new mortgages and new subleases, as the case may be, and shall make such payments and adjustments among themselves, as shall be necessary and proper for the purpose of restoring to each of such parties as nearly as reasonably possible, the respective interest and status with respect to the Leased Property which was possessed by the respective parties prior to the termination of this Lease as aforesaid.

Section 13.05 Nothing herein contained shall be deemed to impose any obligation on the part of Lessor to deliver physical possession of the Leased Property to such mortgagee or their respective nominee until the new leases have been executed by all pertinent parties. Lessor agrees, however, that Lessor will, at the cost and expense of such mortgagee or respective nominee, cooperate in the prosecution of judicial proceedings to evict the then defaulting Lessee or any other occupants of the Leased Property.

Section 13.06 Notwithstanding the term of any mortgage, Lessee's mortgagee shall have no further rights in the Lease except as stated herein. As used in this Section and throughout this Lease, the noun "mortgage" shall include a leasehold deed of trust, the verb "mortgage" shall include the creation of a leasehold deed of trust, the word "mortgagee" shall include the beneficiary under a leasehold deed of trust, and the terms "foreclose" or "foreclosure" shall include a trustee's sale under a deed of trust as well as a foreclosure by judicial process.

**ARTICLE XIV.**  
**Events of Default; Termination**

If any one or more of the following events (herein called "Events of Default") shall happen:

(a) if Lessee fails to maintain the commercial general liability insurance required by Section 10.01 after being given notice of such failure and not curing such failure within ten (10) days of receipt of such notice; or

(b) if default shall be made in the due and punctual payment of any payment due pursuant to Section 7.04 hereof, and such default shall continue for more than thirty (30) days after Lessee's receipt of written notice of such default to Lessee from Lessor; or

(c) if default shall be made by Lessee in the due performance of or compliance with any of the terms hereof, other than that referred to in the foregoing subdivisions (a) and (b), and such default shall continue for sixty (60) days after Lessor shall have given Lessee written notice of such default (or in the case of any such default which cannot with due diligence be cured within such 60-day period, if Lessee shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with any such default not susceptible of being cured with due diligence within the sixty (60) days that the time of Lessee within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence);

then in any such event Lessor at any time thereafter and while such Event of Default shall continue may give a written termination notice to Lessee, which notice shall specify the nature of the Event of Default and a date of termination of this Lease not less than ninety (90) days after the giving of such notice. Upon such termination, Lessor shall have the right, but not the obligation, to enter upon the Leased Property and repossess the Leased Property. This termination right is subject to Lessee's right to purchase the Leased Property pursuant to Section 15.01 and at any time during or within 30 days after the term of this Lease, Lessee may exercise its right in Section 15.01 to purchase the Leased Property without regard to whether an Event of Default has occurred.

**ARTICLE XV.**  
**Purchases and Purchase Prices**

**Section 15.01 Option to Purchase.** Lessee (and upon an event of default under any mortgage, such mortgagee) shall have an irrevocable and exclusive option to purchase the Leased Property as a whole or any part thereof at any time during the Term or within thirty (30) days after the termination or expiration of the Lease for the amount provided in **Section 15.03**. To exercise such option Lessee, with the prior written consent of Investor Limited Partner, or mortgagee shall (i) give Lessor at least ten (10) days prior written notice of its intent to exercise any option granted pursuant to this Section 15.01, which notice shall state the purchase date, and (ii) comply with the provisions of Section 15.03 hereof. The option to be exercised by Lessee or mortgagee hereunder may be exercised whether or not a default or Event of Default has occurred hereunder. Lessee or mortgagee shall also have the option to purchase any item of Equipment upon ten (10) days' prior written notice of its intent to exercise its option to purchase such item and upon compliance with **Section 15.03**.

**Section 15.02 Granting of Easements.** From time to time during the Term, Lessee shall have the right, at Lessee's expense, to cause Lessor (i) to grant easements affecting the Leased Land, (ii) to dedicate or convey, as required, portions of the Leased Land for road, highway and utilities and other public purposes, and (iii) to execute petitions to have the Leased Land or portions thereof annexed to any



municipality or included within any utility, highway or other improvement or service district. Lessor shall also promptly execute and deliver estoppels, joinders, non-disturbance agreements and other documents required in connection with Lessee's use, financing, and refinancing of the Leased Property.

Section 15.03 Exercise of Option.

(a) To exercise any option contained in Section 15.01, Lessee or Investor Limited Partner, as applicable, shall pay, or cause to be paid, on or prior to the purchase date, as the purchase price the sum of (i) \$1.00 plus (ii) any other amounts that are then due or that have accrued under this Lease (including, without limitation, any amounts due upon termination or expiration of this Lease), but excluding any amounts required to be expended pursuant to Article XI.

(b) On the purchase date for the purchase of the Leased Property or the Equipment pursuant to Section 15.01, Lessor shall convey Lessor's interest in the Leased Property to Lessee (or its assigns) by quitclaim deed and/or bill of sale, as appropriate, without warranty of any type. The form of the quitclaim deed and bill of sale pursuant to which property will be conveyed pursuant to this Section shall be in substantially the forms attached hereto as Exhibit D and Exhibit E respectively. Lessee shall pay all expenses relating to such conveyance. To the extent Lessee or mortgagee exercises its option to purchase all of the Lease Property, then this Lease shall terminate upon conveyance of the Leased Property to Lessee or mortgagee.

**ARTICLE XVI.**

Miscellaneous

Section 16.01 Applicable Law. This Lease shall be governed exclusively by the provisions hereof and by the applicable laws of the State.

Section 16.02 Severability. In the event that any clause or provision of this Lease shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 16.03 Notices and Demands. All notices, certificates, demands, requests, consents, approvals and other similar instruments under this Lease shall be in writing, and shall be effective either (a) when delivered personally to the party for whom intended, (b) on the second business day following mailing by a nationally recognized overnight courier service, (c) on the fifth day following mailing by certified or registered mail, return receipt requested, postage prepaid, or (d) on the date transmitted by telecopy as shown on the telecopy confirmation therefor as long as such telecopy transmission is followed by mailing of such notice by certified or registered mail, return receipt requested, postage prepaid, in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

To the Lessor:

Knoxville's Community Development Corporation  
P.O. Box 3550  
Knoxville, Tennessee 37927  
Attention: Benjamin M. Bentley

with copies to:

James P. Moneyhun, Esq.  
Bass, Berry & Sims PLC  
900 S. Gay Street

1700 Riverview Tower  
Knoxville, Tennessee 37902

To the Lessee:

Central Terrace, LP  
4713 Crippen Road  
Knoxville, Tennessee 37918  
Attention: David Varner

To Lender (as mortgagee as provided in Article XIII):

Churchill Mortgage Construction LLC  
c/o Churchill Stateside Group  
915 Chestnut Street  
Clearwater, FL 33756  
Attention: Rex N. Tilley

To the Investor Limited Partner  
(as an investor limited partner as provided in Article XIII):

WNC Holding, LLC  
WNC Housing, L.P.  
c/o WNC & Associates, Inc.  
17782 Sky Park Circle  
Irvine, California 92614-6404  
Attention: David N. Shafer, Esq.

Section 16.04 Headings and References. The headings in this Lease are for convenience of reference only and shall not define or limit the provisions thereof. All references in this Lease to particular Articles or Sections are references to Articles or Sections of this Lease, unless otherwise indicated.

Section 16.05 Successors and Assigns. The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 16.06 Multiple Counterparts. This Lease may be executed in multiple counterparts, each of which shall be an original but all of which together shall constitute but one and the same instrument.

Section 16.07 Expenses and Closing Fee. Lessee shall pay all costs and expenses of Lessor in connection with the preparation, negotiation and execution of this Lease and the performance hereof, including the reasonable fees and expenses of Lessor's attorneys. In addition, in the event that Lessor shall be required to engage legal counsel for the enforcement of any of the terms of this Lease, whether or not such employment shall require institution of suit or other legal services required to secure compliance on the part of Lessee, Lessee shall be responsible for and shall promptly pay to Lessor the reasonable value of said attorneys' fees, and any other reasonable expenses incurred by Lessor as a result of such default. Furthermore, simultaneously with the execution hereof, Lessee shall pay to Lessor a closing fee in the amount of \$35,000.00 in accordance with Lessor's policies.

Section 16.08 No Liability of Officers, Etc. No recourse under or upon any obligation, covenants or agreement contained in this Lease shall be had against any incorporator, members, director or officer, as such, past, present or future, of Lessor, either directly or through the Lessor. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer is hereby expressly waived and released by Lessee as a condition of and consideration for the execution of this Lease.

Section 16.09 No Liability of City, County, Officers, Etc. The City, County and the officers and agents of the City and County shall not in any event be liable for the performance of any obligation or agreement of any kind whatsoever herein, and none of the agreements or obligations of Lessor contained in this Lease or otherwise shall be construed to constitute an indebtedness of the City, County or the officers or agents of the City or County, within the meaning of any constitutional or statutory provision whatsoever.

Section 16.10 Limitation of Liability. Notwithstanding any other provision hereof, Lessor's liability hereunder shall be limited to its interest in the Leased Property and the payments to be made pursuant to this Lease, and Lessee shall not have any recourse against any other assets of Lessor.

Section 16.11 Interest. In addition to all other amounts payable under this Lease, Lessee shall also pay interest on any payment due hereunder that is not paid on the date such payment is due until paid at the interest rate, as it may vary from time to time, that the City would impose on a delinquent tax payment during the period such payment was due.

Section 16.12 Amendments and Modifications. The Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings whether written or oral. Any amendments, modifications or revisions to this Lease shall be signed by both Lessor and Lessee and only with the prior written consent of Investor Limited Partner.

[Signatures appear on following page.]

IN WITNESS WHEREOF, this Lease has been duly executed by the parties hereto as of the date and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

ATTEST:

By: \_\_\_\_\_  
Robert Whetsel, Chair

\_\_\_\_\_  
Secretary

CENTRAL TERRACE, LP,  
a Tennessee limited partnership

By: Central Terrace GP, LLC  
a Tennessee limited liability company,  
its Managing General Partner

By: \_\_\_\_\_  
David Varner, President

EXHIBIT A

[Legal Description of Leased Land]

EXHIBIT B

Leased Equipment

None.

EXHIBIT C  
**BILL OF SALE**

Knox County, Tennessee

\_\_\_\_\_, 20\_\_\_\_

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby transfers and conveys to Knoxville's Community Development Corporation, a public nonprofit corporation, all of its right, title, claim and interest in law and equity in and to all personal property, fixtures, machinery and equipment described on Exhibit A attached hereto.

The undersigned warrants that it has good and lawful right to make this conveyance.

IN WITNESS WHEREOF, \_\_\_\_\_ has caused its name to be signed by its duly authorized officer on the day and year first above written.

CENTRAL TERRACE, LP,  
a Tennessee limited partnership

By: Central Terrace GP, LLC  
a Tennessee limited liability company,  
its Managing General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Sworn to and subscribed before me, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

My Commission Expires:

\_\_\_\_\_

EXHIBIT D

This Instrument Prepared By:  
James P. Moneyhun, Jr., Attorney  
BASS, BERRY & SIMS PLC  
1700 Riverview Tower  
900 South Gay Street  
Knoxville, Tennessee 37902

QUITCLAIM DEED

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between:

KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law.

First Party, and

CENTRAL TERRACE, LP, a Tennessee limited partnership.

Second Party,

WITNESSETH: that said First Party, for and in consideration of the sum of ONE DOLLAR (\$1.00) cash and other good and valuable considerations in hand paid by Second Party, the receipt and sufficiency of which is hereby acknowledged, has quitclaimed and does hereby quitclaim unto the said Second Party the following described premises:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A AND MADE A PART HEREOF.

THIS CONVEYANCE is made subject to applicable easements, restrictions and building set back lines of record.

TOGETHER with all the estate, right, title and interest of the First Party therein, with the hereditaments and appurtenances thereto appertaining releasing all claims therein.

In this instrument in every case the plural shall include the singular and vice-versa and each gender the others.

IN WITNESS WHEREOF, this instrument has been executed on behalf of First Party by its duly authorized officer on the day and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

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



STATE OF TENNESSEE     )  
  )  
COUNTY OF \_\_\_\_\_ )

Personally appeared before me the undersigned authority, a Notary Public in and for said City and in said state, \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Chair of Knoxville's Community Development Corporation, the within named bargainor, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, and that he as such Chair, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Chair.

Witness my hand and official seal at office, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

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

My Commission Expires:

\_\_\_\_\_

Name and address of property owner:

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

who is responsible for payment of taxes.

CLT CODE: \_\_\_\_\_

I hereby swear or affirm that the actual consideration or true value of this transfer, whichever is greater is \$1.00.

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Affiant

My Commission Expires:

\_\_\_\_\_

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

**EXHIBIT E**

**BILL OF SALE**

Knox County, Tennessee

\_\_\_\_\_, 20\_\_\_\_

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby transfers and conveys to Central Terrace, LP, a Tennessee limited partnership, all of its right, title, claim and interest in law and equity in and to all personal property, fixtures, machinery and equipment described on Exhibit A attached hereto.

The undersigned makes no warranty as to title of the property transferred and conveyed.

IN WITNESS WHEREOF, Knoxville's Community Development Corporation has caused its name to be signed by its duly authorized officer on the day and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

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

Sworn to and subscribed before me, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

My Commission Expires:

\_\_\_\_\_

34056470.1

## BOARD ACTION FORM

|  |   |
|--|---|
| <b>MEETING DATE</b>  | December 6, 2022  |
| <b>AGENDA ITEM DESCRIPTION</b>   | Resolution regarding a payment in lieu of tax transaction (PILOT) for Callahan Flats Apartments.  |
| <b>SUBMITTED BY</b>  | Name, Title / Department: Brad Peters, VP   |
| <b>MEETING TYPE</b>  | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual  |
| <b>CLASSIFICATION</b>  | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval  |
| <b>BUDGET / FINANCIAL IMPACT</b>   | Budgeted: \$ <u>na</u> Expenditure: \$ <u>na</u><br>Source of Funds: KCDC will receive fee of \$25,000  |
| <b>APPROVAL / REVIEWS</b>  | <input checked="" type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input type="checkbox"/> Legal Counsel: _____<br>Other – Name/Title: _____ |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>The objective of this action is to obtain authorization to execute documents to provide a payment in lieu of taxes to the Callahan Flats affordable housing development, the construction of an approximate 88-unit housing facility for low and moderate income citizens. KCDC first received a letter of support from the mayor and this supports our goal of promoting affordable housing in the area.</p> <p><b>2. Why is the action needed now?</b><br/>Closing for the project is happening soon.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>Knoxville Leadership Foundation - The developer who is to building the development, and who's affiliate will lease back the property from KCDC.<br/>KCDC-Owner for purposes of the PILOT</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>KCDC will have minimal exposure in connection with holding nominal title to the property.</p> |   |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>   | In 2015, Tenn. Code Ann. § 48-101-312 was amended to permit housing authorities, in certain circumstances, to provide property tax abatement for low-income housing tax projects upon the receipt of a support letter from the mayor.               |
| <b>ATTACHMENTS</b>   | Resolution, Support Letter, Map and Lease   |



October 20, 2022

Benjamin Bentley  
Knoxville's Community Development Corporation  
901 N. Broadway  
Knoxville, Tennessee 37917

**Re: Support Letter for Callahan Flats Affordable Housing Project**

Dear Mr. Bentley:

I understand that Knoxville's Community Development Corporation ("KCDC"), through its proposed lessee, Knoxville Leadership Foundation, is undertaking the acquisition and construction of multi-family apartments located at 1511 and 1517 Callahan Drive, currently owned by J297, LLC. I understand that this project entails constructing an 88-unit apartment development providing affordable and workforce housing for the local community. To provide financing for this project, Knoxville Leadership Foundation has received, among other sources of funds, an allocation of low-income housing tax credits from the Tennessee Housing Development Agency to ensure these apartments remain as affordable housing for the next 30 years.

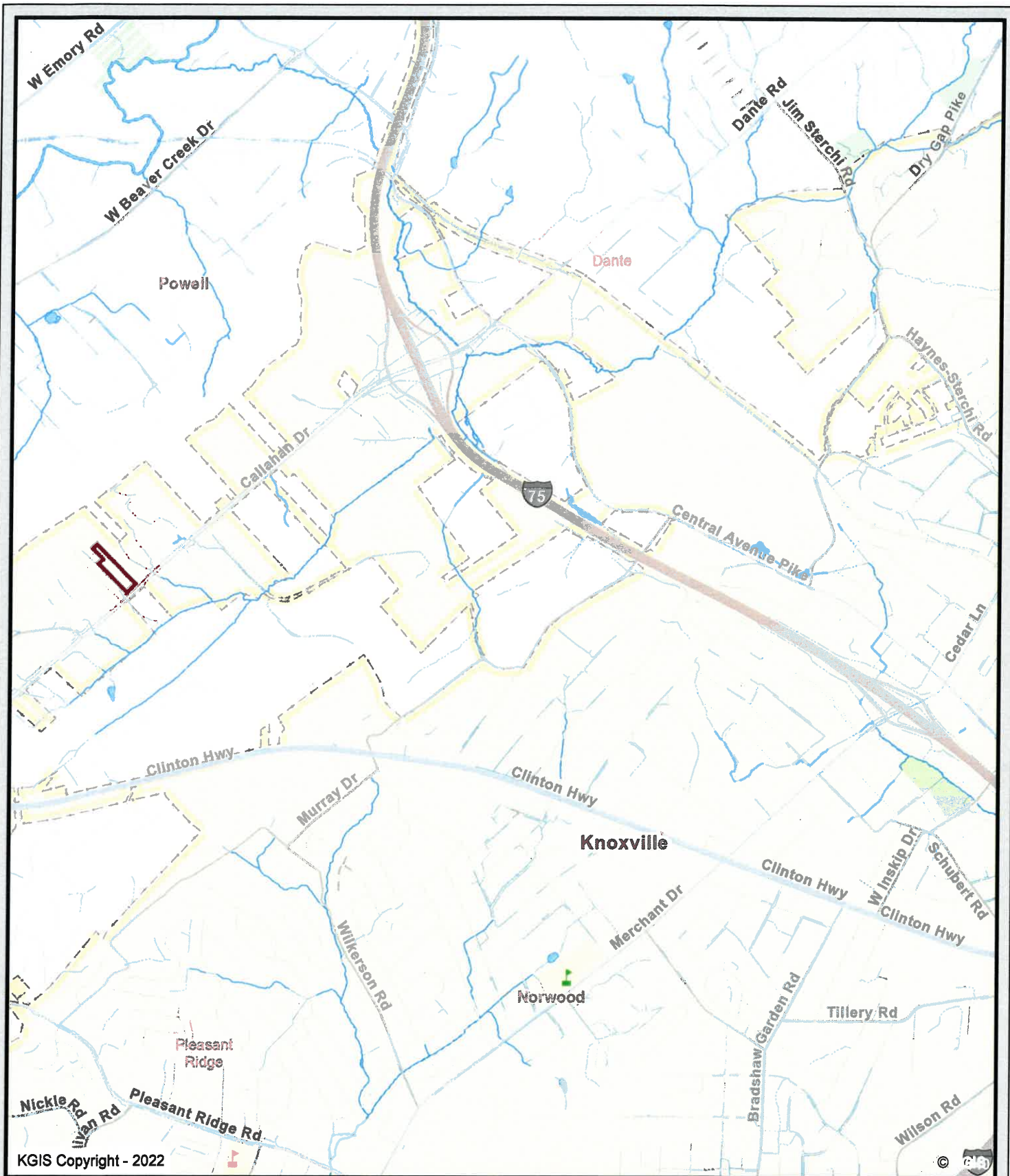
Pursuant to Section 48-101-312 of the Tennessee Code Annotated, and because the City has not formed a health, educational, and housing facility corporation, KCDC is permitted to enter into an agreement for payments in lieu of taxes with respect to this project provided that I, as the chief executive officer of the City, provide a letter in support of the project. Please accept this letter as evidence of my support of this project for payments in lieu of taxes for a term of up to 20 years with the payment amount set at \$7,259.38 to the City of Knoxville and \$5,786.00 to Knox County. The construction of these apartments and the provision of affordable housing for low-income residents are important goals of the City, and this project is consistent with ~~the City's~~ goals.

Sincerely,

Indya Kincannon  
Mayor

Approved as to form:

Charles W. Swanson  
Director of Law



## Callahan Flats

Knoxville - Knox County - KUB Geographic Information System

KGIS makes no representation or warranty as to the accuracy of his map and its information nor to its fitness for use. Any user of this map product accepts the same AS IS, WITH ALL FAULTS, and assumes all responsibility for the use thereof, and further covenants and agrees to hold KGIS harmless from any and all damage, loss, or liability arising from any use of this map product.



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**BOARD ACTION FORM**

|   |   |
|---|---|
| <b>MEETING DATE</b>   | December 6, 2022  |
| <b>AGENDA ITEM DESCRIPTION</b>  | Resolution regarding a payment in lieu of tax transaction (PILOT) with DGA Holston LP.  |
| <b>SUBMITTED BY</b>   | Name, Title / Department: Brad Peters, VP   |
| <b>MEETING TYPE</b>   | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual  |
| <b>CLASSIFICATION</b>   | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval  |
| <b>BUDGET / FINANCIAL IMPACT</b>  | Budgeted: \$ <u>na</u> Expenditure: \$ <u>na</u><br>Source of Funds: KCDC will receive fee of \$25,000  |
| <b>APPROVAL / REVIEWS</b>   | <input checked="" type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input type="checkbox"/> Legal Counsel: _____<br>Other – Name/Title: _____ |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>The objective of this action is to obtain authorization to execute documents to provide a payment in lieu of taxes to the DGA Holston affordable housing development, the construction of a 96-unit housing facility for low and moderate income citizens. Prior to execution of documents, a letter of support from the mayor will be provided by the developer.</p> <p><b>2. Why is the action needed now?</b><br/>Closing for the project is happening soon.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>DGA Holston LP - The developer (20% owned by a KCDC affiliate) who is to building the development, and who will lease back the property from KCDC.<br/>KCDC-Owner for purposes of the PILOT</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>KCDC will have minimal exposure in connection with holding nominal title to the property.</p> |   |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>  | In 2015, Tenn. Code Ann. § 48-101-312 was amended to permit housing authorities, in certain circumstances, to provide property tax abatement for low-income housing tax projects upon the receipt of a support letter from the mayor.               |
| <b>ATTACHMENTS</b>  | Resolution, Map and Lease   |

## **RESOLUTION NO. 2022-\_\_\_**

### **RESOLUTION OF THE BOARD OF COMMISSIONERS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION REGARDING A PAYMENT IN LIEU OF TAX TRANSACTION WITH DGA HOLSTON LP**

**WHEREAS**, the Board of Commissioners of Knoxville's Community Development Corporation ("KCDC") has met pursuant to proper notice; and

**WHEREAS**, KCDC is the housing, redevelopment and urban renewal authority of the City of Knoxville, Tennessee (the "City") and is duly incorporated pursuant to Sections 13-20-101 et seq., Tennessee Code Annotated; and

**WHEREAS**, to induce DGA Holston LP, a Tennessee limited partnership (the "Applicant"), to construct a housing development for low and moderate income citizens on certain property located on the north side of Holston Hills Road, across the street from Holston River Park (which park is located at 3300 Holston Hills Road in Knoxville, Tennessee) (the "Project"), KCDC will acquire certain real and personal property related to the Project, and KCDC will lease said property to the Applicant on the terms and conditions set forth in the Lease referenced herein; and

**WHEREAS**, KCDC has received or expects to receive a letter from the Mayor of the City expressing her support for the Project pursuant to Tenn. Code Ann. § 48-101-312(b)(4)(C) (the "Mayor Support Letter"); and

**WHEREAS**, there has been submitted to KCDC a form of Lease (the "Lease"), between KCDC and the Applicant, which provides certain payments in lieu of tax as provided therein and which KCDC proposes to execute to carry out the transaction described above, a copy of which instrument shall be filed with the records of KCDC.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION:**

1. It is hereby found and determined that the acquisition and ownership of the Project will promote industry, trade, commerce and housing in the State of Tennessee and will increase the availability of affordable housing and employment in the City.

2. The Chairman or the Vice Chairman of KCDC is hereby authorized and directed to execute, and, where requested, the Secretary or Assistant Secretary is authorized to attest, and/or any other officer of KCDC, acting alone or in combination with one another (individually

and collectively the "Authorized Officers"), is (are) hereby authorized and empowered to execute the Lease and deliver the Lease to the Applicant.

3. KCDC is hereby authorized and directed to own the Project pursuant to the terms of the Lease.

4. The Lease shall be in substantially the form submitted, which is hereby approved, with such completions, omissions, insertions and changes as may be approved by the officer executing it, his or her execution to constitute conclusive evidence of his or her approval of any such omissions, insertions and changes; provided, however, that the terms of the Lease shall be consistent with the terms set forth in the Mayor Support Letter.

5. The officers of KCDC are hereby authorized and directed to execute, deliver and file such other certificates and instruments and to take all such further action as they may consider necessary or desirable in connection with the consummation of the transactions described above, including, without limitation, executing such documents as any lender of the Applicant may request in connection with its liens on the Project; provided, however, that a Lease shall not be executed by KCDC for the Project and the transactions described herein shall not be consummated for such Project until after KCDC has received a Mayor Support Letter executed by the Mayor for such Project.

6. Any authorization herein to execute any document shall include authorization to record such document where appropriate.

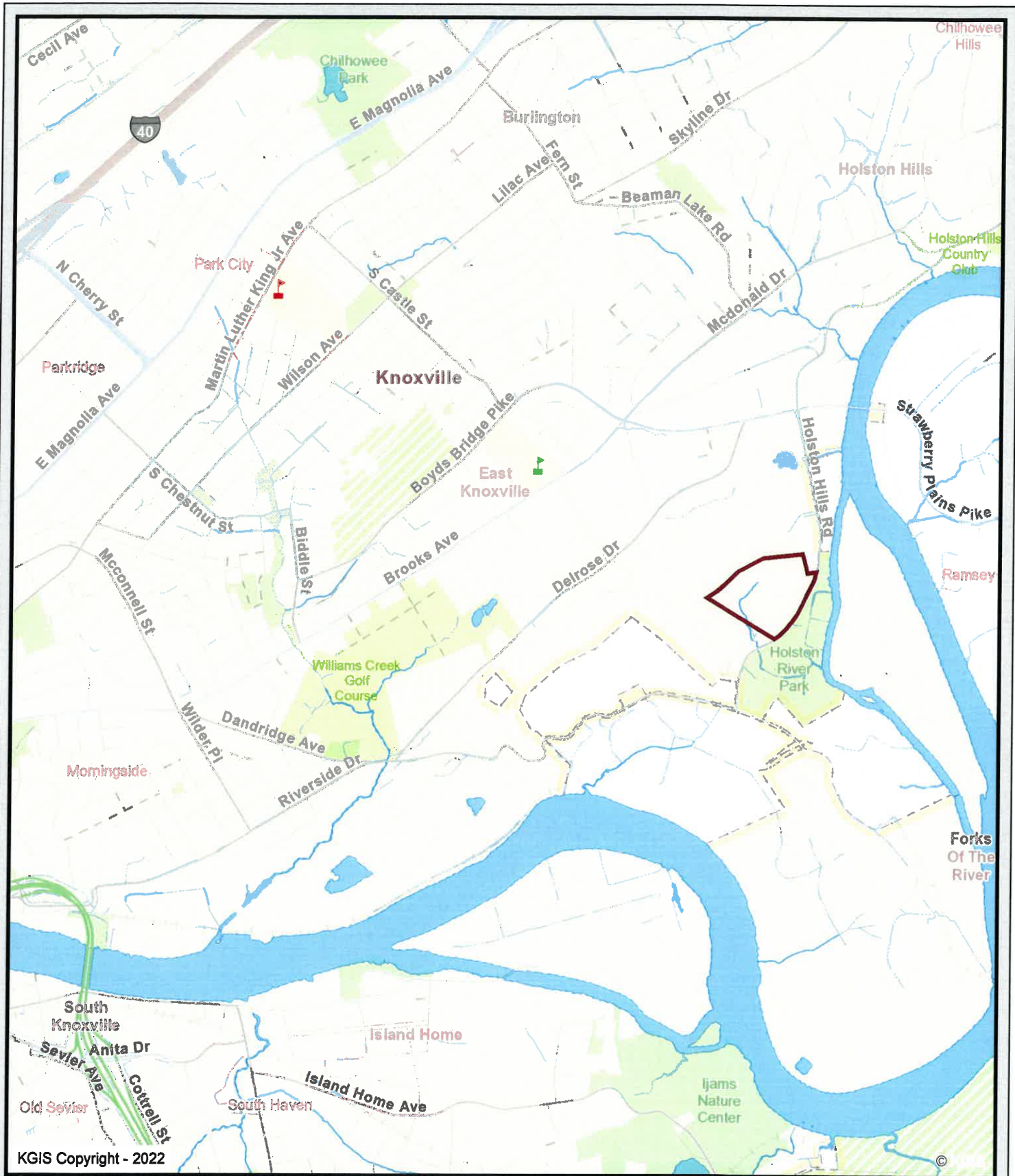
7. All other acts of the officers of KCDC which are in conformity with the purposes and intent of this resolution are hereby approved and confirmed.

Approved this \_\_\_\_ day of December, 2022

**KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION**

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





## Holston

### Knoxville - Knox County - KUB Geographic Information System

KGIS makes no representation or warranty as to the accuracy of his map and its information nor to its fitness for use. Any user of this map product accepts the same AS IS, WITH ALL FAULTS, and assumes all responsibility for the use thereof, and further covenants and agrees to hold KGIS harmless from any and all damage, loss, or liability arising from any use of this map product.



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KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION

(a housing and redevelopment authority of  
the City of Knoxville, Tennessee organized under Tennessee law)

TO

DGA HOLSTON LP

(a Tennessee limited partnership)

---

LEASE

DATED AS OF DECEMBER \_\_, 2022

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This instrument prepared by:  
BASS, BERRY & SIMS PLC (JPM)  
900 S. Gay Street, Suite 1700  
Knoxville, Tennessee 37902

## LEASE

This Lease, made and entered into as of the \_\_\_ day of December, 2022 ("Commencement Date"), by and between KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §§ 13-20-101, et seq. ("Lessor"), and DGA HOLSTON LP, a Tennessee limited partnership ("Lessee").

### WITNESSETH:

WHEREAS, Lessor is a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §§ 13-20-101, et seq., as amended (the "Act"), and is the fee simple owner of the Leased Land (as defined below) pursuant to that Acquisition Deed dated on or about the date hereof, and Lessor is authorized under the Act to acquire, whether by purchase, exchange, gift, lease, or otherwise, and to own, lease and dispose of properties for the purpose of providing safe and sanitary dwelling accommodations for persons of low income;

WHEREAS, in order to encourage Lessee to cause the acquisition, construction and equipping of an approximately ninety-six (96) unit apartment development providing affordable housing to be known as Willow Place Apartments located in the City of Knoxville, Tennessee (the "Project"), thereby furthering the purposes of the Act, Lessor desires to lease to Lessee and Lessee desires to rent from Lessor certain real property and equipment hereinafter more particularly described, on the terms and conditions set forth herein; and

WHEREAS, pursuant to Tenn. Code Ann. § 48-101-312(b)(4)(C), the Mayor of the City of Knoxville, Tennessee submitted a letter dated November \_\_, 2022 to the Lessor supporting the Project and approving the Lessor to negotiate and accept from Lessee payments in lieu of ad-valorem taxes; and

NOW, THEREFORE, Lessor, for and in consideration of the payments hereinafter stipulated to be made by Lessee, and the covenants and agreements hereinafter contained to be kept and performed by Lessee, does by these presents demise, lease and let unto Lessee, and Lessee does by these presents, lease and rent from Lessor, for the Term (as defined below) and upon the conditions hereinafter stated, the Leased Land (as defined below) described in Exhibit A attached hereto, and incorporated herein by reference, together with all facilities and improvements now existing or hereafter constructed thereon by Lessee or otherwise and the Equipment (as defined below) described in Exhibit B attached hereto and incorporated herein by reference;

UNDER AND SUBJECT, however, to deed restrictions, covenants, easements, reservations, rights of way and other encumbrances applicable to the real property and equipment to be leased and existing as of the date hereof and any other encumbrance hereafter existing that is not created by Lessor; and

UNDER AND SUBJECT to the following terms and conditions:

### ARTICLE I.

#### Definitions

Section 1.01 In addition to the words, terms and phrases elsewhere defined in this Lease, the following words, terms and phrases as used in this Lease shall have the following respective meanings:

"Acquisition Deed" shall mean the deed pursuant to which Lessor acquires title to the Leased Land.

"Act" shall mean Tenn. Code Ann. §§ 13-20-101, et seq., as amended.

"Additional Rent" shall mean the amounts described in Section 4.02,

"Basic Rent" shall mean the amounts described in Section 4.01.

"Buildings" shall mean the Buildings to be constructed on the Leased Land by Lessee pursuant to Article XI.

"City" shall mean the City of Knoxville, Tennessee.

"Completion Date" shall mean the earlier of (i) [two years after the date hereof] and (ii) the date that the construction of the Buildings described in Article XI is substantially complete, as evidenced by the issuance of a certificate of occupancy. Lessee shall provide a certificate to Lessor evidencing the Completion Date no later than thirty (30) days after the occurrence of the Completion Date.

"County" shall mean Knox County, Tennessee.

"Equipment" shall mean the machinery, equipment and other tangible personal property described on Exhibit B attached hereto as from time to time supplemented.

"Force Majeure" means fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, pandemic, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the applicable party's reasonable control. Where this Lease expressly provides that a party's obligations are subject to Force Majeure, then delay or non-performance on the part of such party will be excused upon the occurrence and during the continuance of such event of Force Majeure, provided that such party promptly gives the other party written notice of the occurrence and abatement of such event of Force Majeure.

"Investor Limited Partner" shall mean [Southeast Bank entity], as the investor limited partner of Lessee, and its successors and assigns.

"Lease" shall mean this instrument as originally executed or as it may from time to time be supplemented or amended by one or more instruments supplemental hereto.

"Leased Land" shall mean the real property described in Exhibit A attached hereto.

"Leased Property" shall mean the Equipment and the Leased Land, together with the Buildings and related improvements.

"Lender" shall mean [\_\_\_\_\_, a \_\_\_\_\_,] and its successors and assigns.

"Lessee" shall mean DGA Holston LP, a Tennessee limited partnership.

"Lessor" shall mean Knoxville's Community Development Corporation, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Act.

"Rent" shall mean collectively, the Basic Rent and the Additional Rent,

"Tax Credits" shall mean any low income housing tax credits available at the Leased Property pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

"Tax Year" shall mean each annual period beginning on January 1 of each year and ending on December 31 of that year.

"Term" shall mean the term described in Article III.

## **ARTICLE II.**

### **Representations**

**Section 2.01** **Representations of Lessee.** Lessee makes the following representations and warranties to induce Lessor to enter into this Lease:

(a) Lessee is a limited partnership duly formed, existing and in good standing under the laws of the State of Tennessee (the "State"), has full power and authority to enter into this Lease and to perform all obligations contained herein and therein, and has, by proper action, been duly authorized to execute and deliver this Lease and, when executed and delivered by the parties thereto, this Lease will constitute the valid and binding obligation of Lessee enforceable in accordance with its terms.

(b) Neither the execution and delivery of this Lease, nor the consummation of the transactions contemplated herein by Lessee, nor the fulfillment of or compliance with the terms and conditions of this Lease, does or will conflict with or result in a breach of the terms, conditions or provisions of any restriction or internal governing document of Lessee or any agreement or instrument to which Lessee is now a party or by which it is bound; or any existing law, rule, regulation, judgment, order or decree to which it is subject, or constitutes a default under any of the foregoing or, except as contemplated hereby, results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Lessee under the terms of any instrument or agreement.

(c) There are no proceedings pending, or to the knowledge of Lessee threatened, against or affecting Lessee in any court or before any governmental authority, arbitration board or tribunal which involve the possibility of materially and adversely affecting the properties, business, prospects, profits or condition (financial or otherwise) of Lessee, or the ability of Lessee to perform its obligations under this Lease. Lessee is not in default with respect to an order of any court, governmental authority, arbitration board or tribunal.

(d) No event has occurred and no condition exists with respect to Lessee that would constitute an Event of Default under this Lease, as defined in Article XIV, or which, with the lapse of time or with the giving of notice, or both, would become such an Event of Default.

(e) To the knowledge of Lessee, and in reliance upon, and except as disclosed in, an independent third-party report obtained by Lessee, there are no substances, materials, wastes, pollutants or contaminants located on the Leased Property that are regulated under any environmental law or regulation except those materials and substances that are maintained in compliance with such laws and regulations, and Lessee shall not permit material quantities of such substances, materials, wastes, pollutants or contaminants to exist on the Leased Property during the Term of this Lease except in compliance with such laws and regulations.

**Section 2.02** **Representations of Lessor.** Lessor makes the following representations and warranties to induce Lessee to enter into this Lease:

(a) The Lessor is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to enter into this Lease and to perform all obligations contained herein, and has, by proper action, been duly authorized to execute and deliver this Lease and, when executed and delivered by the parties thereto, this Lease will constitute the valid and binding obligation of Lessor enforceable in accordance with its terms.

(b) Neither the execution and delivery of this Lease nor the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of this Lease, will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof, or of any corporate restriction or any agreement or instrument to which Lessor is a party or by which it is bound, or result in the creation or imposition of any lien of any nature upon any of the Leased Property of Lessor under the terms of the Act or any such law, ordinance, restriction, agreement or instrument.

### **ARTICLE III.**

#### **Lease Term**

Subject to the provisions contained in this Lease, this Lease shall be in full force and effect for a Term commencing on the date hereof and ending on [the twentieth (20<sup>th</sup>) anniversary of the Completion Date], unless terminated earlier, in accordance with the terms hereof. Lessee shall provide a certificate to Lessor evidencing the Completion Date no later than thirty (30) days after the occurrence of the Completion Date.

Notwithstanding the foregoing, the Term of this Lease may be terminated upon exercise by Lessee of the purchase option described in Article XV hereof.

### **ARTICLE IV.**

#### **Rent**

**Section 4.01 Basic Rent.** Lessee will pay to Lessor without notice or demand, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, as Basic Rent on each January 1 during the Term, the sum of \$1.00. Lessor acknowledges that Lessee has prepaid the Basic Rent for the Term on the date hereof.

**Section 4.02 Additional Rent.** Lessee agrees to pay, as additional rent, all other amounts, liabilities and obligations which Lessee herein assumes or agrees to pay (including, without limitation, the obligations in Article XI hereof). Without limiting the foregoing, Lessor and Lessee recognize that the Leased Property has been conveyed to Lessor subject to or contemporaneously with the execution of a deed of trust securing the financing of the acquisition and construction of the Buildings on the Leased Land. Lessee agrees to make all payments of debt service relating to such financing. Lessor will execute and deliver commercially reasonable documents pledging its interest in the Leased Property, by joinder or otherwise, in connection with Lessee's financing or refinancing of the Leased Property. In the event of any failure on the part of Lessee to pay any amounts, liabilities or obligations described in this paragraph, Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of the Basic Rent.

## ARTICLE V.

### Compliance with Laws; Permitted Contests;

### Lessee's Acceptance of Leased Property; Reports; Lease of Equipment; Net Lease

**Section 5.01** Compliance with Laws. Lessee shall throughout the Term and at no expense to Lessor promptly cure any violations under all laws, ordinances, orders, rules, regulations and requirements of duly constituted public authorities, which are or shall become lawfully applicable to the Leased Property, the repair and alteration thereof, and the use or manner of use of the Leased Property, whether or not such laws, ordinances, orders, rules, regulations and requirements are foreseen or unforeseen, ordinary or extraordinary, and whether or not they shall involve any change of governmental policy or shall require structural or extraordinary repairs, alterations or additions, irrespective of the cost thereof.

**Section 5.02** Permitted Contests. Lessee shall not be required to comply or cause compliance with the laws, ordinances, orders, rules, regulations or requirements referenced in Section 5.01, so long as Lessee or Investor Limited Partner, as applicable, shall, at Lessee's expense, contest the same or the validity thereof in good faith, by appropriate proceedings. Such contest may be made by Lessee or Investor Limited Partner, as applicable, in the name of Lessor or of Lessee, or both, as Lessee shall determine and Lessor agrees that it will, at Lessee's expense, cooperate with Lessee or Investor Limited Partner, as applicable, in any such contest to such extent as Lessee may reasonably request. It is understood, however, that Lessor shall not be subject to any liability for the payment of any costs or expenses (including attorneys' fees) in connection with any such proceeding brought by Lessee or Investor Limited Partner, as applicable, and Lessee covenants to pay, and to indemnify and save harmless Lessor from, any such costs or expenses.

**Section 5.03** Acceptance of Leased Property. Lessee acknowledges that, as between Lessor and Lessee, it has examined the Leased Land and the state of Lessor's title thereto prior to the making of this Lease and knows the condition and state thereof, including, without limitation, the environmental and soil conditions, as of the first day of the term of this Lease, and accepts the same in said condition and state; that no representations as to the condition or state thereof have been made by representatives of Lessor; and that in entering into this Lease, Lessee is relying solely upon its own examination thereof. Lessee shall have sole and exclusive possession of the Leased Property during the Term.

**Section 5.04** Lease of Equipment. Lessor does hereby demise, lease and let unto Lessee, and Lessee does hereby lease and rent from Lessor, for the Term and upon the conditions herein stated, all Equipment. Lessee shall have sole and exclusive possession of the Equipment during the Term.

**Section 5.05** Net Lease. This is a "net lease" and the Rent, and all other sums payable hereunder to or for the account of Lessor shall be paid promptly and without set off, counterclaim, abatement, suspension, deduction, diminution or defense.

## ARTICLE VI.

### Title and Tax Benefits

**Section 6.01** No Conveyance of Title by Lessor. Lessor covenants and agrees that, except as set forth herein, during the Term of this Lease, it will not convey, pledge, encumber or suffer or permit the conveyance of, by any voluntary act on its part, its title to the Leased Property to any person, firm, corporation, or other entity whatsoever, irrespective of whether any such conveyance or attempted conveyance shall recite that it is expressly subject to the terms of this Lease unless such conveyance is consented, in writing, to by Lessee, its mortgagee and Investor Limited Partner. Lessor will not create any lien, encumbrance or charge upon its interest in the Leased Property except for any such lien,



encumbrance or charge otherwise created by this Lease or consented to by Lessee and Investor Limited Partner.

Section 6.02 Tax Benefits. During the Term, Lessee shall be entitled to all benefits under federal and state tax laws attributable to the ownership of the Leased Property, including, without limitation, the right to claim deductions for depreciation and the right to claim Tax Credits. Lessor shall execute and deliver other and further certificates, documents, and amendments to this Lease as reasonably requested by Lessee to confirm and establish that Lessee is the owner of the Leased Property for federal income and state franchise and excise tax purposes.

Section 6.03 Taxation of Improvements. This Lease is intended to be a lawful agreement between the Lessee and Lessor, as an instrumentality of a local government, for payments in lieu of taxes and therefore, the Buildings are assessed solely to Lessor and are subject to all applicable exemptions, all in accordance with Tennessee Code Annotated § 67-5-502(d).

## **ARTICLE VII.**

### **Taxes and Other Charges**

Section 7.01 Taxes and Other Governmental Charges. Lessee agrees, subject to the provisions of Section 7.04, to pay and discharge, as Additional Rent, punctually as and when the same shall become due and payable without penalty, all ad valorem taxes that at any time during the Term shall be or become due and payable by Lessor or Lessee and that shall be levied, assessed or imposed upon, or that shall be or become liens upon, the Leased Property or any portion thereof or any interest of Lessor or Lessee therein, under and by virtue of any present or future law, statute, regulation or other requirement of any governmental authority.

Section 7.02 Lessee Subrogated to Lessor's Rights. To the extent of any payments of Additional Rent by Lessee under this Article VII, Lessee shall be subrogated to Lessor's rights in respect to the proceedings or matters relating to such payments, and any recovery in such proceedings or matter shall be used to reimburse Lessee for the amount of such Additional Rent so paid by Lessee.

Section 7.03 Utility Services. Lessee agrees that Lessor is not, nor shall it be, required to furnish to Lessee or any other user of the Leased Property any gas, water, sewer, electricity, light, heat, power or any other facilities, equipment, labor, materials or services of any kind pursuant to this Lease and Lessee agrees that it shall pay all costs and expenses related to the foregoing.

Section 7.04 Payments in Lieu of Taxes.

(a) Recognition of Tax Status. Lessee recognizes that under present law, including specifically the Act, the properties owned by Lessor are exempt from all taxation in the State.

(b) Administrative Provisions. In furtherance of the agreements in this Section, it is agreed by and between the parties hereto that Lessee, in cooperation with Lessor, shall cause all of the Leased Property, including but not limited to, the Leased Land, the Buildings, the Equipment located in the Buildings or on the Leased Land, each expansion of any Building, the Equipment located in each expansion of any Building, and any other Equipment conveyed to Lessor hereunder to be valued and assessed separately by the assessor or other official or officials charged with the responsibility of assessing privately owned property in the area where the Leased Property is located at the time such privately owned property is valued or assessed. Lessee, in cooperation with Lessor, shall cause to be applied to the appropriate taxable value of each such portion of the Leased Property the tax rate or rates



that would be applicable for state and local tax purposes if the property were then privately owned, and shall cause the county trustee or other official or officials charged with the responsibility of collecting taxes to submit annually to Lessor and Lessee a statement of the taxes which would otherwise then be chargeable to each such portion of the Leased Property. The right is reserved to Lessee to the same extent as if Lessee were the owner of the Leased Property to contest the validity or amount of any such assessment.

(c) Payments in Lieu of Taxes. In addition to Basic Rent and Additional Rent hereunder, Lessee and Lessor agree that Lessee shall pay directly to the City and the County: (i) for each Tax Year occurring during the period commencing on the date hereof through and including the day prior to the Completion Date, a payment in lieu of taxes equal to the ad valorem taxes that would otherwise be payable with respect to the Leased Property if such Leased Property were owned by Lessee and (ii) for each Tax Year occurring during the period commencing on the Completion Date through and including the twentieth (20<sup>th</sup>) anniversary of the Completion Date, an annual payment in lieu of taxes to the County equal to [\$\_\_\_\_\_] and an annual payment in lieu of taxes to the City equal to [\$\_\_\_\_\_]. Notwithstanding anything to the contrary herein, the Investor Limited Partner shall have the right, but not the obligation, to pay the required payment in lieu of taxes to the County and the City on behalf of Lessee, and Lessor shall accept and recognize any such payment by Investor Limited Partner as if tendered by the Lessee.

Amounts payable with respect to any partial Tax Years included within the Term will be prorated based upon the actual number of days included within such Tax Year. Any payment due with respect to a Tax Year that is not paid prior to the termination or expiration of this Lease shall not be extinguished as a result of such termination or expiration and shall survive such termination or expiration.

Notwithstanding anything to the contrary contained in this Section, this Lease shall not be extended except pursuant to an amendment in writing and executed by both the Lessor and Lessee and with the written consent of Investor Limited Partner. Such reduction in taxes otherwise payable shall not apply with regard to any other tax assessed against Lessee, its income, its other real property or its personalty. In the event Lessee assumes ownership of the Leased Property, Lessee shall begin paying all applicable ad valorem and other taxes directly to the City and the County, as assessed, but shall not make, from the date of such acquisition, any in lieu payments with respect to such property other than those payments that were unpaid at the time of such acquisition.

Notwithstanding anything to the contrary contained in this Section, in the event that Lessee fails to complete the construction of the Buildings in accordance with Article XI hereof or the Leased Property becomes ineligible for Tax Credits due to a violation of the use restrictions (related to the Tax Credits) applicable to the Leased Property, then Lessee shall make a payment in lieu of taxes with respect to each Tax Year remaining in the Term on behalf of the Lessor to the City and the County in an amount equal to the ad valorem taxes that would otherwise be payable with respect to the Leased Property if such Leased Property were owned by Lessee.

(d) Credit for Taxes Paid. Nothing contained in this Section 7.04 is intended or shall be construed to require the payment by Lessee of any greater amounts in lieu of taxes than would be payable as taxes if the Leased Property were owned by Lessee. It is accordingly understood and agreed that the amount payable by Lessee in any year under the provisions of this Section 7.04 shall be reduced by the amount of any ad valorem taxes lawfully levied upon the Leased Property or any part thereof, or upon Lessee's leasehold estate therein, and actually paid by Lessee pursuant to the requirements of Section 7.01 hereof to the City and the County and to the extent that any such tax payments paid by Lessee pursuant to the requirements of Section 7.01 hereof for any year shall exceed the in-lieu-of-tax

payments for such year otherwise provided in this Section 7.04 the amount payable by Lessee in any subsequent year under the provisions of this Section 7.04 shall be reduced by such excess amount.

(e) Timing of Payments. Each payment in lieu of taxes required by this Section 7.04 with respect to any Tax Year or partial Tax Year shall be paid not later than February 28<sup>th</sup> of the following year.

(f) Reports. On behalf of Lessor, Lessee shall, during the term of this Lease, submit on or before October 1 of each year to the Tennessee State Board of Equalization the annual report required to be submitted by it.

(g) Payment Upon Termination or Expiration. Upon the termination of this Lease for any reason during a Tax Year, Lessee shall pay a pro-rated amount of the payments in lieu of taxes, if any, required by this Section 7.04 for the period that this Lease is in effect and for which no payments in lieu of taxes have been made up to the date of such termination.

(h) Cessation of Business. Except in the event Lessee shall terminate this Lease pursuant to Article IX of this Lease, in the event Lessee ceases the active operation (excluding temporary cessations due to Force Majeure events) of a low-income housing facility for eligible residents at the Leased Property, and notwithstanding any provision herein to the contrary, Lessee shall make payments in lieu of taxes beginning as of the date Lessee ceases such operation equal to the ad valorem taxes that Lessee otherwise would have been required to make with respect to the Leased Property if the Leased Property was owned by Lessee.

Section 7.05 Permitted Contests. Lessee shall not be required to pay any tax or assessment against the Leased Property or any part thereof, so long as Lessee or Investor Limited Partner, as applicable, shall, at Lessee's expense, contest the same or the validity thereof in good faith, by appropriate proceedings which shall operate to prevent the collection of the tax or assessment so contested or resulting from such contest and the sale of the Leased Property or any part thereof to satisfy the same. Such contest may be made by Lessee or Investor Limited Partner, as applicable, in the name of Lessor or of Lessee, or both, as Lessee or Investor Limited Partner, as applicable, shall determine, and Lessor agrees that it will, at Lessee's expense, cooperate with Lessee or Investor Limited Partner, as applicable, in any such contest to such extent as Lessee or Investor Limited Partner, as applicable, may reasonably request. It is understood, however, that Lessor shall not be subject to any liability for the payment of any costs or expenses (including attorneys' fees) in connection with any such proceeding brought by Lessee or Investor Limited Partner, as applicable, and Lessee covenants to pay, and to indemnify and save harmless Lessor from, any such costs or expenses.

## **ARTICLE VIII.**

### **Maintenance and Repair**

Lessor shall not be required to rebuild or to make any repairs, replacements or renewals of any nature or description to the Leased Property or to make any expenditures whatsoever in connection with this Lease or to maintain the Leased Property in any way. Lessee expressly waives the right contained in any law now or hereafter in effect to make any repairs at the expense of Lessor.

Lessee shall keep and maintain in good order, condition and repair (including any such repair as is required due to fire, storm or other casualty) the Leased Property and every part thereof and any and all appurtenances thereto. Lessee shall save Lessor harmless on account of claims for mechanics and materialmen's liens in connection with any work by Lessee, and any such liens shall exist only against Lessee's leasehold interest and shall be discharged, by bond or otherwise, within sixty (60) days after

filing. Lessee shall keep and maintain the Leased Property in accordance with all directions, rules and regulations of the proper officials of the government agencies having jurisdiction, at the sole cost and expense of Lessee. If any act or occurrence of any kind or nature (including any casualty) shall result in damage to or loss or destruction of the Leased Property, in whole or in part, and without diminution of any obligation of the Lessee in respect thereof under the approved mortgage, the Lessee, to the extent that insurance proceeds and other funds, if any, made available, shall promptly cause the restoration, reconstruction, and/or repair of the Leased Property as nearly as possible to its value, condition and character immediately prior to such casualty. If such insurance proceeds and other available funds are not sufficient or restoration is otherwise determined not feasible, such proceeds shall be applied as provided in the first priority mortgage loan documents.

#### **ARTICLE IX.**

##### **Condemnation**

If during the Term, all or any part of the Leased Property be taken by the exercise of the power of eminent domain or condemnation, Lessee shall be entitled to and shall receive the entire award for the taking. The total award shall be used to restore or repair the Leased Property to make the same usable and so that the remaining portions of the Leased Property, when complete, shall be substantially the same in character as the Leased Property prior to the partial taking. The restoration and repair of the Leased Property shall be done and accomplished by Lessee, except that Lessee shall not be required to expend more than the amount of the award available for such restoration and repair. If title to or control of all of the Leased Property shall be taken by the exercise of the power of eminent domain or condemnation, or if such use or control of a substantial part of the Leased Property shall be taken as to result in rendering a substantial part of the Leased Property untenable or of materially reduced value to Lessee, Lessee may, with the prior written consent of Investor Limited Partner, terminate this Lease and exercise the purchase option purchase to Article XV by giving written notice to the Lessor and thereafter shall have no further liability hereunder except as specifically provided herein, provided, as a condition of such termination, Lessor may require Lessee to remove all or a portion of the improvements from the remaining portion of the Leased Property if Lessee does not exercise such purchase option.

#### **ARTICLE X.**

##### **Insurance and Indemnification**

Section 10.01 Insurance. Lessee shall carry commercial general liability insurance covering the Leased Property and the use and occupancy of the same in a company or companies licensed to do business in the State under a policy satisfactory to Lessor both as to amount and coverage and shall provide evidence of same to Lessor. Lessor shall be listed as an additional insured on such policy. Lessee shall also insure all improvements on the Leased Property at their full replacement value, with Lessor being included as an additional insured, and Lessee shall provide evidence of same to Lessor. Each policy described above shall not be canceled without first giving Lessor not less than thirty (30) days prior written notice. Lessee shall provide to Lessor evidence of all insurance policies contemplated by this Section, including, upon request, annual certificates of continued coverage.

Section 10.02 Indemnification. Lessee covenants and agrees, at its expense, to pay, and to indemnify and save Lessor and its directors, agents and employees (collectively, the "Indemnified Parties") harmless against and from any and all claims by or on behalf of any person, firm, corporation, or governmental authority, arising from the occupation, use, possession, conduct or management of or from any work or activity done in or about the Leased Property or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, laws, ordinances, or regulations affecting the Leased Property or the occupancy or use thereof. Lessee also covenants and agrees, at its expense, to pay, and to indemnify and save the Indemnified Parties harmless against and

from, any and all claims, costs or expenses arising from (i) any condition, including any environmental condition, now existing or hereafter arising, on the Leased Property, (ii) any breach or default on the part of Lessee in the performance of any covenant or agreement to be performed by Lessee pursuant to this Lease, (iii) any act or negligence of Lessee, or any of its agents, contractors, servants, employees or licensees, (iv) the failure of the Acquisition Deed to convey title to the Leased Land to Lessor on the date hereof other than as described in the Acquisition Deed, (v) any disputes, demands or claims related to the title of the Leased Land or any liens or other encumbrances affecting the Leased Land (other than claims originating from an action in violation of Section 6.01 hereof), or (vi) any accident, injury or damage whatever caused to any person, firm or corporation in or about the Leased Property and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim referred to in this Section. In the event that any action or proceeding is brought against any Indemnified Party by reason of any such claims, Lessee, upon notice from such Indemnified Party, covenants to resist or defend such action or proceeding. Notwithstanding anything in this Lease to the contrary, Lessee shall not be required to indemnify any of the Indemnified Parties in the event of any acts of gross negligence or willful misconduct or intentional misconduct of any of the Indemnified Parties or for any claim or liability which the Indemnified Parties was not given the opportunity to contest. The indemnification provided shall survive termination of this Lease.

## **ARTICLE XI.**

### **Construction of Buildings; Alterations**

Lessee shall have the right to construct buildings and other improvements on the Leased Land from time to time and to make additions to and alterations of any such buildings and improvements and any existing buildings and improvements. All work done in connection with such additions, alterations, improvements or construction shall be done promptly, and in good and workmanlike manner, and in compliance with all applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate departments, commissions, boards and offices thereof. Lessee shall maintain or cause to be maintained, at all times when any work is in process in connection with such additions, alterations, improvements or construction, workmen's compensation insurance covering all persons employed in connection with such work and with respect to whom death or bodily injury claims could be asserted against Lessor, Lessee or the Leased Property.

Lessee covenants and agrees at its expense to cause the acquisition of the Leased Land and the construction of the apartment buildings, office or community buildings and improvements located on the Leased Land to include approximately 96 apartment units (the "Buildings"), and in connection therewith, Lessee agrees to incur capital expenditures for the acquisition of the Leased Land and the construction of the Buildings in an aggregate amount of not less than [\$26,000,000]. It is understood and agreed that the Buildings, together with all other improvements or fixtures from time to time placed on the Leased Land, shall become the property of Lessor and part of the Leased Property, but shall be for the sole and exclusive use and benefit of Lessee during the Term, subject to the purchase option set forth in Article XV. Lessee agrees to complete the Buildings prior to the Completion Date, provided that such time period shall be extended in the event of an event of Force Majeure. The parties acknowledge and agree that the Lessee shall demolish any existing improvements or buildings on the Leased Land and no restrictions herein shall limit such demolition.

## **ARTICLE XII.**

### **Acquisition of Equipment**

**Section 12.01** Acquisition of Equipment. As of the date of this Lease, Lessee has acquired the Equipment, if any, shown on Exhibit B for location in the Buildings or on the Leased Land. In furtherance of the foregoing, upon the execution of this Lease, Lessee shall convey the Equipment shown

on Exhibit B to Lessor by a bill of sale in substantially the form of Exhibit C attached hereto and thereafter such Equipment shall become the property of Lessor, but shall be for the sole use and benefit of Lessee during the Term.

Unless Lessee gives Lessor written notice to the contrary, any machinery and equipment hereafter acquired by Lessee to be located on the Leased Land or any improvement thereon by means of a bill of sale in substantially the form of Exhibit C attached hereto, and thereafter such equipment likewise shall become the property of Lessor and part of the Equipment subject to the provisions hereof, but shall be for the sole use and benefit of Lessee during the Term, and Exhibit B shall be deemed to have been supplemented to include such equipment.

Any Equipment removed from the Leased Property, other than for ordinary maintenance, shall no longer be deemed part of the Leased Property for purposes of this Lease and, upon the written request of Lessee, shall be conveyed to Lessee pursuant to Article XV.

Section 12.02 Installation and Removal of Other Equipment. Lessee may at any time or times during the Term install or commence the installation on the Leased Land or any improvement thereon of any equipment in addition to the Equipment as Lessee may deem desirable, and Lessee may also remove any such equipment at its discretion. All such equipment shall be acquired and installed at the expense of Lessee and shall remain the property of Lessee and shall not be part of the Equipment unless otherwise added to Exhibit B.

Section 12.03 Alteration, Improvement, Removal and Modifications of Equipment by Lessee. Lessee may alter, improve and modify the Equipment from time to time as it may determine is desirable for its uses and purposes. Lessee shall be responsible for all costs of such alterations, improvements and modifications. All such alterations, improvements and modifications shall become a part of the Equipment and the property of Lessor as made. Lessee shall use its best efforts to cause all work done in connection with such alterations, improvements and modifications to be done in a good and workmanlike manner and in compliance with all laws, ordinances, orders, rules, regulations and requirements of all governmental authorities. Lessee may remove and dispose of any Equipment that Lessee determines is not necessary for Lessee's operations provided Lessee purchases such Equipment pursuant to Article XV.

### **ARTICLE XIII.**

#### **Subletting, Assignments and Mortgaging**

Section 13.01 Except for (i) leases in the ordinary course of business or otherwise desirable for operation of an apartment complex, (ii) a leasehold deed of trust pursuant to which Lessee mortgages its leasehold estate in the Leased Property, (iii) removal of the general partner of Lessee in accordance with the terms of its amended and restated partnership agreement (the "Partnership Agreement") or by the Lender pursuant to the loan documents related to the loan from the Lender to Lessee (the "Loan Documents") so long as any new general partner of Lessee is (A) the Investor Limited Partner or an affiliate thereof or (B) approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved, and (iv) any other transfer of a partnership interest of Lessee in accordance with the terms of its Partnership Agreement or by the Lender pursuant to the Loan Documents so long as (A) the Investor Limited Partner or an affiliate thereof remains a direct or indirect partner of Lessee or (B) the transferee is approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved (each of the foregoing being a "Permitted Transfer" which shall not require Lessor's consent), Lessee shall not have the right to sublet the Leased Property or assign or otherwise transfer its rights and interest hereunder except with the prior written consent of Lessor or as explicitly permitted in this Lease.

In the event that the Lender becomes the successor lessee hereunder pursuant to this section, the Lender shall be eligible to make the payments in lieu of taxes pursuant to Section 7.04 hereof; and further provided that any successor or assign of the Lender, or any purchaser at a foreclosure sale other than the Lender, shall be entitled to make payments in lieu of taxes pursuant to Section 7.04 hereof so long as Lessor has reasonably approved such person or entity, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved. If such successor or assign of the Lender or any purchaser at a foreclosure sale other than the Lender is not approved by Lessor (the "Non-Approved Party") in accordance with the foregoing sentence, then the Non-Approved Party shall make payments in lieu of taxes beginning as of the date of such assignment or purchase equal to the ad valorem taxes that Lessee otherwise would have been required to make with respect to the Leased Property if the Leased Property was owned by Lessee.

Section 13.02 If a mortgagee or Investor Limited Partner of Lessee shall have given Lessor, before any Event of Default shall have occurred hereunder, a written notice specifying the name and mailing address of the mortgagee or Investor Limited Partner, then Lessor shall not terminate this Lease by reason of the occurrence of any Event of Default hereunder unless Lessor shall have given the mortgagee and Investor Limited Partner a copy of its notice to Lessee of such Event of Default addressed to the mailing address last furnished by the mortgagee and Investor Limited Partner, and such Event of Default shall not have been cured by said mortgagee or Investor Limited Partner, as applicable, within the time permitted herein (which such time period, with respect to mortgagee and Investor Limited Partner, shall begin upon receipt of the respective notice by mortgagee and Investor Limited Partner), provided that mortgagee and Investor Limited Partner shall have the right to extend the period of time for the curing of any such Event of Default for an additional period of thirty (30) days from the date contained in the notice given pursuant to Section 16.03 herein, or in the case of an Event of Default which cannot be cured within said thirty (30) day period, for such additional period (not to exceed an additional sixty (60) days) as, with all due diligence and in good faith, is necessary to cure the Event of Default. Lessor acknowledges that it has received written notice that (a) Lender is a mortgagee hereunder, and that Lessor shall send notices required to be sent to a mortgagee hereunder to Lender at the address provided in Section 16.03 and (b) the Investor Limited Partner is an investor limited partner hereunder, and that Lessor shall send notices required to be sent to an investor limited partner hereunder to the Investor Limited Partner at the address provided in Section 16.03. Lessor acknowledges that any mortgagee and Investor Limited Partner, have the right, but not the obligation, to cure any Event of Default by Lessee under this Lease, and Lessor agrees to accept any such cure performed or tendered by any mortgagee or Investor Limited Partner, as applicable, within any applicable cure period as if it had been performed or tendered by Lessee.

Section 13.03 Lessee irrevocably directs that Lessor accept, and Lessor agrees to accept, performance by any such mortgagee or Investor Limited Partner of the Lessee's, as applicable, right to terminate this Lease granted to Lessee by Article XV hereof, regardless whether an Event of Default has occurred. After the date hereof, and in addition to any rights the mortgagee or Investor Limited Partner may have by virtue of this Lease, if, within ninety (90) days after the mailing of a notice of termination, or such later date as may be provided in this Lease following the expiration of the cure period, if any, afforded to the Lessee (the "Mortgagee/Investor Cure Period"); such mortgagee or Investor Limited Partner shall pay, or arrange to the satisfaction of Lessor for the payment of, a sum of money equal to any and all Basic Rent, Additional Rents, and other payments due and payable by Lessee hereunder with respect to the portion of the Leased Property to which such mortgagee or Investor Limited Partner claims an interest as of the date of the giving of notice of termination, in addition to their pro rata share of any and all expenses, costs and fees, including reasonable attorneys' fees, incurred by Lessor in preparation for terminating this Lease, and in acquiring possession of the Leased Property, then, upon the written request of such mortgagee or Investor Limited Partner made any time prior to the expiration of the Mortgagee/Investor Cure Period, Lessor and the party making such request (or its nominee) (the "New

Lessee”) shall mutually execute prior to the end of such Mortgagee/Investor Cure Period a new Lease of the Leased Property (or such portion thereof as they have an interest in or mortgage on) for the remainder of the Term of this Lease and on the same terms and conditions, and with the same priority over any encumbrances created at any time by Lessor, its successors and assigns which Lessee has or had by virtue of this Lease; provided, however, that in addition to the above payments such New Lessee shall have paid to Lessor a sum of money equal to the Basic Rent and other payments for such portion of the Leased Property accruing from the date of such termination to the date of the commencement of the term of such new Lease, together with its pro rata share of all expenses, including reasonable attorneys' fees, incident to the preparation, printing, execution, delivery and recording of such new lease and provided, further, that such New Lessee is approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved. Such priority shall exist by virtue of the notice created by this Lease to any transferee of Lessor or person receiving an encumbrance from Lessor, and the priority shall be self-operative and shall not require any future act by Lessor. Such new Leases shall contain the same clauses subject to which this demise is made, and shall be at the rents and other payments for such portion of the Leased Property due Lessor and upon the terms as are herein contained. New Lessees under any such new Leases shall have the same right, title and interest in and to and all obligations accruing thereafter under this Lease with respect to the applicable portion of the Leased Property as Lessee has under this Lease. Nothing in this Section 13.03 shall require the Investor Limited Partner or mortgagee, as a condition to the exercise of its rights under this Section 13.03, to cure any default of Lessee not reasonably susceptible of being cured by any investor limited partner or mortgagee.

Section 13.04 Simultaneously with the making of such new leases, the party obtaining such new lease and all other parties junior in priority of interest in the Leased Property shall execute, acknowledge and deliver such new instruments, including new mortgages and new subleases, as the case may be, and shall make such payments and adjustments among themselves, as shall be necessary and proper for the purpose of restoring to each of such parties as nearly as reasonably possible, the respective interest and status with respect to the Leased Property which was possessed by the respective parties prior to the termination of this Lease as aforesaid.

Section 13.05 Nothing herein contained shall be deemed to impose any obligation on the part of Lessor to deliver physical possession of the Leased Property to such mortgagee or their respective nominee until the new leases have been executed by all pertinent parties. Lessor agrees, however, that Lessor will, at the cost and expense of such mortgagee or respective nominee, cooperate in the prosecution of judicial proceedings to evict the then defaulting Lessee or any other occupants of the Leased Property.

Section 13.06 Notwithstanding the term of any mortgage, Lessee's mortgagee shall have no further rights in the Lease except as stated herein. As used in this Section and throughout this Lease, the noun “mortgage” shall include a leasehold deed of trust, the verb “mortgage” shall include the creation of a leasehold deed of trust, the word “mortgagee” shall include the beneficiary under a leasehold deed of trust, and the terms “foreclose” or “foreclosure” shall include a trustee's sale under a deed of trust as well as a foreclosure by judicial process.



**ARTICLE XIV.**  
**Events of Default; Termination**

If any one or more of the following events (herein called "Events of Default") shall happen:

(a) if Lessee fails to maintain the commercial general liability insurance required by Section 10.01 after being given notice of such failure and not curing such failure within ten (10) days of receipt of such notice; or

(b) if default shall be made in the due and punctual payment of any payment due pursuant to Section 7.04 hereof, and such default shall continue for more than thirty (30) days after Lessee's receipt of written notice of such default to Lessee from Lessor; or

(c) if default shall be made by Lessee in the due performance of or compliance with any of the terms hereof, other than that referred to in the foregoing subdivisions (a) and (b), and such default shall continue for sixty (60) days after Lessor shall have given Lessee written notice of such default (or in the case of any such default which cannot with due diligence be cured within such 60-day period, if Lessee shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with any such default not susceptible of being cured with due diligence within the sixty (60) days that the time of Lessee within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence);

then in any such event Lessor at any time thereafter and while such Event of Default shall continue may give a written termination notice to Lessee, which notice shall specify the nature of the Event of Default and a date of termination of this Lease not less than ninety (90) days after the giving of such notice. Upon such termination, Lessor shall have the right, but not the obligation, to enter upon the Leased Property and repossess the Leased Property. This termination right is subject to Lessee's right to purchase the Leased Property pursuant to Section 15.01 and at any time during or within 30 days after the term of this Lease, Lessee may exercise its right in Section 15.01 to purchase the Leased Property without regard to whether an Event of Default has occurred.

**ARTICLE XV.**  
**Purchases and Purchase Prices**

Section 15.01 Option to Purchase. Lessee (and upon an event of default under any mortgage, such mortgagee) shall have an irrevocable and exclusive option to purchase the Leased Property as a whole or any part thereof at any time during the Term or within thirty (30) days after the termination or expiration of the Lease for the amount provided in Section 15.03. To exercise such option Lessee, with the prior written consent of Investor Limited Partner, or mortgagee shall (i) give Lessor at least ten (10) days prior written notice of its intent to exercise any option granted pursuant to this Section 15.01, which notice shall state the purchase date, and (ii) comply with the provisions of Section 15.03 hereof. The option to be exercised by Lessee or mortgagee hereunder may be exercised whether or not a default or Event of Default has occurred hereunder. Lessee or mortgagee shall also have the option to purchase any item of Equipment upon ten (10) days' prior written notice of its intent to exercise its option to purchase such item and upon compliance with Section 15.03.

Section 15.02 Granting of Easements. From time to time during the Term, Lessee shall have the right, at Lessee's expense, to cause Lessor (i) to grant easements affecting the Leased Land, (ii) to dedicate or convey, as required, portions of the Leased Land for road, highway and utilities and other public purposes, and (iii) to execute petitions to have the Leased Land or portions thereof annexed to any



municipality or included within any utility, highway or other improvement or service district. Lessor shall also promptly execute and deliver estoppels, joinders, non-disturbance agreements and other documents required in connection with Lessee's use, financing, and refinancing of the Leased Property.

Section 15.03 Exercise of Option.

(a) To exercise any option contained in Section 15.01, Lessee or Investor Limited Partner, as applicable, shall pay, or cause to be paid, on or prior to the purchase date, as the purchase price the sum of (i) \$1.00 plus (ii) any other amounts that are then due or that have accrued under this Lease (including, without limitation, any amounts due upon termination or expiration of this Lease), but excluding any amounts required to be expended pursuant to Article XI.

(b) On the purchase date for the purchase of the Leased Property or the Equipment pursuant to Section 15.01, Lessor shall convey Lessor's interest in the Leased Property to Lessee (or its assigns) by quitclaim deed and/or bill of sale, as appropriate, without warranty of any type. The form of the quitclaim deed and bill of sale pursuant to which property will be conveyed pursuant to this Section shall be in substantially the forms attached hereto as Exhibit D and Exhibit E respectively. Lessee shall pay all expenses relating to such conveyance. To the extent Lessee or mortgagee exercises its option to purchase all of the Leased Property, then this Lease shall terminate upon conveyance of the Leased Property to Lessee or mortgagee.

**ARTICLE XVI.**

Miscellaneous

Section 16.01 Applicable Law. This Lease shall be governed exclusively by the provisions hereof and by the applicable laws of the State.

Section 16.02 Severability. In the event that any clause or provision of this Lease shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 16.03 Notices and Demands. All notices, certificates, demands, requests, consents, approvals and other similar instruments under this Lease shall be in writing, and shall be effective either (a) when delivered personally to the party for whom intended, (b) on the second business day following mailing by a nationally recognized overnight courier service, (c) on the fifth day following mailing by certified or registered mail, return receipt requested, postage prepaid, or (d) on the date transmitted by telecopy as shown on the telecopy confirmation therefor as long as such telecopy transmission is followed by mailing of such notice by certified or registered mail, return receipt requested, postage prepaid, in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

To the Lessor:

Knoxville's Community Development Corporation  
P.O. Box 3550  
Knoxville, Tennessee 37927  
Attention: Benjamin M. Bentley

with copies to:

James P. Moneyhun, Esq.  
Bass, Berry & Sims PLC  
900 S. Gay Street

1700 Riverview Tower  
Knoxville, Tennessee 37902

To the Lessee:

DGA Holston LP  
c/o DGA Holston GP, LLC  
3834 Sutherland Avenue  
Knoxville, Tennessee 37919  
Attention: Craig Cobb

To Lender (as mortgagee as provided in Article XIII):

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

Attention: \_\_\_\_\_

To the Investor Limited Partner  
(as an investor limited partner as provided in Article XIII):

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

Attention: \_\_\_\_\_

Section 16.04 Headings and References. The headings in this Lease are for convenience of reference only and shall not define or limit the provisions thereof. All references in this Lease to particular Articles or Sections are references to Articles or Sections of this Lease, unless otherwise indicated.

Section 16.05 Successors and Assigns. The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 16.06 Multiple Counterparts. This Lease may be executed in multiple counterparts, each of which shall be an original but all of which together shall constitute but one and the same instrument.

Section 16.07 Expenses and Closing Fee. Lessee shall pay all costs and expenses of Lessor in connection with the preparation, negotiation and execution of this Lease and the performance hereof, including the reasonable fees and expenses of Lessor's attorneys. In addition, in the event that Lessor shall be required to engage legal counsel for the enforcement of any of the terms of this Lease, whether or not such employment shall require institution of suit or other legal services required to secure compliance on the part of Lessee, Lessee shall be responsible for and shall promptly pay to Lessor the reasonable value of said attorneys' fees, and any other reasonable expenses incurred by Lessor as a result of such default. Furthermore, simultaneously with the execution hereof, Lessee shall pay to Lessor a closing fee in the amount of \$35,000.00 in accordance with Lessor's policies.

Section 16.08 No Liability of Officers, Etc. No recourse under or upon any obligation, covenants or agreement contained in this Lease shall be had against any incorporator, members, director

or officer, as such, past, present or future, of Lessor, either directly or through the Lessor. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer is hereby expressly waived and released by Lessee as a condition of and consideration for the execution of this Lease.

Section 16.09 No Liability of City, County, Officers, Etc. The City, County and the officers and agents of the City and County shall not in any event be liable for the performance of any obligation or agreement of any kind whatsoever herein, and none of the agreements or obligations of Lessor contained in this Lease or otherwise shall be construed to constitute an indebtedness of the City, County or the officers or agents of the City or County, within the meaning of any constitutional or statutory provision whatsoever.

Section 16.10 Limitation of Liability. Notwithstanding any other provision hereof, Lessor's liability hereunder shall be limited to its interest in the Leased Property and the payments to be made pursuant to this Lease, and Lessee shall not have any recourse against any other assets of Lessor.

Section 16.11 Interest. In addition to all other amounts payable under this Lease, Lessee shall also pay interest on any payment due hereunder that is not paid on the date such payment is due until paid at the interest rate, as it may vary from time to time, that the City would impose on a delinquent tax payment during the period such payment was due.

Section 16.12 Amendments and Modifications. The Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings whether written or oral. Any amendments, modifications or revisions to this Lease shall be signed by both Lessor and Lessee and only with the prior written consent of Investor Limited Partner.

[Signatures appear on following page.]

IN WITNESS WHEREOF, this Lease has been duly executed by the parties hereto as of the date and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

ATTEST:

By: \_\_\_\_\_  
Robert Whetsel, Chairman

\_\_\_\_\_  
Secretary

DGA HOLSTON LP  
a Tennessee limited partnership

By: Holston GP Corporation,  
a Tennessee nonprofit corporation,  
its General Partner

By: \_\_\_\_\_  
Benjamin M. Bentley, President

EXHIBIT A

Legal Description of Leased Land

EXHIBIT B

Leased Equipment

None.

EXHIBIT C  
**BILL OF SALE**

Knox County, Tennessee

\_\_\_\_\_, 20\_\_\_\_

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby transfers and conveys to Knoxville's Community Development Corporation, a public nonprofit corporation, all of its right, title, claim and interest in law and equity in and to all personal property, fixtures, machinery and equipment described on Exhibit A attached hereto.

The undersigned warrants that it has good and lawful right to make this conveyance.

IN WITNESS WHEREOF, \_\_\_\_\_ has caused its name to be signed by its duly authorized officer on the day and year first above written.

DGA HOLSTON LP  
a Tennessee limited partnership

By: Holston GP Corporation,  
a Tennessee nonprofit corporation,  
its General Partner

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

Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

My Commission Expires:

\_\_\_\_\_

EXHIBIT D

This Instrument Prepared By:  
James P. Moneyhun, Jr., Attorney  
BASS, BERRY & SIMS PLC  
1700 Riverview Tower  
900 South Gay Street  
Knoxville, Tennessee 37902

QUITCLAIM DEED

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between:

KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law.

First Party, and

DGA HOLSTON LP, a Tennessee limited partnership.

Second Party,

WITNESSETH: that said First Party, for and in consideration of the sum of ONE DOLLAR (\$1.00) cash and other good and valuable considerations in hand paid by Second Party, the receipt and sufficiency of which is hereby acknowledged, has quitclaimed and does hereby quitclaim unto the said Second Party the following described premises:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A AND MADE A PART HEREOF.

THIS CONVEYANCE is made subject to applicable easements, restrictions and building set back lines of record.

TOGETHER with all the estate, right, title and interest of the First Party therein, with the hereditaments and appurtenances thereto appertaining releasing all claims therein.

In this instrument in every case the plural shall include the singular and vice-versa and each gender the others.

IN WITNESS WHEREOF, this instrument has been executed on behalf of First Party by its duly authorized officer on the day and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

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



STATE OF TENNESSEE     )  
  )  
COUNTY OF \_\_\_\_\_ )

Personally appeared before me the undersigned authority, a Notary Public in and for said City and in said state, \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Chairman of Knoxville's Community Development Corporation, the within named bargainor, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, and that he as such Chairman, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Chairman.

Witness my hand and official seal at office, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

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

My Commission Expires:

\_\_\_\_\_

Name and address of property owner:

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

who is responsible for payment of taxes.

CLT CODE: \_\_\_\_\_

I hereby swear or affirm that the actual consideration or true value of this transfer, whichever is greater is \$1.00.

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Affiant

My Commission Expires:

\_\_\_\_\_

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

EXHIBIT E

**BILL OF SALE**

Knox County, Tennessee

\_\_\_\_\_, 20\_\_\_\_

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby transfers and conveys to DGA Holston LP, a Tennessee limited partnership, all of its right, title, claim and interest in law and equity in and to all personal property, fixtures, machinery and equipment described on Exhibit A attached hereto.

The undersigned makes no warranty as to title of the property transferred and conveyed.

IN WITNESS WHEREOF, Knoxville's Community Development Corporation has caused its name to be signed by its duly authorized officer on the day and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

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

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

Sworn to and subscribed before me, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

My Commission Expires:

\_\_\_\_\_

34217966.1

**BOARD ACTION FORM**

|  |   |
|--|---|
| <b>MEETING DATE</b>  | December 6, 2022  |
| <b>AGENDA ITEM DESCRIPTION</b>   | Resolution regarding a payment in lieu of tax transaction (PILOT) with DGA Grosvenor Square LP.   |
| <b>SUBMITTED BY</b>  | <b>Name, Title / Department:</b> Brad Peters, VP  |
| <b>MEETING TYPE</b>  | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual  |
| <b>CLASSIFICATION</b>  | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval  |
| <b>BUDGET / FINANCIAL IMPACT</b>   | <b>Budgeted:</b> \$ <u>na</u> <b>Expenditure:</b> \$ <u>na</u><br><b>Source of Funds:</b> KCDC will receive fee of \$25,000   |
| <b>APPROVAL / REVIEWS</b>  | <input checked="" type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input type="checkbox"/> Legal Counsel: _____<br>Other – Name/Title: _____ |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>The objective of this action is to obtain authorization to execute documents to provide a payment in lieu of taxes to the DGA Grosvenor Square affordable housing development, the construction of a 184-unit housing facility for low and moderate income citizens. Prior to execution of documents, a letter of support from the mayor will be provided by the developer.</p> <p><b>2. Why is the action needed now?</b><br/>Closing for the project is happening soon.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>DGA Grosvenor Square LP - The developer (20% owned by a KCDC affiliate) who is to building the development, and who will lease back the property from KCDC.<br/>KCDC-Owner for purposes of the PILOT</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>KCDC will have minimal exposure in connection with holding nominal title to the property.</p> |   |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>   | In 2015, Tenn. Code Ann. § 48-101-312 was amended to permit housing authorities, in certain circumstances, to provide property tax abatement for low-income housing tax projects upon the receipt of a support letter from the mayor.               |
| <b>ATTACHMENTS</b>   | Resolution, Map and Lease   |

## **RESOLUTION NO. 2022-\_\_\_\_\_**

### **RESOLUTION OF THE BOARD OF COMMISSIONERS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION REGARDING A PAYMENT IN LIEU OF TAX TRANSACTION WITH DGA GROSVENOR SQUARE LP**

**WHEREAS**, the Board of Commissioners of Knoxville's Community Development Corporation ("KCDC") has met pursuant to proper notice; and

**WHEREAS**, KCDC is the housing, redevelopment and urban renewal authority of the City of Knoxville, Tennessee (the "City") and is duly incorporated pursuant to Sections 13-20-101 et seq., Tennessee Code Annotated; and

**WHEREAS**, to induce DGA Grosvenor Square GP, a Tennessee limited partnership (the "Applicant"), to construct a housing development for low and moderate income citizens at approximately 2400 Merchant Drive, 5291 Oakhill Drive and 2600 Merchant Drive in Knoxville, Tennessee (the "Project"), KCDC will acquire certain real and personal property related to the Project, and KCDC will lease said property to the Applicant on the terms and conditions set forth in the Lease referenced herein; and

**WHEREAS**, KCDC has received or expects to receive a letter from the Mayor of the City expressing her support for the Project pursuant to Tenn. Code Ann. § 48-101-312(b)(4)(C) (the "Mayor Support Letter"); and

**WHEREAS**, there has been submitted to KCDC a form of Lease (the "Lease"), between KCDC and the Applicant, which provides certain payments in lieu of tax as provided therein and which KCDC proposes to execute to carry out the transaction described above, a copy of which instrument shall be filed with the records of KCDC.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION:**

1. It is hereby found and determined that the acquisition and ownership of the Project will promote industry, trade, commerce and housing in the State of Tennessee and will increase the availability of affordable housing and employment in the City.

2. The Chairman or the Vice Chairman of KCDC is hereby authorized and directed to execute, and, where requested, the Secretary or Assistant Secretary is authorized to attest, and/or any other officer of KCDC, acting alone or in combination with one another (individually and collectively the "Authorized Officers"), is (are) hereby authorized and empowered to execute the Lease and deliver the Lease to the Applicant.

3. KCDC is hereby authorized and directed to own the Project pursuant to the terms of the Lease.

4. The Lease shall be in substantially the form submitted, which is hereby approved, with such completions, omissions, insertions and changes as may be approved by the officer executing it, his or her execution to constitute conclusive evidence of his or her approval of any such omissions, insertions and changes; provided, however, that the terms of the Lease shall be consistent with the terms set forth in the Mayor Support Letter.

5. The officers of KCDC are hereby authorized and directed to execute, deliver and file such other certificates and instruments and to take all such further action as they may consider necessary or desirable in connection with the consummation of the transactions described above, including, without limitation, executing such documents as any lender of the Applicant may request in connection with its liens on the Project; provided, however, that a Lease shall not be executed by KCDC for the Project and the transactions described herein shall not be consummated for such Project until after KCDC has received a Mayor Support Letter executed by the Mayor for such Project.

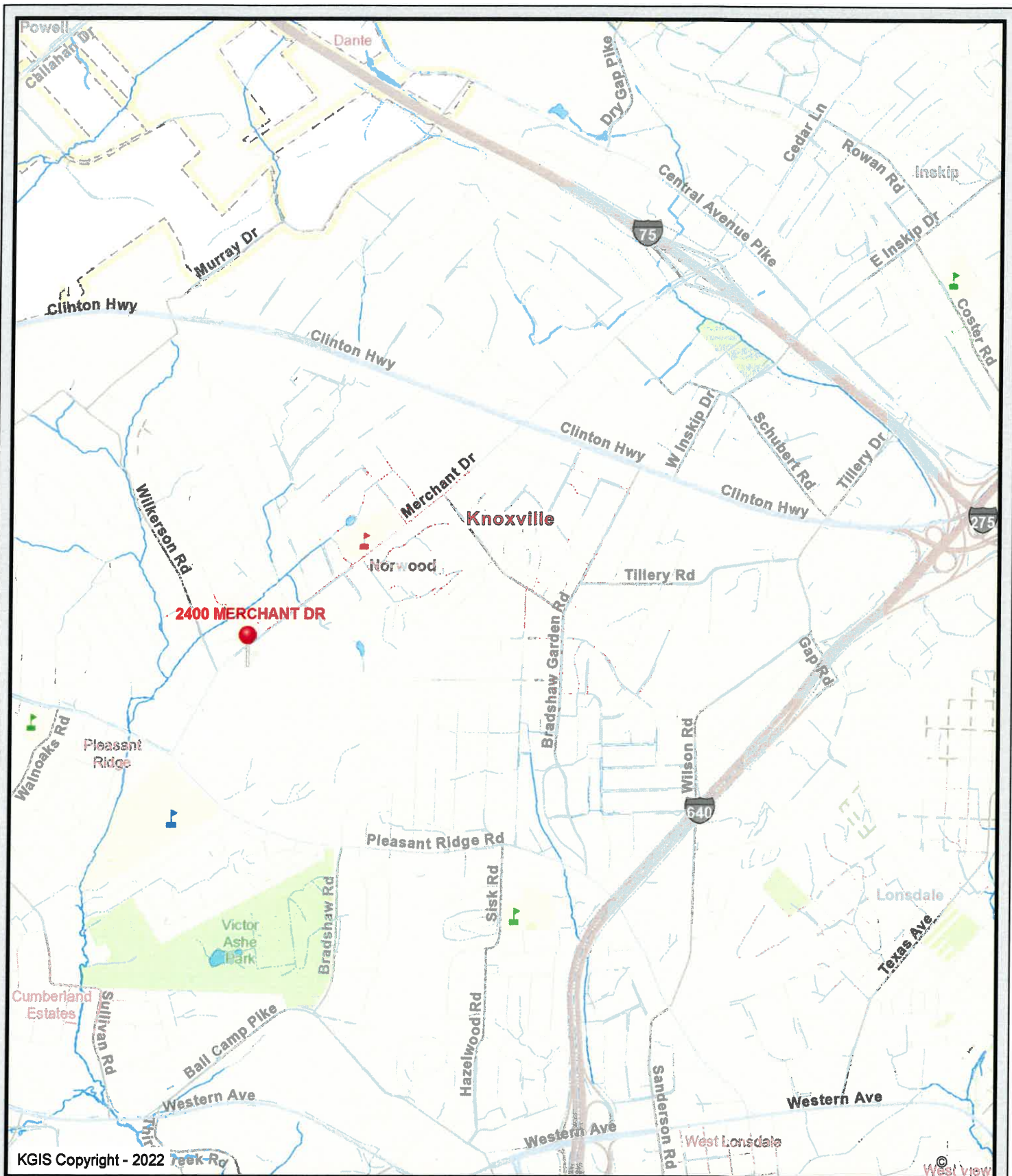
6. Any authorization herein to execute any document shall include authorization to record such document where appropriate.

7. All other acts of the officers of KCDC which are in conformity with the purposes and intent of this resolution are hereby approved and confirmed.

Approved this \_\_\_\_ day of December, 2022

**KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION**

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



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Grosvenor

Knoxville - Knox County - KUB Geographic Information System

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KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION

(a housing and redevelopment authority of  
the City of Knoxville, Tennessee organized under Tennessee law)

TO

DGA GROSVENOR SQUARE LP

(a Tennessee limited partnership)

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LEASE

DATED AS OF DECEMBER \_\_, 2022

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This instrument prepared by:  
BASS, BERRY & SIMS PLC (JPM)  
900 S. Gay Street, Suite 1700  
Knoxville, Tennessee 37902

## LEASE

This Lease, made and entered into as of the \_\_ day of December, 2022 ("Commencement Date"), by and between KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §§ 13-20-101, et seq. ("Lessor"), and DGA GROSVENOR SQUARE LP, a Tennessee limited partnership ("Lessee").

### WITNESSETH:

WHEREAS, Lessor is a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §§ 13-20-101, et seq., as amended (the "Act"), and is the fee simple owner of the Leased Land (as defined below) pursuant to that Acquisition Deed dated on or about the date hereof, and Lessor is authorized under the Act to acquire, whether by purchase, exchange, gift, lease, or otherwise, and to own, lease and dispose of properties for the purpose of providing safe and sanitary dwelling accommodations for persons of low income;

WHEREAS, in order to encourage Lessee to cause the acquisition, construction and equipping of an approximately one-hundred eighty four (184) unit apartment development providing affordable housing to be known as Grosvenor Square located in the City of Knoxville, Tennessee (the "Project"), thereby furthering the purposes of the Act, Lessor desires to lease to Lessee and Lessee desires to rent from Lessor certain real property and equipment hereinafter more particularly described, on the terms and conditions set forth herein; and

WHEREAS, pursuant to Tenn. Code Ann. § 48-101-312(b)(4)(C), the Mayor of the City of Knoxville, Tennessee submitted a letter dated November \_\_, 2022 to the Lessor supporting the Project and approving the Lessor to negotiate and accept from Lessee payments in lieu of ad-valorem taxes; and

NOW, THEREFORE, Lessor, for and in consideration of the payments hereinafter stipulated to be made by Lessee, and the covenants and agreements hereinafter contained to be kept and performed by Lessee, does by these presents demise, lease and let unto Lessee, and Lessee does by these presents, lease and rent from Lessor, for the Term (as defined below) and upon the conditions hereinafter stated, the Leased Land (as defined below) described in Exhibit A attached hereto, and incorporated herein by reference, together with all facilities and improvements now existing or hereafter constructed thereon by Lessee or otherwise and the Equipment (as defined below) described in Exhibit B attached hereto and incorporated herein by reference;

UNDER AND SUBJECT, however, to deed restrictions, covenants, easements, reservations, rights of way and other encumbrances applicable to the real property and equipment to be leased and existing as of the date hereof and any other encumbrance hereafter existing that is not created by Lessor; and

UNDER AND SUBJECT to the following terms and conditions:

### ARTICLE I. Definitions

Section 1.01 In addition to the words, terms and phrases elsewhere defined in this Lease, the following words, terms and phrases as used in this Lease shall have the following respective meanings:



"Acquisition Deed" shall mean the deed pursuant to which Lessor acquires title to the Leased Land.

"Act" shall mean Tenn. Code Ann. §§ 13-20-101, et seq., as amended.

"Additional Rent" shall mean the amounts described in Section 4.02,

"Basic Rent" shall mean the amounts described in Section 4.01.

"Buildings" shall mean the Buildings to be constructed on the Leased Land by Lessee pursuant to Article XI.

"City" shall mean the City of Knoxville, Tennessee.

"Completion Date" shall mean the earlier of (i) [two years after the date hereof] and (ii) the date that the construction of the Buildings described in Article XI is substantially complete, as evidenced by the issuance of a certificate of occupancy. Lessee shall provide a certificate to Lessor evidencing the Completion Date no later than thirty (30) days after the occurrence of the Completion Date.

"County" shall mean Knox County, Tennessee.

"Equipment" shall mean the machinery, equipment and other tangible personal property described on Exhibit B attached hereto as from time to time supplemented.

"Force Majeure" means fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, pandemic, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the applicable party's reasonable control. Where this Lease expressly provides that a party's obligations are subject to Force Majeure, then delay or non-performance on the part of such party will be excused upon the occurrence and during the continuance of such event of Force Majeure, provided that such party promptly gives the other party written notice of the occurrence and abatement of such event of Force Majeure.

"Investor Limited Partner" shall mean [First Horizon Bank entity], as the investor limited partner of Lessee, and its successors and assigns.

"Lease" shall mean this instrument as originally executed or as it may from time to time be supplemented or amended by one or more instruments supplemental hereto.

"Leased Land" shall mean the real property described in Exhibit A attached hereto.

"Leased Property" shall mean the Equipment and the Leased Land, together with the Buildings and related improvements.

"Lender" shall mean [\_\_\_\_\_, a \_\_\_\_\_,] and its successors and assigns.

"Lessee" shall mean DGA Grosvenor Square LP, a Tennessee limited partnership.

"Lessor" shall mean Knoxville's Community Development Corporation, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Act.

"Rent" shall mean collectively, the Basic Rent and the Additional Rent,

"Tax Credits" shall mean any low income housing tax credits available at the Leased Property pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

"Tax Year" shall mean each annual period beginning on January 1 of each year and ending on December 31 of that year.

"Term" shall mean the term described in Article III.

## **ARTICLE II.** **Representations**

**Section 2.01**    **Representations of Lessee.** Lessee makes the following representations and warranties to induce Lessor to enter into this Lease:

(a) Lessee is a limited partnership duly formed, existing and in good standing under the laws of the State of Tennessee (the "State"), has full power and authority to enter into this Lease and to perform all obligations contained herein and therein, and has, by proper action, been duly authorized to execute and deliver this Lease and, when executed and delivered by the parties thereto, this Lease will constitute the valid and binding obligation of Lessee enforceable in accordance with its terms.

(b) Neither the execution and delivery of this Lease, nor the consummation of the transactions contemplated herein by Lessee, nor the fulfillment of or compliance with the terms and conditions of this Lease, does or will conflict with or result in a breach of the terms, conditions or provisions of any restriction or internal governing document of Lessee or any agreement or instrument to which Lessee is now a party or by which it is bound, or any existing law, rule, regulation, judgment, order or decree to which it is subject, or constitutes a default under any of the foregoing or, except as contemplated hereby, results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Lessee under the terms of any instrument or agreement.

(c) There are no proceedings pending, or to the knowledge of Lessee threatened, against or affecting Lessee in any court or before any governmental authority, arbitration board or tribunal which involve the possibility of materially and adversely affecting the properties, business, prospects, profits or condition (financial or otherwise) of Lessee, or the ability of Lessee to perform its obligations under this Lease. Lessee is not in default with respect to an order of any court, governmental authority, arbitration board or tribunal.

(d) No event has occurred and no condition exists with respect to Lessee that would constitute an Event of Default under this Lease, as defined in Article XIV, or which, with the lapse of time or with the giving of notice, or both, would become such an Event of Default.

(e) To the knowledge of Lessee, and in reliance upon, and except as disclosed in, an independent third-party report obtained by Lessee, there are no substances, materials, wastes, pollutants or contaminants located on the Leased Property that are regulated under any environmental law or regulation except those materials and substances that are maintained in compliance with such laws and regulations, and Lessee shall not permit material quantities of such substances, materials, wastes, pollutants or contaminants to exist on the Leased Property during the Term of this Lease except in compliance with such laws and regulations.

**Section 2.02**    **Representations of Lessor.** Lessor makes the following representations and warranties to induce Lessee to enter into this Lease:

(a) The Lessor is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to enter into this Lease and to perform all obligations contained herein, and has, by proper action, been duly authorized to execute and deliver this Lease and, when executed and delivered by the parties thereto, this Lease will constitute the valid and binding obligation of Lessor enforceable in accordance with its terms.

(b) Neither the execution and delivery of this Lease nor the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of this Lease, will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof, or of any corporate restriction or any agreement or instrument to which Lessor is a party or by which it is bound, or result in the creation or imposition of any lien of any nature upon any of the Leased Property of Lessor under the terms of the Act or any such law, ordinance, restriction, agreement or instrument.

### **ARTICLE III.**

#### **Lease Term**

Subject to the provisions contained in this Lease, this Lease shall be in full force and effect for a Term commencing on the date hereof and ending on [the twentieth (20<sup>th</sup>) anniversary of the Completion Date], unless terminated earlier, in accordance with the terms hereof. Lessee shall provide a certificate to Lessor evidencing the Completion Date no later than thirty (30) days after the occurrence of the Completion Date.

Notwithstanding the foregoing, the Term of this Lease may be terminated upon exercise by Lessee of the purchase option described in Article XV hereof.

### **ARTICLE IV.**

#### **Rent**

**Section 4.01 Basic Rent.** Lessee will pay to Lessor without notice or demand, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, as Basic Rent on each January 1 during the Term, the sum of \$1.00. Lessor acknowledges that Lessee has prepaid the Basic Rent for the Term on the date hereof.

**Section 4.02 Additional Rent.** Lessee agrees to pay, as additional rent, all other amounts, liabilities and obligations which Lessee herein assumes or agrees to pay (including, without limitation, the obligations in Article XI hereof). Without limiting the foregoing, Lessor and Lessee recognize that the Leased Property has been conveyed to Lessor subject to or contemporaneously with the execution of a deed of trust securing the financing of the acquisition and construction of the Buildings on the Leased Land. Lessee agrees to make all payments of debt service relating to such financing. Lessor will execute and deliver commercially reasonable documents pledging its interest in the Leased Property, by joinder or otherwise, in connection with Lessee's financing or refinancing of the Leased Property. In the event of any failure on the part of Lessee to pay any amounts, liabilities or obligations described in this paragraph, Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of the Basic Rent.

## ARTICLE V.

### Compliance with Laws; Permitted Contests;

### Lessee's Acceptance of Leased Property; Reports; Lease of Equipment; Net Lease

**Section 5.01 Compliance with Laws.** Lessee shall throughout the Term and at no expense to Lessor promptly cure any violations under all laws, ordinances, orders, rules, regulations and requirements of duly constituted public authorities, which are or shall become lawfully applicable to the Leased Property, the repair and alteration thereof, and the use or manner of use of the Leased Property, whether or not such laws, ordinances, orders, rules, regulations and requirements are foreseen or unforeseen, ordinary or extraordinary, and whether or not they shall involve any change of governmental policy or shall require structural or extraordinary repairs, alterations or additions, irrespective of the cost thereof.

**Section 5.02 Permitted Contests.** Lessee shall not be required to comply or cause compliance with the laws, ordinances, orders, rules, regulations or requirements referenced in Section 5.01, so long as Lessee or Investor Limited Partner, as applicable, shall, at Lessee's expense, contest the same or the validity thereof in good faith, by appropriate proceedings. Such contest may be made by Lessee or Investor Limited Partner, as applicable, in the name of Lessor or of Lessee, or both, as Lessee shall determine and Lessor agrees that it will, at Lessee's expense, cooperate with Lessee or Investor Limited Partner, as applicable, in any such contest to such extent as Lessee may reasonably request. It is understood, however, that Lessor shall not be subject to any liability for the payment of any costs or expenses (including attorneys' fees) in connection with any such proceeding brought by Lessee or Investor Limited Partner, as applicable, and Lessee covenants to pay, and to indemnify and save harmless Lessor from, any such costs or expenses.

**Section 5.03 Acceptance of Leased Property.** Lessee acknowledges that, as between Lessor and Lessee, it has examined the Leased Land and the state of Lessor's title thereto prior to the making of this Lease and knows the condition and state thereof, including, without limitation, the environmental and soil conditions, as of the first day of the term of this Lease, and accepts the same in said condition and state; that no representations as to the condition or state thereof have been made by representatives of Lessor; and that in entering into this Lease, Lessee is relying solely upon its own examination thereof. Lessee shall have sole and exclusive possession of the Leased Property during the Term.

**Section 5.04 Lease of Equipment.** Lessor does hereby demise, lease and let unto Lessee, and Lessee does hereby lease and rent from Lessor, for the Term and upon the conditions herein stated, all Equipment. Lessee shall have sole and exclusive possession of the Equipment during the Term.

**Section 5.05 Net Lease.** This is a "net lease" and the Rent, and all other sums payable hereunder to or for the account of Lessor shall be paid promptly and without set off, counterclaim, abatement, suspension, deduction, diminution or defense.

## ARTICLE VI.

### Title and Tax Benefits

**Section 6.01 No Conveyance of Title by Lessor.** Lessor covenants and agrees that, except as set forth herein, during the Term of this Lease, it will not convey, pledge, encumber or suffer or permit the conveyance of, by any voluntary act on its part, its title to the Leased Property to any person, firm, corporation, or other entity whatsoever, irrespective of whether any such conveyance or attempted conveyance shall recite that it is expressly subject to the terms of this Lease unless such conveyance is consented, in writing, to by Lessee, its mortgagee and Investor Limited Partner. Lessor will not create any lien, encumbrance or charge upon its interest in the Leased Property except for any such lien,

encumbrance or charge otherwise created by this Lease or consented to by Lessee and Investor Limited Partner.

Section 6.02 Tax Benefits. During the Term, Lessee shall be entitled to all benefits under federal and state tax laws attributable to the ownership of the Leased Property, including, without limitation, the right to claim deductions for depreciation and the right to claim Tax Credits. Lessor shall execute and deliver other and further certificates, documents, and amendments to this Lease as reasonably requested by Lessee to confirm and establish that Lessee is the owner of the Leased Property for federal income and state franchise and excise tax purposes.

Section 6.03 Taxation of Improvements. This Lease is intended to be a lawful agreement between the Lessee and Lessor, as an instrumentality of a local government, for payments in lieu of taxes and therefore, the Buildings are assessed solely to Lessor and are subject to all applicable exemptions, all in accordance with Tennessee Code Annotated § 67-5-502(d).

## **ARTICLE VII.**

### **Taxes and Other Charges**

Section 7.01 Taxes and Other Governmental Charges. Lessee agrees, subject to the provisions of Section 7.04, to pay and discharge, as Additional Rent, punctually as and when the same shall become due and payable without penalty, all ad valorem taxes that at any time during the Term shall be or become due and payable by Lessor or Lessee and that shall be levied, assessed or imposed upon, or that shall be or become liens upon, the Leased Property or any portion thereof or any interest of Lessor or Lessee therein, under and by virtue of any present or future law, statute, regulation or other requirement of any governmental authority.

Section 7.02 Lessee Subrogated to Lessor's Rights. To the extent of any payments of Additional Rent by Lessee under this Article VII, Lessee shall be subrogated to Lessor's rights in respect to the proceedings or matters relating to such payments, and any recovery in such proceedings or matter shall be used to reimburse Lessee for the amount of such Additional Rent so paid by Lessee.

Section 7.03 Utility Services. Lessee agrees that Lessor is not, nor shall it be, required to furnish to Lessee or any other user of the Leased Property any gas, water, sewer, electricity, light, heat, power or any other facilities, equipment, labor, materials or services of any kind pursuant to this Lease and Lessee agrees that it shall pay all costs and expenses related to the foregoing.

Section 7.04 Payments in Lieu of Taxes.

(a) Recognition of Tax Status. Lessee recognizes that under present law, including specifically the Act, the properties owned by Lessor are exempt from all taxation in the State.

(b) Administrative Provisions. In furtherance of the agreements in this Section, it is agreed by and between the parties hereto that Lessee, in cooperation with Lessor, shall cause all of the Leased Property, including but not limited to, the Leased Land, the Buildings, the Equipment located in the Buildings or on the Leased Land, each expansion of any Building, the Equipment located in each expansion of any Building, and any other Equipment conveyed to Lessor hereunder to be valued and assessed separately by the assessor or other official or officials charged with the responsibility of assessing privately owned property in the area where the Leased Property is located at the time such privately owned property is valued or assessed. Lessee, in cooperation with Lessor, shall cause to be applied to the appropriate taxable value of each such portion of the Leased Property the tax rate or rates

that would be applicable for state and local tax purposes if the property were then privately owned, and shall cause the county trustee or other official or officials charged with the responsibility of collecting taxes to submit annually to Lessor and Lessee a statement of the taxes which would otherwise then be chargeable to each such portion of the Leased Property. The right is reserved to Lessee to the same extent as if Lessee were the owner of the Leased Property to contest the validity or amount of any such assessment.

(c) Payments in Lieu of Taxes. In addition to Basic Rent and Additional Rent hereunder, Lessee and Lessor agree that Lessee shall pay directly to the City and the County: (i) for each Tax Year occurring during the period commencing on the date hereof through and including the day prior to the Completion Date, a payment in lieu of taxes equal to the ad valorem taxes that would otherwise be payable with respect to the Leased Property if such Leased Property were owned by Lessee and (ii) for each Tax Year occurring during the period commencing on the Completion Date through and including the twentieth (20<sup>th</sup>) anniversary of the Completion Date, an annual payment in lieu of taxes to the County equal to [\$\_\_\_\_\_] and an annual payment in lieu of taxes to the City equal to [\$\_\_\_\_\_]. Notwithstanding anything to the contrary herein, the Investor Limited Partner shall have the right, but not the obligation, to pay the required payment in lieu of taxes to the County and the City on behalf of Lessee, and Lessor shall accept and recognize any such payment by Investor Limited Partner as if tendered by the Lessee.

Amounts payable with respect to any partial Tax Years included within the Term will be prorated based upon the actual number of days included within such Tax Year. Any payment due with respect to a Tax Year that is not paid prior to the termination or expiration of this Lease shall not be extinguished as a result of such termination or expiration and shall survive such termination or expiration.

Notwithstanding anything to the contrary contained in this Section, this Lease shall not be extended except pursuant to an amendment in writing and executed by both the Lessor and Lessee and with the written consent of Investor Limited Partner. Such reduction in taxes otherwise payable shall not apply with regard to any other tax assessed against Lessee, its income, its other real property or its personalty. In the event Lessee assumes ownership of the Leased Property, Lessee shall begin paying all applicable ad valorem and other taxes directly to the City and the County, as assessed, but shall not make, from the date of such acquisition, any in lieu payments with respect to such property other than those payments that were unpaid at the time of such acquisition.

Notwithstanding anything to the contrary contained in this Section, in the event that Lessee fails to complete the construction of the Buildings in accordance with Article XI hereof or the Leased Property becomes ineligible for Tax Credits due to a violation of the use restrictions (related to the Tax Credits) applicable to the Leased Property, then Lessee shall make a payment in lieu of taxes with respect to each Tax Year remaining in the Term on behalf of the Lessor to the City and the County in an amount equal to the ad valorem taxes that would otherwise be payable with respect to the Leased Property if such Leased Property were owned by Lessee.

(d) Credit for Taxes Paid. Nothing contained in this Section 7.04 is intended or shall be construed to require the payment by Lessee of any greater amounts in lieu of taxes than would be payable as taxes if the Leased Property were owned by Lessee. It is accordingly understood and agreed that the amount payable by Lessee in any year under the provisions of this Section 7.04 shall be reduced by the amount of any ad valorem taxes lawfully levied upon the Leased Property or any part thereof, or upon Lessee's leasehold estate therein, and actually paid by Lessee pursuant to the requirements of Section 7.01 hereof to the City and the County and to the extent that any such tax payments paid by Lessee pursuant to the requirements of Section 7.01 hereof for any year shall exceed the in-lieu-of-tax

payments for such year otherwise provided in this Section 7.04 the amount payable by Lessee in any subsequent year under the provisions of this Section 7.04 shall be reduced by such excess amount.

(e) Timing of Payments. Each payment in lieu of taxes required by this Section 7.04 with respect to any Tax Year or partial Tax Year shall be paid not later than February 28<sup>th</sup> of the following year.

(f) Reports. On behalf of Lessor, Lessee shall, during the term of this Lease, submit on or before October 1 of each year to the Tennessee State Board of Equalization the annual report required to be submitted by it.

(g) Payment Upon Termination or Expiration. Upon the termination of this Lease for any reason during a Tax Year, Lessee shall pay a pro-rated amount of the payments in lieu of taxes, if any, required by this Section 7.04 for the period that this Lease is in effect and for which no payments in lieu of taxes have been made up to the date of such termination.

(h) Cessation of Business. Except in the event Lessee shall terminate this Lease pursuant to Article IX of this Lease, in the event Lessee ceases the active operation (excluding temporary cessations due to Force Majeure events) of a low-income housing facility for eligible residents at the Leased Property, and notwithstanding any provision herein to the contrary, Lessee shall make payments in lieu of taxes beginning as of the date Lessee ceases such operation equal to the ad valorem taxes that Lessee otherwise would have been required to make with respect to the Leased Property if the Leased Property was owned by Lessee.

Section 7.05 Permitted Contests. Lessee shall not be required to pay any tax or assessment against the Leased Property or any part thereof, so long as Lessee or Investor Limited Partner, as applicable, shall, at Lessee's expense, contest the same or the validity thereof in good faith, by appropriate proceedings which shall operate to prevent the collection of the tax or assessment so contested or resulting from such contest and the sale of the Leased Property or any part thereof to satisfy the same. Such contest may be made by Lessee or Investor Limited Partner, as applicable, in the name of Lessor or of Lessee, or both, as Lessee or Investor Limited Partner, as applicable, shall determine, and Lessor agrees that it will, at Lessee's expense, cooperate with Lessee or Investor Limited Partner, as applicable, in any such contest to such extent as Lessee or Investor Limited Partner, as applicable, may reasonably request. It is understood, however, that Lessor shall not be subject to any liability for the payment of any costs or expenses (including attorneys' fees) in connection with any such proceeding brought by Lessee or Investor Limited Partner, as applicable, and Lessee covenants to pay, and to indemnify and save harmless Lessor from, any such costs or expenses.

## **ARTICLE VIII.**

### **Maintenance and Repair**

Lessor shall not be required to rebuild or to make any repairs, replacements or renewals of any nature or description to the Leased Property or to make any expenditures whatsoever in connection with this Lease or to maintain the Leased Property in any way. Lessee expressly waives the right contained in any law now or hereafter in effect to make any repairs at the expense of Lessor.

Lessee shall keep and maintain in good order, condition and repair (including any such repair as is required due to fire, storm or other casualty) the Leased Property and every part thereof and any and all appurtenances thereto. Lessee shall save Lessor harmless on account of claims for mechanics and materialmen's liens in connection with any work by Lessee, and any such liens shall exist only against Lessee's leasehold interest and shall be discharged, by bond or otherwise, within sixty (60) days after

filing. Lessee shall keep and maintain the Leased Property in accordance with all directions, rules and regulations of the proper officials of the government agencies having jurisdiction, at the sole cost and expense of Lessee. If any act or occurrence of any kind or nature (including any casualty) shall result in damage to or loss or destruction of the Leased Property, in whole or in part, and without diminution of any obligation of the Lessee in respect thereof under the approved mortgage, the Lessee, to the extent that insurance proceeds and other funds, if any, made available, shall promptly cause the restoration, reconstruction, and/or repair of the Leased Property as nearly as possible to its value, condition and character immediately prior to such casualty. If such insurance proceeds and other available funds are not sufficient or restoration is otherwise determined not feasible, such proceeds shall be applied as provided in the first priority mortgage loan documents.

#### **ARTICLE IX.** **Condemnation**

If during the Term, all or any part of the Leased Property be taken by the exercise of the power of eminent domain or condemnation, Lessee shall be entitled to and shall receive the entire award for the taking. The total award shall be used to restore or repair the Leased Property to make the same usable and so that the remaining portions of the Leased Property, when complete, shall be substantially the same in character as the Leased Property prior to the partial taking. The restoration and repair of the Leased Property shall be done and accomplished by Lessee, except that Lessee shall not be required to expend more than the amount of the award available for such restoration and repair. If title to or control of all of the Leased Property shall be taken by the exercise of the power of eminent domain or condemnation, or if such use or control of a substantial part of the Leased Property shall be taken as to result in rendering a substantial part of the Leased Property untenable or of materially reduced value to Lessee, Lessee may, with the prior written consent of Investor Limited Partner, terminate this Lease and exercise the purchase option purchase to Article XV by giving written notice to the Lessor and thereafter shall have no further liability hereunder except as specifically provided herein, provided, as a condition of such termination, Lessor may require Lessee to remove all or a portion of the improvements from the remaining portion of the Leased Property if Lessee does not exercise such purchase option.

#### **ARTICLE X.** **Insurance and Indemnification**

Section 10.01 Insurance. Lessee shall carry commercial general liability insurance covering the Leased Property and the use and occupancy of the same in a company or companies licensed to do business in the State under a policy satisfactory to Lessor both as to amount and coverage and shall provide evidence of same to Lessor. Lessor shall be listed as an additional insured on such policy. Lessee shall also insure all improvements on the Leased Property at their full replacement value, with Lessor being included as an additional insured, and Lessee shall provide evidence of same to Lessor. Each policy described above shall not be canceled without first giving Lessor not less than thirty (30) days prior written notice. Lessee shall provide to Lessor evidence of all insurance policies contemplated by this Section, including, upon request, annual certificates of continued coverage.

Section 10.02 Indemnification. Lessee covenants and agrees, at its expense, to pay, and to indemnify and save Lessor and its directors, agents and employees (collectively, the "Indemnified Parties") harmless against and from any and all claims by or on behalf of any person, firm, corporation, or governmental authority, arising from the occupation, use, possession, conduct or management of or from any work or activity done in or about the Leased Property or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, laws, ordinances, or regulations affecting the Leased Property or the occupancy or use thereof. Lessee also covenants and agrees, at its expense, to pay, and to indemnify and save the Indemnified Parties harmless against and



from, any and all claims, costs or expenses arising from (i) any condition, including any environmental condition, now existing or hereafter arising, on the Leased Property, (ii) any breach or default on the part of Lessee in the performance of any covenant or agreement to be performed by Lessee pursuant to this Lease, (iii) any act or negligence of Lessee, or any of its agents, contractors, servants, employees or licensees, (iv) the failure of the Acquisition Deed to convey title to the Leased Land to Lessor on the date hereof other than as described in the Acquisition Deed, (v) any disputes, demands or claims related to the title of the Leased Land or any liens or other encumbrances affecting the Leased Land (other than claims originating from an action in violation of Section 6.01 hereof), or (vi) any accident, injury or damage whatever caused to any person, firm or corporation in or about the Leased Property and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim referred to in this Section. In the event that any action or proceeding is brought against any Indemnified Party by reason of any such claims, Lessee, upon notice from such Indemnified Party, covenants to resist or defend such action or proceeding. Notwithstanding anything in this Lease to the contrary, Lessee shall not be required to indemnify any of the Indemnified Parties in the event of any acts of gross negligence or willful misconduct or intentional misconduct of any of the Indemnified Parties or for any claim or liability which the Indemnified Parties was not given the opportunity to contest. The indemnification provided shall survive termination of this Lease.

## **ARTICLE XI.**

### **Construction of Buildings; Alterations**

Lessee shall have the right to construct buildings and other improvements on the Leased Land from time to time and to make additions to and alterations of any such buildings and improvements and any existing buildings and improvements. All work done in connection with such additions, alterations, improvements or construction shall be done promptly, and in good and workmanlike manner, and in compliance with all applicable laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and the appropriate departments, commissions, boards and offices thereof. Lessee shall maintain or cause to be maintained, at all times when any work is in process in connection with such additions, alterations, improvements or construction, workmen's compensation insurance covering all persons employed in connection with such work and with respect to whom death or bodily injury claims could be asserted against Lessor, Lessee or the Leased Property.

Lessee covenants and agrees at its expense to cause the acquisition of the Leased Land and the construction of the apartment buildings, office or community buildings and improvements located on the Leased Land to include approximately 184 apartment units (the "Buildings"), and in connection therewith, Lessee agrees to incur capital expenditures for the acquisition of the Leased Land and the construction of the Buildings in an aggregate amount of not less than [\$49,000,000]. It is understood and agreed that the Buildings, together with all other improvements or fixtures from time to time placed on the Leased Land, shall become the property of Lessor and part of the Leased Property, but shall be for the sole and exclusive use and benefit of Lessee during the Term, subject to the purchase option set forth in Article XV. Lessee agrees to complete the Buildings prior to the Completion Date, provided that such time period shall be extended in the event of an event of Force Majeure. The parties acknowledge and agree that the Lessee shall demolish any existing improvements or buildings on the Leased Land and no restrictions herein shall limit such demolition.

## **ARTICLE XII.**

### **Acquisition of Equipment**

**Section 12.01** Acquisition of Equipment. As of the date of this Lease, Lessee has acquired the Equipment, if any, shown on Exhibit B for location in the Buildings or on the Leased Land. In furtherance of the foregoing, upon the execution of this Lease, Lessee shall convey the Equipment shown

on Exhibit B to Lessor by a bill of sale in substantially the form of Exhibit C attached hereto and thereafter such Equipment shall become the property of Lessor, but shall be for the sole use and benefit of Lessee during the Term.

Unless Lessee gives Lessor written notice to the contrary, any machinery and equipment hereafter acquired by Lessee to be located on the Leased Land or any improvement thereon by means of a bill of sale in substantially the form of Exhibit C attached hereto, and thereafter such equipment likewise shall become the property of Lessor and part of the Equipment subject to the provisions hereof, but shall be for the sole use and benefit of Lessee during the Term, and Exhibit B shall be deemed to have been supplemented to include such equipment.

Any Equipment removed from the Leased Property, other than for ordinary maintenance, shall no longer be deemed part of the Leased Property for purposes of this Lease and, upon the written request of Lessee, shall be conveyed to Lessee pursuant to Article XV.

Section 12.02 Installation and Removal of Other Equipment. Lessee may at any time or times during the Term install or commence the installation on the Leased Land or any improvement thereon of any equipment in addition to the Equipment as Lessee may deem desirable, and Lessee may also remove any such equipment at its discretion. All such equipment shall be acquired and installed at the expense of Lessee and shall remain the property of Lessee and shall not be part of the Equipment unless otherwise added to Exhibit B.

Section 12.03 Alteration, Improvement, Removal and Modifications of Equipment by Lessee. Lessee may alter, improve and modify the Equipment from time to time as it may determine is desirable for its uses and purposes. Lessee shall be responsible for all costs of such alterations, improvements and modifications. All such alterations, improvements and modifications shall become a part of the Equipment and the property of Lessor as made. Lessee shall use its best efforts to cause all work done in connection with such alterations, improvements and modifications to be done in a good and workmanlike manner and in compliance with all laws, ordinances, orders, rules, regulations and requirements of all governmental authorities. Lessee may remove and dispose of any Equipment that Lessee determines is not necessary for Lessee's operations provided Lessee purchases such Equipment pursuant to Article XV.

### **ARTICLE XIII.**

#### **Subletting, Assignments and Mortgaging**

Section 13.01 Except for (i) leases in the ordinary course of business or otherwise desirable for operation of an apartment complex, (ii) a leasehold deed of trust pursuant to which Lessee mortgages its leasehold estate in the Leased Property, (iii) removal of the general partner of Lessee in accordance with the terms of its amended and restated partnership agreement (the "Partnership Agreement") or by the Lender pursuant to the loan documents related to the loan from the Lender to Lessee (the "Loan Documents") so long as any new general partner of Lessee is (A) the Investor Limited Partner or an affiliate thereof or (B) approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved, and (iv) any other transfer of a partnership interest of Lessee in accordance with the terms of its Partnership Agreement or by the Lender pursuant to the Loan Documents so long as (A) the Investor Limited Partner or an affiliate thereof remains a direct or indirect partner of Lessee or (B) the transferee is approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved (each of the foregoing being a "Permitted Transfer" which shall not require Lessor's consent), Lessee shall not have the right to sublet the Leased Property or assign or otherwise transfer its rights and interest hereunder except with the prior written consent of Lessor or as explicitly permitted in this Lease.

In the event that the Lender becomes the successor lessee hereunder pursuant to this section, the Lender shall be eligible to make the payments in lieu of taxes pursuant to Section 7.04 hereof; and further provided that any successor or assign of the Lender, or any purchaser at a foreclosure sale other than the Lender, shall be entitled to make payments in lieu of taxes pursuant to Section 7.04 hereof so long as Lessor has reasonably approved such person or entity, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved. If such successor or assign of the Lender or any purchaser at a foreclosure sale other than the Lender is not approved by Lessor (the "Non-Approved Party") in accordance with the foregoing sentence, then the Non-Approved Party shall make payments in lieu of taxes beginning as of the date of such assignment or purchase equal to the ad valorem taxes that Lessee otherwise would have been required to make with respect to the Leased Property if the Leased Property was owned by Lessee.

Section 13.02 If a mortgagee or Investor Limited Partner of Lessee shall have given Lessor, before any Event of Default shall have occurred hereunder, a written notice specifying the name and mailing address of the mortgagee or Investor Limited Partner, then Lessor shall not terminate this Lease by reason of the occurrence of any Event of Default hereunder unless Lessor shall have given the mortgagee and Investor Limited Partner a copy of its notice to Lessee of such Event of Default addressed to the mailing address last furnished by the mortgagee and Investor Limited Partner, and such Event of Default shall not have been cured by said mortgagee or Investor Limited Partner, as applicable, within the time permitted herein (which such time period, with respect to mortgagee and Investor Limited Partner, shall begin upon receipt of the respective notice by mortgagee and Investor Limited Partner), provided that mortgagee and Investor Limited Partner shall have the right to extend the period of time for the curing of any such Event of Default for an additional period of thirty (30) days from the date contained in the notice given pursuant to Section 16.03 herein, or in the case of an Event of Default which cannot be cured within said thirty (30) day period, for such additional period (not to exceed an additional sixty (60) days) as, with all due diligence and in good faith, is necessary to cure the Event of Default. Lessor acknowledges that it has received written notice that (a) Lender is a mortgagee hereunder, and that Lessor shall send notices required to be sent to a mortgagee hereunder to Lender at the address provided in Section 16.03 and (b) the Investor Limited Partner is an investor limited partner hereunder, and that Lessor shall send notices required to be sent to an investor limited partner hereunder to the Investor Limited Partner at the address provided in Section 16.03. Lessor acknowledges that any mortgagee and Investor Limited Partner, have the right, but not the obligation, to cure any Event of Default by Lessee under this Lease, and Lessor agrees to accept any such cure performed or tendered by any mortgagee or Investor Limited Partner, as applicable, within any applicable cure period as if it had been performed or tendered by Lessee.

Section 13.03 Lessee irrevocably directs that Lessor accept, and Lessor agrees to accept, performance by any such mortgagee or Investor Limited Partner of the Lessee's, as applicable, right to terminate this Lease granted to Lessee by Article XV hereof, regardless whether an Event of Default has occurred. After the date hereof, and in addition to any rights the mortgagee or Investor Limited Partner may have by virtue of this Lease, if, within ninety (90) days after the mailing of a notice of termination, or such later date as may be provided in this Lease following the expiration of the cure period, if any, afforded to the Lessee (the "Mortgagee/Investor Cure Period"), such mortgagee or Investor Limited Partner shall pay, or arrange to the satisfaction of Lessor for the payment of, a sum of money equal to any and all Basic Rent, Additional Rents, and other payments due and payable by Lessee hereunder with respect to the portion of the Leased Property to which such mortgagee or Investor Limited Partner claims an interest as of the date of the giving of notice of termination, in addition to their pro rata share of any and all expenses, costs and fees, including reasonable attorneys' fees, incurred by Lessor in preparation for terminating this Lease, and in acquiring possession of the Leased Property, then, upon the written request of such mortgagee or Investor Limited Partner made any time prior to the expiration of the Mortgagee/Investor Cure Period, Lessor and the party making such request (or its nominee) (the "New

Lessee”) shall mutually execute prior to the end of such Mortgagee/Investor Cure Period a new Lease of the Leased Property (or such portion thereof as they have an interest in or mortgage on) for the remainder of the Term of this Lease and on the same terms and conditions, and with the same priority over any encumbrances created at any time by Lessor, its successors and assigns which Lessee has or had by virtue of this Lease; provided, however, that in addition to the above payments such New Lessee shall have paid to Lessor a sum of money equal to the Basic Rent and other payments for such portion of the Leased Property accruing from the date of such termination to the date of the commencement of the term of such new Lease, together with its pro rata share of all expenses, including reasonable attorneys' fees, incident to the preparation, printing, execution, delivery and recording of such new lease and provided, further, that such New Lessee is approved by Lessor, such approval not to be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within thirty (30) days of the date of request or shall be deemed approved. Such priority shall exist by virtue of the notice created by this Lease to any transferee of Lessor or person receiving an encumbrance from Lessor, and the priority shall be self-operative and shall not require any future act by Lessor. Such new Leases shall contain the same clauses subject to which this demise is made, and shall be at the rents and other payments for such portion of the Leased Property due Lessor and upon the terms as are herein contained. New Lessees under any such new Leases shall have the same right, title and interest in and to and all obligations accruing thereafter under this Lease with respect to the applicable portion of the Leased Property as Lessee has under this Lease. Nothing in this Section 13.03 shall require the Investor Limited Partner or mortgagee, as a condition to the exercise of its rights under this Section 13.03; to cure any default of Lessee not reasonably susceptible of being cured by any investor limited partner or mortgagee.

Section 13.04 Simultaneously with the making of such new leases, the party obtaining such new lease and all other parties junior in priority of interest in the Leased Property shall execute, acknowledge and deliver such new instruments, including new mortgages and new subleases, as the case may be, and shall make such payments and adjustments among themselves, as shall be necessary and proper for the purpose of restoring to each of such parties as nearly as reasonably possible, the respective interest and status with respect to the Leased Property which was possessed by the respective parties prior to the termination of this Lease as aforesaid.

Section 13.05 Nothing herein contained shall be deemed to impose any obligation on the part of Lessor to deliver physical possession of the Leased Property to such mortgagee or their respective nominee until the new leases have been executed by all pertinent parties. Lessor agrees, however, that Lessor will, at the cost and expense of such mortgagee or respective nominee, cooperate in the prosecution of judicial proceedings to evict the then defaulting Lessee or any other occupants of the Leased Property.

Section 13.06 Notwithstanding the term of any mortgage, Lessee's mortgagee shall have no further rights in the Lease except as stated herein. As used in this Section and throughout this Lease, the noun “mortgage” shall include a leasehold deed of trust, the verb “mortgage” shall include the creation of a leasehold deed of trust, the word “mortgagee” shall include the beneficiary under a leasehold deed of trust, and the terms “foreclose” or “foreclosure” shall include a trustee's sale under a deed of trust as well as a foreclosure by judicial process.

**ARTICLE XIV.**  
**Events of Default; Termination**

If any one or more of the following events (herein called "Events of Default") shall happen:

(a) if Lessee fails to maintain the commercial general liability insurance required by Section 10.01 after being given notice of such failure and not curing such failure within ten (10) days of receipt of such notice; or

(b) if default shall be made in the due and punctual payment of any payment due pursuant to Section 7.04 hereof, and such default shall continue for more than thirty (30) days after Lessee's receipt of written notice of such default to Lessee from Lessor; or

(c) if default shall be made by Lessee in the due performance of or compliance with any of the terms hereof, other than that referred to in the foregoing subdivisions (a) and (b), and such default shall continue for sixty (60) days after Lessor shall have given Lessee written notice of such default (or in the case of any such default which cannot with due diligence be cured within such 60-day period, if Lessee shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with any such default not susceptible of being cured with due diligence within the sixty (60) days that the time of Lessee within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence);

then in any such event Lessor at any time thereafter and while such Event of Default shall continue may give a written termination notice to Lessee, which notice shall specify the nature of the Event of Default and a date of termination of this Lease not less than ninety (90) days after the giving of such notice. Upon such termination, Lessor shall have the right, but not the obligation, to enter upon the Leased Property and repossess the Leased Property. This termination right is subject to Lessee's right to purchase the Leased Property pursuant to Section 15.01 and at any time during or within 30 days after the term of this Lease, Lessee may exercise its right in Section 15.01 to purchase the Leased Property without regard to whether an Event of Default has occurred.

**ARTICLE XV.**  
**Purchases and Purchase Prices**

Section 15.01 Option to Purchase. Lessee (and upon an event of default under any mortgage, such mortgagee) shall have an irrevocable and exclusive option to purchase the Leased Property as a whole or any part thereof at any time during the Term or within thirty (30) days after the termination or expiration of the Lease for the amount provided in Section 15.03. To exercise such option Lessee, with the prior written consent of Investor Limited Partner, or mortgagee shall (i) give Lessor at least ten (10) days prior written notice of its intent to exercise any option granted pursuant to this Section 15.01, which notice shall state the purchase date, and (ii) comply with the provisions of Section 15.03 hereof. The option to be exercised by Lessee or mortgagee hereunder may be exercised whether or not a default or Event of Default has occurred hereunder. Lessee or mortgagee shall also have the option to purchase any item of Equipment upon ten (10) days' prior written notice of its intent to exercise its option to purchase such item and upon compliance with Section 15.03.

Section 15.02 Granting of Easements. From time to time during the Term, Lessee shall have the right, at Lessee's expense, to cause Lessor (i) to grant easements affecting the Leased Land, (ii) to dedicate or convey, as required, portions of the Leased Land for road, highway and utilities and other public purposes, and (iii) to execute petitions to have the Leased Land or portions thereof annexed to any

municipality or included within any utility, highway or other improvement or service district. Lessor shall also promptly execute and deliver estoppels, joinders, non-disturbance agreements and other documents required in connection with Lessee's use, financing, and refinancing of the Leased Property.

Section 15.03 Exercise of Option.

(a) To exercise any option contained in Section 15.01, Lessee or Investor Limited Partner, as applicable, shall pay, or cause to be paid, on or prior to the purchase date, as the purchase price the sum of (i) \$1.00 plus (ii) any other amounts that are then due or that have accrued under this Lease (including, without limitation, any amounts due upon termination or expiration of this Lease), but excluding any amounts required to be expended pursuant to Article XI.

(b) On the purchase date for the purchase of the Leased Property or the Equipment pursuant to Section 15.01, Lessor shall convey Lessor's interest in the Leased Property to Lessee (or its assigns) by quitclaim deed and/or bill of sale, as appropriate, without warranty of any type. The form of the quitclaim deed and bill of sale pursuant to which property will be conveyed pursuant to this Section shall be in substantially the forms attached hereto as Exhibit D and Exhibit E respectively. Lessee shall pay all expenses relating to such conveyance. To the extent Lessee or mortgagee exercises its option to purchase all of the Leased Property, then this Lease shall terminate upon conveyance of the Leased Property to Lessee or mortgagee.

**ARTICLE XVI.**  
Miscellaneous

Section 16.01 Applicable Law. This Lease shall be governed exclusively by the provisions hereof and by the applicable laws of the State.

Section 16.02 Severability. In the event that any clause or provision of this Lease shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 16.03 Notices and Demands. All notices, certificates, demands, requests, consents, approvals and other similar instruments under this Lease shall be in writing, and shall be effective either (a) when delivered personally to the party for whom intended, (b) on the second business day following mailing by a nationally recognized overnight courier service, (c) on the fifth day following mailing by certified or registered mail, return receipt requested, postage prepaid, or (d) on the date transmitted by telecopy as shown on the telecopy confirmation therefor as long as such telecopy transmission is followed by mailing of such notice by certified or registered mail, return receipt requested, postage prepaid, in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

To the Lessor:

Knoxville's Community Development Corporation  
P.O. Box 3550  
Knoxville, Tennessee 37927  
Attention: Benjamin M. Bentley

with copies to: James P. Moneyhun, Esq.  
Bass, Berry & Sims PLC  
900 S. Gay Street

1700 Riverview Tower  
Knoxville, Tennessee 37902

To the Lessee:

DGA Grosvenor Square LP  
c/o DGA Grosvenor Square GP, LLC  
3834 Sutherland Avenue  
Knoxville, Tennessee 37919  
Attention: Craig Cobb

To Lender (as mortgagee as provided in Article XIII):

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

Attention: \_\_\_\_\_

To the Investor Limited Partner  
(as an investor limited partner as provided in Article XIII):

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

Attention: \_\_\_\_\_

Section 16.04 Headings and References. The headings in this Lease are for convenience of reference only and shall not define or limit the provisions thereof. All references in this Lease to particular Articles or Sections are references to Articles or Sections of this Lease, unless otherwise indicated.

Section 16.05 Successors and Assigns. The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 16.06 Multiple Counterparts. This Lease may be executed in multiple counterparts, each of which shall be an original but all of which together shall constitute but one and the same instrument.

Section 16.07 Expenses and Closing Fee. Lessee shall pay all costs and expenses of Lessor in connection with the preparation, negotiation and execution of this Lease and the performance hereof, including the reasonable fees and expenses of Lessor's attorneys. In addition, in the event that Lessor shall be required to engage legal counsel for the enforcement of any of the terms of this Lease, whether or not such employment shall require institution of suit or other legal services required to secure compliance on the part of Lessee, Lessee shall be responsible for and shall promptly pay to Lessor the reasonable value of said attorneys' fees, and any other reasonable expenses incurred by Lessor as a result of such default. Furthermore, simultaneously with the execution hereof, Lessee shall pay to Lessor a closing fee in the amount of \$35,000.00 in accordance with Lessor's policies.

Section 16.08 No Liability of Officers, Etc. No recourse under or upon any obligation, covenants or agreement contained in this Lease shall be had against any incorporator, members, director

or officer, as such, past, present or future, of Lessor, either directly or through the Lessor. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer is hereby expressly waived and released by Lessee as a condition of and consideration for the execution of this Lease.

Section 16.09 No Liability of City, County, Officers, Etc. The City, County and the officers and agents of the City and County shall not in any event be liable for the performance of any obligation or agreement of any kind whatsoever herein, and none of the agreements or obligations of Lessor contained in this Lease or otherwise shall be construed to constitute an indebtedness of the City, County or the officers or agents of the City or County, within the meaning of any constitutional or statutory provision whatsoever.

Section 16.10 Limitation of Liability. Notwithstanding any other provision hereof, Lessor's liability hereunder shall be limited to its interest in the Leased Property and the payments to be made pursuant to this Lease, and Lessee shall not have any recourse against any other assets of Lessor.

Section 16.11 Interest. In addition to all other amounts payable under this Lease, Lessee shall also pay interest on any payment due hereunder that is not paid on the date such payment is due until paid at the interest rate, as it may vary from time to time, that the City would impose on a delinquent tax payment during the period such payment was due.

Section 16.12 Amendments and Modifications. The Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings whether written or oral. Any amendments, modifications or revisions to this Lease shall be signed by both Lessor and Lessee and only with the prior written consent of Investor Limited Partner.

[Signatures appear on following page.]



IN WITNESS WHEREOF, this Lease has been duly executed by the parties hereto as of the date and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

ATTEST:

By: \_\_\_\_\_  
Robert Whetsel, Chairman

\_\_\_\_\_  
Secretary

DGA GROSVENOR SQUARE LP  
a Tennessee limited partnership

By: Grosvenor Square GP Corporation,  
a Tennessee nonprofit corporation,  
its General Partner

By: \_\_\_\_\_  
Benjamin M. Bentley, President

**EXHIBIT A**

**Legal Description of Leased Land**

EXHIBIT B

Leased Equipment

None.

EXHIBIT C

**BILL OF SALE**

Knox County, Tennessee

\_\_\_\_\_, 20\_\_\_\_

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby transfers and conveys to Knoxville's Community Development Corporation, a public nonprofit corporation, all of its right, title, claim and interest in law and equity in and to all personal property, fixtures, machinery and equipment described on Exhibit A attached hereto.

The undersigned warrants that it has good and lawful right to make this conveyance.

IN WITNESS WHEREOF, \_\_\_\_\_ has caused its name to be signed by its duly authorized officer on the day and year first above written.

DGA GROSVENOR SQUARE LP  
a Tennessee limited partnership

By: Grosvenor Square GP Corporation,  
a Tennessee nonprofit corporation,  
its General Partner

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

Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

My Commission Expires:

\_\_\_\_\_

EXHIBIT D

This Instrument Prepared By:  
James P. Moneyhun, Jr., Attorney  
BASS, BERRY & SIMS PLC  
1700 Riverview Tower  
900 South Gay Street  
Knoxville, Tennessee 37902

QUITCLAIM DEED

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between:

KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law.

First Party, and

DGA GROSVENOR SQUARE LP, a Tennessee limited partnership.

Second Party,

WITNESSETH: that said First Party, for and in consideration of the sum of ONE DOLLAR (\$1.00) cash and other good and valuable considerations in hand paid by Second Party, the receipt and sufficiency of which is hereby acknowledged, has quitclaimed and does hereby quitclaim unto the said Second Party the following described premises:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A AND MADE A PART HEREOF.

THIS CONVEYANCE is made subject to applicable easements, restrictions and building set back lines of record.

TOGETHER with all the estate, right, title and interest of the First Party therein, with the hereditaments and appurtenances thereto appertaining releasing all claims therein.

In this instrument in every case the plural shall include the singular and vice-versa and each gender the others.

IN WITNESS WHEREOF, this instrument has been executed on behalf of First Party by its duly authorized officer on the day and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

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

STATE OF TENNESSEE     )  
  )  
COUNTY OF \_\_\_\_\_ )

Personally appeared before me the undersigned authority, a Notary Public in and for said City and in said state, \_\_\_\_\_, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Chairman of Knoxville's Community Development Corporation, the within named bargainor, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, and that he as such Chairman, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Chairman.

Witness my hand and official seal at office, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

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

My Commission Expires:

\_\_\_\_\_

Name and address of property owner:

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

who is responsible for payment of taxes.

CLT CODE: \_\_\_\_\_

I hereby swear or affirm that the actual consideration or true value of this transfer, whichever is greater is \$1.00.

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Affiant

My Commission Expires:

\_\_\_\_\_

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

**EXHIBIT E**

**BILL OF SALE**

Knox County, Tennessee

\_\_\_\_\_, 20\_\_\_\_

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby transfers and conveys to DGA Grosvenor Square LP, a Tennessee limited partnership, all of its right, title, claim and interest in law and equity in and to all personal property, fixtures, machinery and equipment described on Exhibit A attached hereto.

The undersigned makes no warranty as to title of the property transferred and conveyed.

IN WITNESS WHEREOF, Knoxville's Community Development Corporation has caused its name to be signed by its duly authorized officer on the day and year first above written.

KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION

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

Sworn to and subscribed before me, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

My Commission Expires:  
\_\_\_\_\_

34217966.1

**BOARD ACTION FORM**

|   |  |
|---|--|
| <b>MEETING DATE</b>   | December 6, 2022   |
| <b>AGENDA ITEM DESCRIPTION</b>  | Final Resolution authorizing issuance of not to exceed \$27,500,000 in bonds.  |
| <b>SUBMITTED BY</b>   | <b>Name, Title / Department:</b> Brad Peters, Vice President of Redevelopment/Legal Services   |
| <b>MEETING TYPE</b>   | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual   |
| <b>CLASSIFICATION</b>   | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval   |
| <b>BUDGET / FINANCIAL IMPACT</b>  | Budgeted: \$ _____ Expenditure: \$ _____<br>Source of Funds:   |
| <b>APPROVAL / REVIEWS</b>   | <input checked="" type="checkbox"/> Department Head /VP <input type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input checked="" type="checkbox"/> Legal Counsel: Jay Moneyhun<br>Other – Name/Title: _____ |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>This Preliminary Bond Resolution would allow KCDC to increase the preliminary bond up to \$27,500,000 to finance new construction of affordable housing at 2400 Merchant Drive - an approximate 184-unit multifamily affordable housing development.</p> <p><b>2. Why is the action needed now?</b><br/>The closing is anticipated to be held later this month,</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>The issuer of the bonds is KCDC.<br/>DGA Grosvenor Square LP (20% owned by KCDC affiliate), is the bond applicant and borrower.</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>None, these bonds will not become a general obligation of KCDC.</p> |  |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>  | KCDC is partnering with Dominion Group Affordable to construct 184 units of new affordable housing at 2400 Merchant Drive. This bond transaction along with 4% LIHTCs from THDA will finance the construction.   |
| <b>ATTACHMENTS</b>  | Resolution   |



**RESOLUTION NO. 2022-\_\_\_\_\_**

**FINAL RESOLUTION AUTHORIZING ISSUANCE OF NOT TO  
EXCEED \$27,500,000 KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION  
COLLATERALIZED MULTIFAMILY HOUSING BONDS  
(GROSVENOR SQUARE PROJECT) SERIES 2022**

**WHEREAS**, the Board of Commissioners of Knoxville's Community Development Corporation (the "Issuer"), has met pursuant to proper notice on December 6, 2022; and

**WHEREAS**, DGA Grosvenor Square LP, a Tennessee limited partnership (the "Borrower"), has requested the Issuer to finance the acquisition, construction, and equipping of a multifamily housing rental development consisting of approximately 184 apartment units to be known as Grosvenor Square to be located on certain property located southeast of the intersection of Merchant Drive and Wilkerson Road in Knoxville, Tennessee (the "Project"), which project is of the character and will accomplish the purposes of Part 20 of Title 13 of the Tennessee Code Annotated, as amended (the "Act"); and

**WHEREAS**, the Issuer proposes to finance the Project by the issuance and sale of its revenue bonds in an amount not to exceed \$27,500,000; and

**WHEREAS**, the Issuer previously held a public hearing with respect to the issuance of Bonds, as required under Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"); and

**WHEREAS**, there have been submitted to the Issuer at the meeting on December 6, 2022, the forms of the following instruments which the Issuer proposes to execute to carry out the

transactions described above, copies of which instruments shall be filed with the records of the Issuer:

(a) Bond Purchase Agreement (the "Purchase Agreement") by and among the Issuer, the Borrower, and the purchaser thereof (the "Bond Purchaser");

(b) Trust Indenture (the "Indenture") between the Issuer and U.S. Bank National Association, as trustee (the "Trustee");

(c) The form of the Issuer's Collateralized Multifamily Housing Bonds (Grosvenor Square Project), Series 2022 (the "Bonds");

(d) Loan Agreement (the "Loan Agreement") between the Issuer and the Borrower, to provide for the loan of the proceeds of the Bonds to the Borrower and for the repayment of such loan.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION:**

1. It is hereby found and determined that the financing of the Project will assist the Borrower in connection with its mission of providing safe, affordable housing to the citizens of the State of Tennessee, thereby improving their health and wellbeing and promoting the purposes of the Act.

2. It is hereby found to be most advantageous to sell the Bonds, upon the terms and conditions set forth in the Purchase Agreement.

3. The Chairman or Vice Chairman of the Issuer is hereby authorized and directed to execute and either is authorized to deliver the Purchase Agreement to the other parties thereto.

4. The Chairman or Vice Chairman of the Issuer is hereby authorized and directed to execute, and the Secretary or Assistant Secretary of the Issuer is authorized to attest, and either is authorized and directed to deliver the Indenture to the Trustee.

5. The Chairman or Vice Chairman of the Issuer is hereby authorized and directed to execute, and the Secretary or Assistant Secretary of the Issuer is authorized to attest, and either is authorized to deliver the Loan Agreement to the Borrower, the Trustee and the Lender.

6. The Chairman or Vice Chairman of the Issuer is hereby authorized and directed to execute by facsimile or manual signature, attested by the facsimile or manual signature of its Secretary or Assistant Secretary, and either is authorized and directed to deliver the Bonds to the Trustee for authentication and delivery to the Bond Purchaser thereof upon payment of the purchase price therefor.

7. The Purchase Agreement, the Indenture, the Loan Agreement and the Bonds shall be in substantially the forms submitted, which are hereby approved, with such completions, omissions, insertions and changes as may be approved by the officers executing them, their execution to constitute conclusive evidence of their approval of any such omissions, insertions and changes; provided, however, that the Bonds shall bear interest at a rate or rates not to exceed the maximum amount permitted by law and the Bonds shall mature on or before ten (10) years after the issuance thereof.

8. The Issuer hereby authorizes and approves the preparation, use and circulation of a Private Placement Memorandum, Preliminary Official Statement and a Final Official Statement, which describes the Bonds and the financing documents related to the Bonds and which will be used to market and sell the Bonds. The Issuer hereby authorizes and approves the preparation, use and circulation of a Remarketing Circular or similar offering document, which describes the Bonds and the financing documents related to the Bonds and which will be used in connection with any remarketing of the Bonds, as provided for in the Indenture.

9. The officers of the Issuer are hereby authorized and directed to execute, deliver and file all certificates and instruments, including Internal Revenue Service Form 8038, financing statements to evidence security interests created under the Indenture, a Tax Exemption Certificate and Agreement, and an informational statement to be filed with the State of Tennessee, and to take all such further action as they may consider necessary or desirable in connection with the issuance and sale of the Bonds and the financing of the Project.

10. Any authorization herein to execute any document shall include authorization to record such document where appropriate.

11. All other acts of the officers of the Issuer which are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Bonds and the financing of the Project are hereby approved and confirmed.

I hereby certify that attached hereto is a resolution of Knoxville's Community Development Corporation, duly and lawfully adopted by its Board of Directors on December 6, 2022, at a meeting at which a quorum was acting throughout and I furthermore certify that such resolution has not been amended or modified in any respect.

**KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION**

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Secretary

33989649.1

**BOARD ACTION FORM**

|   |  |
|---|--|
| <b>MEETING DATE</b>   | December 6, 2022   |
| <b>AGENDA ITEM DESCRIPTION</b>  | Final Resolution authorizing issuance of not to exceed \$15,000,000 in bonds.  |
| <b>SUBMITTED BY</b>   | <b>Name, Title / Department:</b> Brad Peters, Vice President of Redevelopment/Legal Services   |
| <b>MEETING TYPE</b>   | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual   |
| <b>CLASSIFICATION</b>   | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval   |
| <b>BUDGET / FINANCIAL IMPACT</b>  | Budgeted: \$ _____ Expenditure: \$ _____<br>Source of Funds: _____   |
| <b>APPROVAL / REVIEWS</b>   | <input checked="" type="checkbox"/> Department Head /VP <input type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input checked="" type="checkbox"/> Legal Counsel: Jay Moneyhun<br>Other – Name/Title: _____ |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>This Preliminary Bond Resolution would allow KCDC to increase the preliminary bond up to \$15,000,000 to finance the construction of affordable housing, an approximate 96 unit multifamily affordable housing development.</p> <p><b>2. Why is the action needed now?</b><br/>The closing is anticipated to be held later this month,</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>The issuer of the bonds is KCDC.<br/>DGA Holston LP (20% owned by KCDC affiliate), is the bond applicant and borrower.</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>None, these bonds will not become a general obligation of KCDC.</p> |  |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>  | KCDC is partnering with DGA, Residential to construct 96 new units of affordable housing near Holston River Park. This bond transaction along with 4% LIHTCs from THDA will finance the construction.  |
| <b>ATTACHMENTS</b>  | Resolution   |

**RESOLUTION NO. 2022-\_\_\_\_**

**FINAL RESOLUTION AUTHORIZING ISSUANCE OF NOT TO  
EXCEED \$15,000,000 KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION  
COLLATERALIZED MULTIFAMILY HOUSING BONDS  
(WILLOW PLACE PROJECT) SERIES 2022**

**WHEREAS**, the Board of Directors of Knoxville's Community Development Corporation (the "Issuer"), has met pursuant to proper notice on December 6, 2022; and

**WHEREAS**, DGA Holston LP, a Tennessee limited partnership (the "Borrower"), has requested the Issuer to finance the acquisition, construction, and equipping of a multifamily housing rental development consisting of approximately 96 apartment units to be known as Willow Place to be located on certain property located on the north side of Holston Hills Road, across the street from Holston River Park (which park is located at 3300 Holston Hills Road in Knoxville, Tennessee) (the "Project"), which project is of the character and will accomplish the purposes of Part 20 of Title 13 of the Tennessee Code Annotated, as amended (the "Act"); and

**WHEREAS**, the Issuer proposes to finance the Project by the issuance and sale of its revenue bonds in an amount not to exceed \$15,000,000; and

**WHEREAS**, the Issuer previously held a public hearing with respect to the issuance of Bonds, as required under Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"); and

**WHEREAS**, there have been submitted to the Issuer at the meeting on December 6, 2022, the forms of the following instruments which the Issuer proposes to execute to carry out the

transactions described above, copies of which instruments shall be filed with the records of the Issuer:

(a) Bond Purchase Agreement (the "Purchase Agreement") by and among the Issuer, the Borrower, and the purchaser thereof (the "Bond Purchaser");

(b) Trust Indenture (the "Indenture") between the Issuer and U.S. Bank National Association, as trustee (the "Trustee");

(c) The form of the Issuer's Collateralized Multifamily Housing Bonds (Willow Place Project), Series 2022 (the "Bonds");

(d) Loan Agreement (the "Loan Agreement") between the Issuer and the Borrower, to provide for the loan of the proceeds of the Bonds to the Borrower and for the repayment of such loan.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION:**

1. It is hereby found and determined that the financing of the Project will assist the Borrower in connection with its mission of providing safe, affordable housing to the citizens of the State of Tennessee, thereby improving their health and wellbeing and promoting the purposes of the Act.

2. It is hereby found to be most advantageous to sell the Bonds, upon the terms and conditions set forth in the Purchase Agreement.



3. The Chairman or Vice Chairman of the Issuer is hereby authorized and directed to execute and either is authorized to deliver the Purchase Agreement to the other parties thereto.

4. The Chairman or Vice Chairman of the Issuer is hereby authorized and directed to execute, and the Secretary or Assistant Secretary of the Issuer is authorized to attest, and either is authorized and directed to deliver the Indenture to the Trustee.

5. The Chairman or Vice Chairman of the Issuer is hereby authorized and directed to execute, and the Secretary or Assistant Secretary of the Issuer is authorized to attest, and either is authorized to deliver the Loan Agreement to the Borrower, the Trustee and the Lender.

6. The Chairman or Vice Chairman of the Issuer is hereby authorized and directed to execute by facsimile or manual signature, attested by the facsimile or manual signature of its Secretary or Assistant Secretary, and either is authorized and directed to deliver the Bonds to the Trustee for authentication and delivery to the Bond Purchaser thereof upon payment of the purchase price therefor.

7. The Purchase Agreement, the Indenture, the Loan Agreement and the Bonds shall be in substantially the forms submitted, which are hereby approved, with such completions, omissions, insertions and changes as may be approved by the officers executing them, their execution to constitute conclusive evidence of their approval of any such omissions, insertions and changes; provided, however, that the Bonds shall bear interest at a rate or rates not to exceed the maximum amount permitted by law and the Bonds shall mature on or before ten (10) years after the issuance thereof.

8. The Issuer hereby authorizes and approves the preparation, use and circulation of a Private Placement Memorandum, Preliminary Official Statement and a Final Official Statement, which describes the Bonds and the financing documents related to the Bonds and which will be used to market and sell the Bonds. The Issuer hereby authorizes and approves the preparation, use and circulation of a Remarketing Circular or similar offering document, which describes the Bonds and the financing documents related to the Bonds and which will be used in connection with any remarketing of the Bonds, as provided for in the Indenture.

9. The officers of the Issuer are hereby authorized and directed to execute, deliver and file all certificates and instruments, including Internal Revenue Service Form 8038, financing statements to evidence security interests created under the Indenture, a Tax Exemption Certificate and Agreement, and an informational statement to be filed with the State of Tennessee, and to take all such further action as they may consider necessary or desirable in connection with the issuance and sale of the Bonds and the financing of the Project.

10. Any authorization herein to execute any document shall include authorization to record such document where appropriate.

11. All other acts of the officers of the Issuer which are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Bonds and the financing of the Project are hereby approved and confirmed.

I hereby certify that attached hereto is a resolution of Knoxville's Community Development Corporation, duly and lawfully adopted by its Board of Directors on December 6, 2022, at a meeting at which a quorum was acting throughout and I furthermore certify that such resolution has not been amended or modified in any respect.

**KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION**

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Secretary

33992330.1

## BOARD ACTION FORM

|  |  |
|--|--|
| <b>MEETING DATE</b>  | December 6, 2022   |
| <b>AGENDA ITEM DESCRIPTION</b>   | Approval is requested of the award of a contract for trash collection services with Waste Connections of Tennessee, Inc.   |
| <b>SUBMITTED BY</b>  | <b>Name, Title / Department:</b> Jim Barker, VP Administration   |
| <b>MEETING TYPE</b>  | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual   |
| <b>CLASSIFICATION</b>  | <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Approval   |
| <b>BUDGET / FINANCIAL IMPACT</b>   | <b>Budgeted:</b> \$ 246,000.00 <b>Expenditure:</b> \$ 246,000.00 (approximately)<br><b>Source of Funds:</b> Operating Budgets  |
| <b>APPROVAL / REVIEWS</b>  | <input type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input type="checkbox"/> Legal Counsel: _____<br><b>Other – Name/Title:</b> Terry McKee/Procurement Director     |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>This request will enable KCDC to use the recommended award to Waste Connections of Tennessee, Inc. for trash collection services starting on January 1, 2023.</p> <p><b>2. Why is the action needed now?</b><br/>KCDC's current award for trash collection services expires on December 31, 2022. Note that Waste Connections of Tennessee is the incumbent vendor.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>Waste Connections of Tennessee, Inc. is the selected (and lowest cost) vendor and they will provide trash collection services as detailed in the solicitation document. KCDC staff will coordinate with the vendor and serve to administer the contract.</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>The short and long term exposures to KCDC are paying Waste Connections of Tennessee, Inc.</p> |  |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>   | KCDC has a contract for trash collection services for all sites. To contain costs KCDC and the City of Knoxville issued a joint bid for trash collection services. There were two responses and staff requests Board approval to award to Waste Connections of Tennessee, Inc. |
| <b>ATTACHMENTS</b>   | Bid Tabulation Form  |



**Benjamin M. Bentley, Executive Director/CEO**

901 N. Broadway • Knoxville, TN 37917  
865.403.1100 • Fax 865.403.1117  
800.848.0298 (Tennessee Relay Center)  
www.kcdc.org

**TO:** The KCDC Board

**FROM:** Benjamin M. Bentley, Secretary

**DATE:** November 16, 2022

**SUBJECT:** Approval of the award of a contract for trash collection services with Waste Connections of Tennessee, Inc.

KCDC's Procurement Policy requires written formal solicitations (publicly advertised and opened) in all cases where the aggregate cost of the item(s) or service(s) requested is \$50,000 or more. In a cost containment effort, KCDC and the City of Knoxville issued a joint bid for trash collection services. There were two responses and staff requests Board approval of the following recommendation.

|                           |   |
|---------------------------|---|
| <b>Scope of Work</b>      | Trash collection services with Waste Connections of Tennessee, Inc.   |
| <b>Funding Source</b>     | Site Operating Budgets  |
| <b>Total Award Amount</b> | \$246,000.00 per year<br>Note that this is an approximate amount and will vary as KCDC's needs fluctuate (number of dumpsters, number of pickups and number of apartments, adjust over time). |
| <b>Review Committee</b>   | City of Knoxville Procurement<br>Tracee Pross, Chief Financial Officer<br>Terry McKee, Procurement Director   |
| <b>Solicitation Type</b>  | Invitation for Bids   |

| <b>Company</b>                              | <b>Recommended for Approval</b> |
|---|---------------------------------|
| <b>Waste Connections of Tennessee, Inc.</b> | <b>Yes (low bid)</b>            |
| <b>Waste Management Inc. of Tennessee</b>   | <b>No</b>                       |

| This solicitation was distributed to:   |  |
|---|--|
| KCDC's Web Page   | KCDC's Registered Vendors                        |
| KCDC property offices for publication on their bulletin boards                |  |
| Associated Construction Women*  | Associated General Contractors of Tennessee      |
| Atlanta Chapter <i>National Association of Black Women in Construction</i> *+ | Black Contractors Association+                   |
| Centro Hispano de East Tennessee+   | Construction Market Data                         |
| Dodge Data & Analytics  | Knox County's Supplier Diversity Office*+        |
| Knoxville Area Urban League+  | Knoxville Builder's Exchange                     |
| Knoxville Chamber Partnership   | Knoxville's DBAC Office*+                        |
| Knoxville Equity Partners+  | SCORE  |
| SERC  | Small Business Administration                    |
| Tennessee Small Business Development Center                                   | Tennessee Minority Supplier Development Council+ |
| WJBE Radio+   |  |
| U.S. Department of Commerce Minority Business Development Agency+             |  |

\* Denotes an organization promoting/assisting Woman Owned Businesses

+ Denotes an organization promoting/assisting Minority Owned Businesses

**BOARD ACTION FORM**

|  |  |
|--|--|
| <b>MEETING DATE</b>  | December 6, 2022   |
| <b>AGENDA ITEM DESCRIPTION</b>   | Resolution relating to tax increment financing for redevelopment of Station South Townhomes in the South Waterfront Redevelopment Area.  |
| <b>SUBMITTED BY</b>  | <b>Name, Title / Department:</b> Ben Bentley, Executive Director/CEO   |
| <b>MEETING TYPE</b>  | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual   |
| <b>CLASSIFICATION</b>  | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval   |
| <b>BUDGET / FINANCIAL IMPACT</b>   | <b>Budgeted:</b> \$ 293,172 <b>Expenditure:</b> \$ 293,172<br><b>Source of Funds:</b> Tax Increment Finance  |
| <b>APPROVAL / REVIEWS</b>  | <input type="checkbox"/> Department Head /VP <input type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input checked="" type="checkbox"/> Legal Counsel: Bass Berry & Sims<br>Other – Name/Title:                 |
| <b><u>BACKGROUND</u></b>   |  |
| <p><b>1. What is the objective of this action?</b><br/>Tailwater South, LLC is developing 20 townhomes at 1400 Island Home Avenue. The City of Knoxville is completing certain public infrastructure improvements in conjunction with the private development. Tax increment finance (TIF) will fund up to \$293,172 of the public infrastructure.</p> <p><b>2. Why is the action needed now?</b><br/>The Developer will close on acquisition and construction prior to the end of the year. Since the Developer's contractor will construct the public improvements and receive reimbursement at project completion, the lender requires approval of the development agreement to occur prior to closing.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>Tailwater South, LLC - Developer/Owner<br/>KCDC - Redevelopment Authority<br/>City of Knoxville - Inspector/Owner of Public Improvements</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>No Long Term Exposure to KCDC beyond the Maximum Reimbursement Amount of \$293,172, which will be funded through TIF at project completion.</p> |  |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>   | The Developer acquired the .8 acre site in September of 2019. They intend to invest \$6.5 million in the construction of 20 townhomes at 1400 Island Home Avenue. All entitlements are in place, and construction closing should commence in December of 2022. |
| <b>ATTACHMENTS</b>   | Resolution<br>Development Agreement  |

**RESOLUTION NO. 2022-\_\_\_**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF  
KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION  
RELATING TO TAX INCREMENT FINANCING FOR  
REDEVELOPMENT OF CERTAIN SOUTH WATERFRONT PROPERTY**

**WHEREAS**, Knoxville's Community Development Corporation ("KCDC") is the housing, redevelopment and urban renewal authority of the City of Knoxville, Tennessee and is duly incorporated pursuant to Sections 13-20-101 et seq., Tennessee Code Annotated; and

**WHEREAS**, pursuant to the Knoxville South Waterfront Redevelopment & Urban Renewal Plan, as it may be amended from time to time (the "Plan"), KCDC is authorized to facilitate redevelopment projects in the area subject to the Plan (the "Redevelopment Area"); and

**WHEREAS**, pursuant to the Plan, KCDC is authorized to assist with such redevelopment projects by entering into tax increment financing transactions with respect to redevelopment projects in the Redevelopment Area; and

**WHEREAS**, to support and assist with certain redevelopment projects within the Redevelopment Area, the Board of Commissioners of KCDC (the "Board") desires to borrow funds from Regions Bank (the "Lender") in an amount not to exceed \$10,000,000 (the "Loan"), the proceeds of which will be used by the Board to reimburse certain redevelopment costs incurred within the Redevelopment Area in accordance with the Act and the Plan; and

**WHEREAS**, the Loan will be secured by an assignment of certain tax increment revenues associated with property within the Redevelopment Area; and

**WHEREAS**, the Lender has provided a term sheet for the Loan (the "Term Sheet"), which has been submitted for review to the Board; and

**WHEREAS**, the Board has determined that the terms set forth in the Term Sheet are fair and reasonable and that it is in the best interests of KCDC to proceed with the Loan upon the terms set forth in the Term Sheet; and

**WHEREAS**, the Loan will be evidenced by a Loan Agreement, a Tax Increment Revenue Note, and an Assignment of Tax Increment Revenues (together with such other documents and agreements as may be reasonably required by Lender, the "Loan Documents"); and

**WHEREAS**, Tailwater South, LLC, a Tennessee limited liability company (the "Developer"), is the owner of a parcel within the Redevelopment Area comprising of approximately .8 acres



and commonly known as Station South Townhomes, located at 1400 Island Home Avenue, Knoxville, Tennessee; and

**WHEREAS**, Developer has developed plans for the development of a 20-unit townhome project (the "Project") and requests the assistance of KCDC to complete its plans; and

**WHEREAS**, KCDC has determined to use a portion of the proceeds of the Loan to reimburse eligible costs of the Developer in connection with the Project in an amount not to exceed \$293,172, subject to certain conditions, including (i) the negotiation and execution of a final development agreement, (ii) verification of the project costs for which reimbursement is sought; and (iii) the Developer's satisfaction of other customary KCDC requirements in connection with tax increment financing transactions; and

**WHEREAS**, KCDC's reimbursement of certain project costs as set forth herein will further the public purposes of KCDC by promoting redevelopment in the Redevelopment Area.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of Knoxville's Community Development Corporation, as follows:

**RESOLVED**, that (i) the Chairman, Vice Chairman, Secretary, Assistant Secretary and/or any other officer of KCDC (each, an "Authorized Officer"), acting alone or in combination with one another, is/are authorized, empowered and directed to negotiate and execute, and, if requested, the Secretary is authorized to attest, and any such officer of KCDC is authorized to deliver to the other parties thereto, the Loan Documents and all other instruments, documents and agreements deemed necessary or desirable by an Authorized Officer to carry out the Loan transaction described herein, all in the form approved by the Authorized Officer executing same, the execution by such Authorized Officer to constitute conclusive evidence of the approval of same, and (ii) such officers, together with all other officers and employees of KCDC, are hereby authorized to take all such further action as they may consider necessary or desirable in connection with the Loan and to take from time to time any actions deemed necessary or desirable by such officers and employees to effectuate and comply with the terms of such agreements as are executed on behalf of KCDC pursuant to the authorization contained herein; and further

**RESOLVED**, that KCDC is authorized to use the proceeds of the Loan to reimburse redevelopment costs incurred in connection with the redevelopment of property within the Redevelopment Area in accordance with the terms of the Plan and the Act; and

**RESOLVED**, that KCDC is authorized to reimburse up to \$293,172 of redevelopment costs incurred in connection with the Project, subject to (i) the negotiation and execution of a final development agreement, (ii) verification of the project costs for which reimbursement is

sought; and (iii) the Developer's satisfaction of other customary KCDC requirements in connection with tax increment financing transactions; and further

**RESOLVED**, that any and all other actions heretofore taken on behalf of KCDC by the Authorized Officers to execute and deliver any of the agreements, documents or instruments authorized by the foregoing resolutions, or to take any of the other actions authorized by the foregoing resolutions, and all acts of the Authorized Officers that are in conformity with the purposes and intent of these resolutions, are hereby approved, ratified and confirmed in all respects.

Approved this 2<sup>nd</sup> day of December, 2022.

**KNOXVILLE'S COMMUNITY  
DEVELOPMENT CORPORATION**

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

**DEVELOPMENT AGREEMENT  
RELATING TO THE CITY SOUTH APARTMENTS  
KNOXVILLE SOUTH WATERFRONT REDEVELOPMENT & URBAN RENEWAL PLAN**

**THIS DEVELOPMENT AGREEMENT RELATING TO THE CITY SOUTH APARTMENTS** (herein, the "Agreement") is made and entered into as of the \_\_\_ day of December, 2022 by and among **KNOXVILLE'S COMMUNITY DEVELOPMENT CORPORATION**, a housing and redevelopment authority of the City of Knoxville, Tennessee organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §§ 13-20-101, et seq. ("KCDC") and **TAILWATER SOUTH, LLC**, a Tennessee limited liability company (the "Developer").

**WITNESSETH:**

**WHEREAS**, KCDC desires to eliminate slum and blighting conditions and provide for the redevelopment of a certain area of Knoxville, Tennessee, pursuant to the Knoxville South Waterfront Redevelopment & Urban Renewal Plan as in effect as of the date hereof (herein the "Plan") regarding the redevelopment area described in the Plan (herein the "Redevelopment District"), approved by Resolution No. R-357-06 of the Council (herein the "Council") of the City of Knoxville (herein the "City"); and

**WHEREAS**, the Plan was approved by Knox County, Tennessee (herein the "County") pursuant to Resolution No. R-06-9-901 of the County Commission of the County (herein the "Commission"); and

**WHEREAS**, KCDC desires to provide for the construction of certain public improvements within the Redevelopment District to eliminate blight and provide for economic development necessary to support stabilization and improvement of surrounding areas; and

**WHEREAS**, the Developer is the owner of approximately .8 acres of land located at 1400 Island Home Avenue in Knoxville, Tennessee, as more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Developer Property"); and

**WHEREAS**, the City owns certain real property adjacent to the Developer Property on which certain public improvements have been constructed and more particularly described on Exhibit B attached hereto and incorporated herein by reference (the "City Property"); and

**WHEREAS**, the City has granted to KCDC a temporary construction easement over the City Property, and KCDC, pursuant to the terms of this Agreement, will grant to the Developer and its designated representatives the authority to utilize such construction easement; and

**WHEREAS**, the Developer Property and the City Property are located within the Redevelopment District and are referred to collectively hereinafter as the "Redevelopment Parcel"; and

**WHEREAS**, the Developer created plans for the development of a project on the Developer Property known as the "Station South Townhomes" (herein the "Private Improvements") consisting of the redevelopment of the site with 20 townhomes, in accordance with the plans more particularly described as the Station South Approved Plans, Permit Number ~~XXXXXX-XXXX~~ and attached hereto as Exhibit C (the "Private Improvements Plans"), and requests the assistance of KCDC in connection therewith; and

**WHEREAS**, KCDC intends to finance the construction of certain public improvements on the City Property, including, but not limited to, certain street and road improvements, construction of a public

sidewalk, installation of underground utilities and certain storm water management improvements, all as specifically identified as public improvements in the Public Improvement Plans (as such term is hereinafter defined) (collectively, the "Public Improvements") by agreeing to reimburse the Developer for the costs of such improvements; and

**WHEREAS**, KCDC desires to engage the Developer (or its agent) to construct the Public Improvements; and

**WHEREAS**, for the purpose of establishing the rights and obligations of the parties with respect to the matters described above and related matters, the parties have entered into this Agreement.

**NOW, THEREFORE**, in consideration of the terms, conditions and mutual agreements by and between the parties, as hereafter set forth in detail, the parties do hereby mutually agree as follows:

## **ARTICLE I REPRESENTATIONS AND WARRANTIES**

**Section 1.01. Representations and Warranties of the Developer.** The Developer represents and warrants for the benefit of KCDC as follows:

(a) **Organization.** The Developer is a limited liability company duly organized, validly existing, in good standing, under and in compliance with, the laws of the State of Tennessee. The Developer has the power and authority to own its properties and assets and to carry on its business in the State of Tennessee as now being conducted and as hereby contemplated.

(b) **Authority.** The Developer has the power and authority to enter into this Agreement and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Developer.

(c) **Binding Obligations.** This Agreement is a legal, valid and binding obligation of the Developer enforceable against the Developer in accordance with its terms, subject to applicable insolvency laws and equitable principles.

(d) **No Litigation.** No litigation at law or in equity or proceeding before any governmental agency involving the Developer is pending or, to the knowledge of the Developer, threatened, in which any liability of the Developer is not adequately covered by insurance or in which any judgment or order would have a material adverse effect upon the business or assets of the Developer or the performance of its obligations hereunder.

(e) **No Default.** The Developer is not in default under or in violation of, and the execution, delivery and compliance by the Developer with the terms and conditions of this Agreement will not conflict with or constitute or result in a default under or violation of, (i) any material agreement or other instrument to which the Developer is a party or by which it is bound, or (ii) any constitutional or statutory provisions or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Developer or its property, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

**Section 1.02. Representation and Warranties of KCDC.** KCDC represents and warrants for the benefit of the Developer as follows:

(a) Organization. KCDC is a public non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Tennessee, is in compliance with the laws of the State of Tennessee, and has the power and authority to own its properties and assets and to carry on its business in the State of Tennessee as now being conducted and as hereby contemplated.

(b) Authority. KCDC has the power and authority to enter into this Agreement and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by KCDC.

(c) Binding Obligations. This Agreement is a legal, valid and binding obligation of KCDC enforceable against KCDC in accordance with its terms, subject to applicable insolvency laws and equitable principles.

(d) No Litigation. No litigation at law or in equity or proceeding before any governmental agency involving KCDC is pending or, to the knowledge of KCDC, threatened, in which any liability of KCDC is not adequately covered by insurance or in which any judgment or order would have a material adverse effect upon the business or assets of KCDC or the performance of its obligations hereunder.

(e) No Default. KCDC is not in default under or in violation of, and the execution, delivery and compliance by KCDC with the terms and conditions of this Agreement will not conflict with or constitute or result in a default under or violation of, (i) any material agreement or other instrument to which KCDC is a party or by which it is bound, or (ii) any constitutional or statutory provisions or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over KCDC or its property, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

## **ARTICLE II**

### **DEVELOPMENT OF DEVELOPER PROPERTY**

**Section 2.01. Construction of Private Improvements.** The Developer shall develop and construct the Private Improvements in all material respects according to the Private Improvements Plans as submitted to and approved by the City. The Developer shall undertake the following development activities (the "Redevelopment Activities"):

(a) Obtain and file all necessary planning and administrative approvals as required to construct and operate the Private Improvements under applicable law and consistent with the Private Improvements Plans and the Plan.

(b) Make no material additions or alterations to the Private Improvements that are not approved by KCDC staff as being in substantial conformity with the Private Improvements Plans; provided, however, that KCDC's approval rights over any additions or alterations shall not extend to the interior appearance of such improvements or the internal configuration of the apartment units constructed therein. KCDC's approval of alterations or additions shall not be unreasonably withheld and shall occur within thirty (30) days of submission. Notwithstanding the foregoing, Article III hereof shall control with respect to approval of additions or alterations to the Public Improvement Plans.

(c) Submit to KCDC a copy of a fully executed construction contract(s) for construction of the Private Improvements along with originals of performance and labor and materials payment bonds with regard to the construction contract(s), issued by a company satisfactory to KCDC, whose approval should not be unreasonably withheld.

(d) Fully construct or cause to be fully constructed the improvements anticipated by the Proposed Plans in accordance with the following requirements:

(i) An application for a building permit for the Private Improvements was filed on \_\_\_\_\_, 202\_\_.

(ii) Diligently pursue the redevelopment and construction of the Private Improvements, obtain a Certificate of Occupancy for the Private Improvements and commence marketing and leasing of the Private Improvements no later than June 30, 2024, as such deadline may be extended from time to time with the written consent of KCDC. In connection therewith, KCDC shall agree to extensions of not more than ninety (90) days for each Excusable Delay (as defined herein), as long as the Developer notifies KCDC in writing in each case promptly after the occurrence of an Excusable Delay and specifies the nature and duration of the Excusable Delay. As used in this Agreement, "Excusable Delay" shall mean any unanticipated delay in commencement or completion of construction of the Private Improvements due to strikes, lockouts or other labor or industrial disturbance, civil disturbance, future order of any government, court or regulatory body claiming jurisdiction, act of the public enemy, war, riot, sabotage, blockage, embargo, lightning, earthquake, fire, hurricane, tornado, flood washout, explosion, unusually inclement weather, moratorium or other unusual delay in obtaining necessary governmental permits or approvals (with the Developer using commercially reasonable efforts to obtain the same) or any other cause whatsoever beyond the reasonable control of the Developer (excluding financial inability to perform).

(iii) During and after completion of construction, take all steps reasonably necessary to effectuate the terms and conditions of this Agreement and materially adhere to the Private Improvements Plans.

(e) Not speculate in or with respect to the Redevelopment Parcel (i.e., sell or contract to sell any portion of the Redevelopment Parcel) prior to the completion of the Private Improvements except with the written approval of KCDC. Notwithstanding the foregoing, it is expressly acknowledged that Developer may presale individual townhome units prior to the final completion of the Private Improvements.

(f) Not discriminate upon the basis of race, color, creed, sex, handicap or national origin in the sale, lease or rental, or in the construction, of the Private Improvements or the use or occupancy of the Private Improvements or any part thereof.

(g) Avoid any use of the Private Improvements that is not in substantial compliance with the Private Improvements Plans and the Redevelopment Concept.

**Section 2.02. Capital Cost.** The Developer shall expend not less than \$6,500,000.00 in connection with the development of the Private Improvements and upon completion of the Private Improvements shall inform the Knox County Tax Assessor of the amount expended by the Developer in connection with the development of the Private Improvements.

### **ARTICLE III**

#### **DESIGN AND CONSTRUCTION OF PUBLIC IMPROVEMENTS**

**Section 3.01. Preparation of Plans and Specifications.** The Developer (or its representatives) have prepared and submitted to KCDC and the City and KCDC and the City have approved the Private Improvement Plans, which have been prepared in compliance with all applicable law, regulations and other governmental requirements and standards. The term “Public Improvement Plans” shall mean the scope of work set forth in the Private Improvement Plans highlighted in Exhibit D attached hereto as public improvements within the Public Right-of-Way at Island Home Avenue and McCormick St. The Public Improvements shall generally consist of the improvement of certain streets and roads, a public sidewalk, as well as the installation of underground utilities and storm water management improvements, all as more specifically described on the Public Improvement Plans. The Developer agrees to make no material changes to the Public Improvement Plans without the prior written approval of KCDC and the City, which approval shall not be unreasonably withheld or delayed.

**Section 3.02. Permits and Approvals.** The Developer shall obtain and file all necessary planning and administrative approvals as required to construct the Public Improvements under applicable law and consistent with the Public Improvement Plans and the Plan.

**Section 3.03. Construction of the Public Improvements.** KCDC acknowledges that the Developer is not a licensed contractor and that the Developer shall retain a general contractor to undertake the construction of the Public Improvements as described below. The Developer shall cause the Public Improvements to be constructed in accordance with the Private Improvement Plans, the Public Improvement Plans and the City of Knoxville Technical Specifications set forth in Exhibit E, and fully completed and available for public use not later than June 30, 2024. In connection therewith, KCDC shall agree to extensions of not more than ninety (90) days for each Excusable Delay, as long as the Developer notifies KCDC in writing in each case promptly after the occurrence of an Excusable Delay and specifies the nature and duration of the Excusable Delay; provided, however, the Public Improvements must be completed before the Private Improvements are deemed complete pursuant to Section 2.01(d) hereof. The Public Improvements shall be constructed in compliance with all applicable laws, rules, ordinances and regulations, including but not limited to those environmental in nature.

**Section 3.04. General Contractor.** The Developer shall enter into a contract (the “Public Improvements Construction Contract”) with a general contractor or contractors licensed in Tennessee to construct the Public Improvements, which contractor(s) shall have substantial experience in construction of public infrastructure and, as to any contractor or subcontractor undertaking road improvements, shall be certified in highway, railroad and airport construction (“HRA”) and municipal and utility construction (“MU”). The Public Improvements Construction Contract shall specify the costs and expenses in connection with the construction of the Public Improvements and shall not include any other costs and expenses. The Public Improvements Construction Contract shall require the contractor or its subcontractor(s) to obtain performance and payment bonds guaranteeing performance of the contractor's obligations under the Public Improvements Construction Contract in such amounts and upon such terms as are reasonably acceptable to KCDC and as to which KCDC shall be named as a dual obligee, issued by a surety, acceptable to KCDC. Pursuant to the Public Improvements Construction Contract, the general contractor shall also be required to carry liability insurance in an amount and scope as is typical for a project of such type in a form reasonably satisfactory to KCDC, and KCDC and the City shall be named as additional insureds on such insurance. The Developer shall provide evidence of such insurance to KCDC, all as described in Section 6.01 hereof. The Public Improvements Construction Contract shall provide for retainage of payments in a manner typical for contracts of such type.

**Section 3.05. Inspection Rights.**

(a) During the construction process, the Developer shall permit KCDC and the City and their representatives and agents to inspect the Public Improvements being constructed and all materials to be used in the construction thereof, including the testing of such materials, and will cooperate and cause its general contractor to cooperate with KCDC, the City and their representatives and agents during such inspections (including making available to KCDC or the City, as applicable, working copies of the Public Improvement Plans together with all related supplementary materials).

(b) Upon completion of construction of the Public Improvements, the Developer shall permit KCDC or its designee and the City to inspect the completed Public Improvements. During such inspection, KCDC and the City will determine whether the Public Improvements have been constructed in accordance with the Public Improvement Plans as they may be modified in accordance with this Agreement and to KCDC's satisfaction. If the Public Improvements have been constructed in accordance with the Public Improvement Plans and to KCDC's satisfaction, KCDC shall provide written notice to the Developer advising the Developer of the satisfactory completion of the Public Improvements and of KCDC's intent to reimburse the Developer for the cost or a portion of the cost of the construction of the Public Improvements.

**Section 3.06. Payment of Construction Costs.** KCDC shall have no obligation to advance any funds for the costs of construction incurred pursuant to the Public Improvements Construction Contract except as specifically stated herein.

**Section 3.07. Discrimination.** The Developer shall not discriminate upon the basis of race, color, creed, sex, handicap or national origin in connection with the construction, of the Public Improvements or any part thereof.

**Section 3.08. Easement.** KCDC hereby establishes and creates for the benefit of the Developer and their agents, successors and assigns (including but not limited to any general contractor selected by the Developer) an exclusive easement, license, right and privilege to utilize and cross over, under and through the City Property in order to construct the Public Improvements thereon. Such easement shall be evidenced by an instrument agreed upon by KCDC and the Developer prepared in a form recordable with the Register's Office.

**Section 3.09. Surveys.** Upon completion of the Public Improvements, the Developer will provide KCDC and the City with an as-built survey of the completed Public Improvements, together with copies of all licenses, permits, surveys and inspection reports with respect thereto. The Developer shall set all property corners upon completion of the Project.

#### **ARTICLE IV**

#### **REIMBURSEMENT OF THE COST OF THE PUBLIC IMPROVEMENTS BY KCDC**

**Section 4.01. Reimbursement by KCDC.** Within thirty (30) days of (i) completion of the Private Improvements (completion deemed to occur with the issuance of a certificate of occupancy by the applicable governmental authority) in accordance with Section 2.01(d) hereof, (ii) completion of construction of the Public Improvements (completion deemed to occur when KCDC and the City accept the Public Improvements as completed), and (iii) receipt of the notice of intent to reimburse described in Section 3.05 hereof, KCDC agrees to reimburse the Developer for the cost or a portion of the cost of the Public Improvements in the amount provided in Section 4.03 hereof. At the time of such reimbursement, the City Property shall not be subject to any liens or encumbrances unless otherwise approved in writing



by KCDC. The Developer shall assign all warranties related to the Public Improvements to KCDC upon reimbursement of the cost or a portion of the cost of the construction of the Public Improvements Parcel.

**Section 4.02. Representations and Warranties of the Developer With Respect to the Public Improvements Parcel.** In addition to any other representations and warranties in this Agreement, the Developer hereby represents and warrants as follows as of the date of payment of the Reimbursement Amount (the "Closing Date"), which representations and warranties shall survive the termination of this Agreement:

(a) There is no claim against the Public Improvements Parcel or KCDC for or on account of work done, materials furnished, and utilities supplied to the Public Improvements Parcel, and the Developer is not aware of any circumstances that would lead to such a claim arising prior to the Closing Date.

(b) There are not now outstanding in respect to the Public Improvements Parcel any uncorrected violations of notices or uncorrected violations of any laws, statutes, ordinances, rules, or regulations.

(c) The Public Improvements Parcel is not subject to any outstanding agreements of sale, options, liens, or other rights of third parties to acquire any interest therein.

**Section 4.03. Reimbursement Amount.** The maximum total amount required to be reimbursed by KCDC to the Developer for the construction of the Public Improvements shall be Two Hundred and Sixty Six Thousand Five Hundred Twenty and No/100ths Dollars (\$266,520.00) (the "Public Improvement Costs"). An additional project contingency in the amount of Twenty Six Thousand Six Hundred and Fifty Two Dollars (\$26,652.00) shall be held by KCDC, and upon request from the Developer, KCDC staff may elect to utilize these funds for certain cost overruns in excess of the Public Improvement Costs. Public Improvements Costs plus Contingency (the "Maximum Reimbursement Amount") shall not exceed Two Hundred and Ninety Three Thousand One Hundred and Seventy Two Dollars (\$293,172.00). The Developer shall provide evidence of the actual cost to construct the Public Improvements to KCDC. If such evidence demonstrates that the actual cost of the Public Improvements is less than the Public Improvement Costs set forth in this Agreement, then the reimbursement amount for the Public Improvement Costs shall be an amount equal to the actual cost of the Public Improvements. If the actual cost of the Public Improvements exceeds the Public Improvement Costs set forth in this Agreement, then the Developer may request use of Contingency to cover additional costs up to the Maximum Reimbursement Amount. Under no circumstance shall KCDC be required to pay excess costs over the Maximum Reimbursement Amount, but the Developer shall still be required to cause the completion of the Public Improvements for the Maximum Reimbursement Amount.

## **ARTICLE V EVENTS OF DEFAULT AND REMEDIES**

**Section 5.01. Event of Default.** The occurrence and continuance of any of the following events shall constitute an "Event of Default":

(a) failure of the Developer to perform any of its obligations under this Agreement after written notice is given to the Developer of such failure and the Developer has not cured such failure within ten (10) calendar days of such notice; provided, however, such notice and cure period shall not apply to the defaults contained in subsection (b) through (i) of this Section 5.01; or

(b) any material representation, warranty, certification or other statement made or deemed made by the Developer in this Agreement or in any statement or certificate at any time given by the Developer in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect as of the date made; or

(c) the Developer shall fail to complete the Private Improvements in accordance with Section 2.01(d) hereof on or before June 30, 2024; or

(d) the Developer shall fail to complete the Public Improvements in accordance with Section 3.03 hereof on or before June 30, 2024; or

(e) (i) a court of competent jurisdiction shall enter a decree or order for relief in respect of the Developer in an involuntary case under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, which decree or order is not stayed, or any other similar relief shall be granted under any applicable federal or state law; or (ii) an involuntary case shall be commenced against the Developer under any applicable bankruptcy, insolvency or similar law now or hereafter in effect which is not dismissed within ninety (90) days after filing; or (iii) a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over the Developer, as the case may be, or over all or a substantial part of its property, shall have been entered which is not dismissed within ninety (90) days after filing; or (iv) there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of the Developer for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of the Developer which is not dismissed within ninety (90) days after filing; or

(f) the Developer shall have an order for relief entered with respect to it or shall commence a voluntary case under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case or to the conversion of an involuntary case to a voluntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or the Developer shall make any assignment for the benefit of creditors, or the Developer shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or the Developer shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to herein or in Section 5.01(d); or

(g) construction of the Public Improvements shall be abandoned or shall cease and not be resumed within fifteen (15) days thereafter (other than as a result of Excusable Delay); or

(h) any of the materials, fixtures or articles used in the construction of the Public Improvements or the appurtenances thereto shall not fully comply with the plans and Public Improvements Plans; or

(i) KCDC or the City or their representatives are not permitted, at all reasonable times and upon reasonable advance notice, to inspect the Public Improvements and the construction thereof and all materials, fixtures and articles used or to be used in the construction and to examine all detailed plans, shop drawings, specifications and other records that relate to the Public Improvements or if the Developer shall fail to furnish to KCDC or the City, when requested, copies of such plans, drawing and/or specifications; or

(j) a default shall occur under any of the project Loans from Southeast Bank (as such term is hereinafter defined) and all permitted cure periods shall have expired.

**Section 5.02. KCDC Remedies.** If an Event of Default occurs, KCDC will provide written notice of such Event of Default to Lender as assignee under the collateral assignment of rights granted by Developer as contemplated in Section 7.02 of this Agreement and provide to Lender ten (10) calendar days within which to cure such Event of Default. If an Event of Default occurs hereunder which has not been cured as provided herein, KCDC may (a) terminate this Agreement, at which time all of the rights and privileges of the Developer hereunder shall cease and be of no further force or effect, and/or (b) pursue whatever other remedies are available at law or in equity which are necessary or desirable to effect the purposes of this Agreement. KCDC's termination of the rights of the Developer shall not terminate or otherwise adversely affect the rights of KCDC to pursue and exercise other remedies against the Developer.

**Section 5.03. Waiver.** No failure by KCDC to exercise any right, remedy, or option under this Agreement or any present or future supplement hereto, or delay by KCDC in exercising the same, will operate as a waiver thereof. No waiver by KCDC will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by KCDC on any occasion shall affect or diminish KCDC's rights thereafter to require strict performance by the Developer of any provision of this Agreement. KCDC's rights under this Agreement will be cumulative and not exclusive of any other right or remedy which KCDC may have.

**Section 5.04. KCDC Events of Default.** The occurrence and continuance of failure of KCDC to perform any of its obligations under this Agreement after written notice is given to KCDC of such failure and KCDC has not cured such failure within ten (10) days of such notice shall constitute a "Governmental Event of Default."

**Section 5.05. The Developer's Remedies.** If any Governmental Event of Default listed above occurs, the Developer may elect to terminate this Agreement, as well as for the damages resulting from the Governmental Event of Default, but any liability of KCDC shall be subject to the limitations of Section 7.01 hereof. In any event, the liability of KCDC for any Governmental Event of Default or any other claim by the Developer under this Agreement or related to this Agreement or the transactions to be consummated hereunder shall be specifically limited by the terms of Section 7.01 hereof.

## ARTICLE VI INSURANCE, INDEMNITY AND MAINTENANCE

**Section 6.01 Insurance.** The Developer to maintain, at the Developer's sole expense, on a primary and non-contributory basis, at all times during the life of this Agreement insurance coverages, limits, and endorsements described herein. All insurance must be underwritten by insurers with an A.M. Best rating of A-:VI or better. Upon execution of this Agreement, the Developer shall provide Certificate(s) of Insurance to KCDC evidencing said insurance coverages.

The Developer agrees the insurance requirements herein as well as KCDC's review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Developer under this Agreement. The Developer shall maintain the following coverages:

(a) Commercial General Liability Insurance. Occurrence version commercial general liability insurance with a limit of not less than \$2,000,000 each occurrence for bodily injury, personal

injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than \$3,000,000.

Such insurance shall contain or be endorsed to contain a provision that includes KCDC, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Developer including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

The Additional Insured shall read "Knoxville's Community Development Corporation (KCDC)" and "the City of Knoxville."

If necessary, umbrella/excess liability insurance can be used in conjunction with the general liability insurance to meet these requirements. Unless the umbrella/excess liability insurance provides coverage on a pure/true follow-form basis, or KCDC and the City are automatically defined as an additional insured, the Developer shall add by endorsement, KCDC its officials, officers, employees, and volunteers as an additional insured and the City its officials, officers, employees, and volunteers as an additional insured.

(b) Certificate and Policy Requirements. The Developer shall comply with the following requirements:

(i) Upon execution of this Agreement, furnish KCDC with original Certificates of Insurance and amendatory endorsements effecting coverage required by this section. Certificates of Insurance shall provide a minimum 30-day endeavor to notify KCDC of cancellation when available by the Developer's insurance. If the Developer receives a non-renewal or cancellation notice from an insurance carrier affording the required coverage, or receive notice that coverage no longer complies with the insurance requirements herein, the Developer shall notify KCDC by email within five (5) business days and provide a copy of the non-renewal for cancellation notice or written specifics as to which coverage is no longer in compliance.

(ii) The certificate holder address shall read:

Knoxville's Community Development Corporation  
Attn: Contracting Officer  
901 Broadway, NE  
Knoxville, TN 37917

The City of Knoxville  
Attn: Boyce Evans, Purchasing Agent  
P.O. Box 1631  
Knoxville, TN 37901

(iii) Provide certified copies of endorsements and policies if requested by KCDC or the City in lieu of or in addition to Certificates of Insurance.

(iv) Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.

(v) Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by KCDC as a material breach of this Agreement.

(vi) Any deductibles and/or self-insured retentions greater than \$50,000 must be disclosed to and approved by KCDC prior to the commencement of services. Use of large deductibles and/or self-insured retentions will require proof of financial ability as determined by KCDC.

(vii) Provide a waiver of subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, the policy should be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This waiver of subrogation requirement shall not apply to any policy which includes a condition specifically prohibiting such an endorsement, or voids coverage should contractor enter into such an agreement on a pre-loss basis.

(viii) All policies must be written on an occurrence basis.

(c) Right to Revise or Reject. KCDC reserves the right, but not the obligation, to review or revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage.

(d) No Representation of Coverage Adequacy. The coverages, limits or endorsements required herein protect the primary interests of KCDC and the City, and the Developer agrees in no way should these coverages, limits or endorsements required be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the contractor against any loss exposures, whether as a result of the project or otherwise.

**Section 6.02 Indemnity.** The Developer shall indemnify KCDC and the City, their respective successors and assigns, and every director, officer, employee of KCDC and the City (individually, an "Indemnatee") with respect to, and hold each Indemnatee harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, the fees and disbursements of counsel for any Indemnatee in connection with any investigative, administrative or judicial proceeding, whether or not such Indemnatee shall be designated a party thereto) which may be imposed on, incurred by, or asserted against such Indemnatee, in any way relating to or arising out of this Agreement (other than as a result of a breach hereof by KCDC), or the development of the Redevelopment Parcel ("Indemnification Liabilities"); provided, however, at no time shall the Developer indemnify liabilities resulting from the gross negligence or willful misconduct of KCDC or the City. The Developer shall reimburse each Indemnatee on demand from time to time for all Indemnification Liabilities incurred by such Indemnatee. Each Indemnatee will promptly notify the Developer of the commencement of any proceeding involving it in respect of which indemnification may be sought pursuant to this Section. The obligations of the Developer under this Section 6.02 shall survive the termination of this Agreement.

## ARTICLE VII MISCELLANEOUS

**Section 7.01** KCDC and City Liability, No Personal Liability. THE LIABILITY OF KCDC AND THE CITY FOR ANY CLAIM BY THE DEVELOPER IS EXPRESSLY LIMITED TO THE MAXIMUM REIMBURSEMENT AMOUNT, AND, OTHERWISE, NEITHER KCDC NOR THE CITY SHALL HAVE ANY PECUNIARY LIABILITY UNDER THIS AGREEMENT FOR ANY ACT OR OMISSION OF KCDC OR THE CITY. NO OTHER PROPERTY OR ASSETS OF KCDC OR THE CITY SHALL BE SUBJECT TO LEVY, EXECUTION OR OTHER PROCEDURES FOR THE SATISFACTION OF REMEDIES OF THE DEVELOPER HEREUNDER OR RELATING HERETO. UNDER NO CIRCUMSTANCES SHALL KCDC OR THE CITY BE LIABLE FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES, ALL OF WHICH ARE HEREBY WAIVED BY THE DEVELOPER. NO RECOURSE SHALL BE HAD FOR ANY CLAIM BASED UPON ANY OBLIGATION, COVENANT OR AGREEMENT IN THIS AGREEMENT OR ANY TRANSACTION OR MATTER RELATING HERETO AGAINST ANY PAST, PRESENT OR FUTURE DIRECTOR, OFFICER, MEMBER, EMPLOYEE, COUNSEL, OR AGENT OF KCDC OR THE CITY, WHETHER DIRECTLY OR INDIRECTLY, AND ALL SUCH LIABILITY OF ANY SUCH INDIVIDUAL AS SUCH IS EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF AND IN CONSIDERATION FOR KCDC ENTERING INTO THIS AGREEMENT.

**Section 7.02** Construction Loan. KCDC and the Developer hereby acknowledge and agree that the Developer has obtained loans from SouthEast Bank ("Lender") for the purpose of financing the construction of the Public Improvements (the "SouthEast Bank Loan"). KCDC and the Developer also hereby agree and acknowledge that the Developer intends to assign its rights under this Agreement for the purpose of securing the SouthEast Bank Loan pursuant to the Assignment attached hereto as Exhibit F. KCDC hereby agrees that if the Developer defaults on either of the SouthEast Bank Loan and Lender exercises its rights under the performance and payment bond securing the performance of the Developer's general contractor, then KCDC will agree to extend the time period for the completion of the Public Improvements for a period of one hundred and eighty (180) days upon receipt of written confirmation of Lender's intent to complete the Public Improvements Project; provided, however, such written confirmation must be received no later than thirty (30) days after the occurrence of the default on the applicable SouthEast Bank Loan.

**Section 7.03** Assignment. Except as provided in Section 7.02 of this Agreement, the Developer may not assign or transfer this Agreement, or any interest of the Developer hereunder, without the prior written consent of KCDC. Any such assignment shall not relieve the Developer of the Developer's liability for the performance of its duties and obligations hereunder unless KCDC consents to such release. Further, the members of the Developer may not transfer their ownership interests in the Developer without the prior written consent of KCDC; provided, however, such consent shall not be unreasonably withheld, conditioned or delayed.

**Section 7.04** Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and the permitted successors and assigns of the parties.

**Section 7.05** Notices. Any notice, request, demand, tender or other communication under this Agreement shall be in writing, and shall be deemed to have been duly given at the time and on the date when personally delivered, or upon the Business Day (as defined below) following delivery to a nationally recognized commercial courier for next day delivery, to the address for each party set forth below, or upon the third (3<sup>rd</sup>) Business Day after being deposited in the United States Mail, Certified Mail, Return Receipt Requested, with all postage prepaid, to the address for each party set forth below.

If to the Developer to:

Tailwater South, LLC  
813 S Northshore, Suite 104  
Knoxville, Tennessee 37919  
Attn: Matthew Reed & Lloyd Montgomery

with a copy to:

Long, Ragsdale & Waters, P.C.  
Attn: Taylor D. Forrester  
1111 Northshore Drive, Suite S-700  
Knoxville, Tennessee 37919

If to KCDC:

Knoxville's Community Development Corporation  
901 Broadway  
P. O. Box 3550  
Knoxville, Tennessee 37927-3550  
Attention: Executive Director/CEO

If to Lender:

Southeast Bank  
12700 Kingston Pike  
Knoxville, Tennessee 37934  
Attention: Brandon Hopkins

with a copy to:

Long, Ragsdale & Waters, P.C.  
Attn: Dennis B. Ragsdale  
1111 Northshore Drive, Suite S-700  
Knoxville, Tennessee 37919

Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of such communication. By giving prior notice to all other parties, any party may designate a different address for receiving notices.

**Section 7.06 Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee. Venue for any action arising out of this Agreement shall be exclusively in Knox County, Tennessee.

**Section 7.07 Entire Agreement.** This Agreement supersedes all prior discussions and agreements between KCDC and the Developer with respect all matters contained herein. This Agreement contains the sole and entire understanding among KCDC and the Developer with respect to the transactions contemplated by this Agreement.

**Section 7.08** Amendment. This Agreement shall not be modified or amended in any respect except by written agreement executed by or on behalf of the parties to this Agreement in the same manner as this Agreement is executed.

**Section 7.09** Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 7.10** Captions. All captions, headings and section and paragraph numbers and letters and other reference numbers or letters are solely for the purpose of facilitating reference to this Agreement and shall not supplement, limit or otherwise vary in any respect the text of this Agreement. All references to particular sections, paragraphs or subparagraphs by number refer to the particular section, paragraph or subparagraph so numbered in this Agreement unless reference to another document or instrument is specifically made.

**Section 7.11** Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same Agreement.

**Section 7.12** Term. Unless terminated earlier as provided herein, this Agreement shall be effective as of the date hereof and shall remain in effect until the parties have performed all of their obligations hereunder or until terminated upon default or by mutual agreement of the parties or their successors and assigns.

**Section 7.13** No Government Limitation. This Agreement shall not be construed to bind any other agency or instrumentality of federal, state or local government in the enforcement of any regulation, code or law under its jurisdiction.

**Section 7.14** Time of the Essence. Time shall be of the essence in the performance of the terms and conditions of this Agreement.

**Section 7.15** Business Days. For purposes of this Agreement, "Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, the State of Tennessee. If any date on which performance or notice is due under this Agreement is not a Business Day, performance or notice shall not be due until the next Business Day.

**Section 7.16** City as Third Party Beneficiary; City as KCDC Representative. The parties to this Agreement hereby agree and acknowledge that the City is an express and intended third party beneficiary of this Agreement. Developer acknowledges that KCDC may request representatives of the City to undertake any action on behalf of KCDC permitted or required hereunder, in which case such representative of the City shall be deemed to be acting on behalf of KCDC hereunder.

**Section 7.17** Expenses. The Developer shall pay all costs and expenses of KCDC and the City in connection with the negotiation and execution of this Agreement and the performance hereof, including the reasonable fees and expenses of KCDC's attorneys. In addition, in the event that KCDC shall be required to engage legal counsel for the enforcement of any of the terms of this Agreement, whether or not such employment shall require institution of suit or other legal services required to secure compliance on the part of the Developer, the Developer shall be responsible for and shall promptly pay to KCDC the reasonable value of said attorneys' fees, and any other expenses incurred by KCDC as a result of such default.



*[Signature pages to follow]*

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

**KNOXVILLE'S COMMUNITY DEVELOPMENT  
CORPORATION**

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

ATTEST:

\_\_\_\_\_  
Secretary

DEVELOPER:

**TAILWATER SOUTH, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

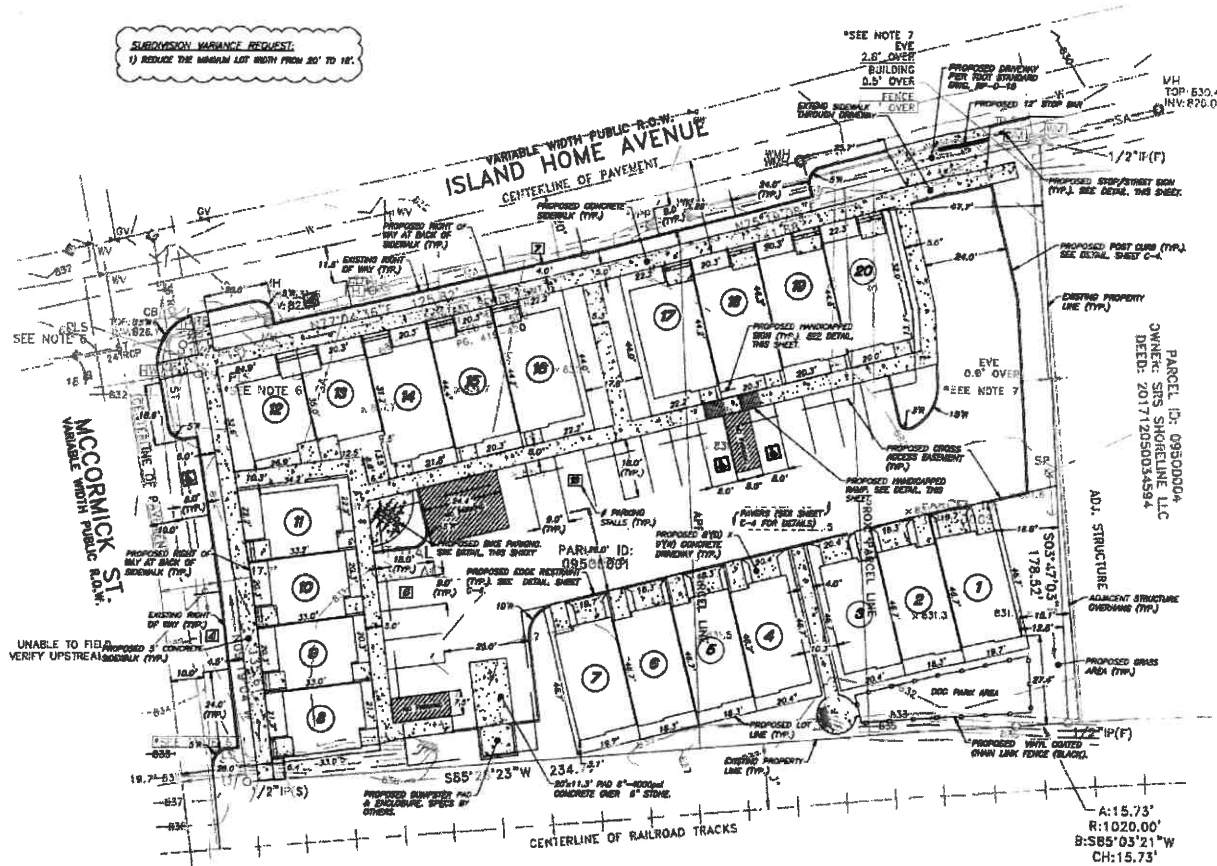


**EXHIBIT A**  
**DEVELOPER PROPERTY**

**EXHIBIT B**  
**CITY PROPERTY**

# EXHIBIT C

## PRIVATE IMPROVEMENTS PLANS



**EXHIBIT D**

**IDENTIFICATION OF PUBLIC IMPROVEMENTS**

(see attached)

**EXHIBIT E**

**CITY OF KNOXVILLE TECHNICAL SPECIFICATIONS**

(see attached)

26589974.14



**EXHIBIT F**  
**ASSIGNMENT**  
(see attached)

## BOARD ACTION FORM

|   |   |
|---|---|
| <b>MEETING DATE</b>   | December 6, 2022  |
| <b>AGENDA ITEM DESCRIPTION</b>  | Approval is requested to enter into an amended and restated Employment Agreement with Benjamin Bentley.   |
| <b>SUBMITTED BY</b>   | <b>Name, Title / Department:</b> Ben Bentley, Executive Director/CEO  |
| <b>MEETING TYPE</b>   | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual  |
| <b>CLASSIFICATION</b>   | <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Approval  |
| <b>BUDGET / FINANCIAL IMPACT</b>  | <b>Budgeted:</b> \$ _____ <b>Expenditure:</b> \$ _____<br><b>Source of Funds:</b> COCC and non-federal funds  |
| <b>APPROVAL / REVIEWS</b>   | <input checked="" type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input type="checkbox"/> Legal Counsel: _____<br>Other – Name/Title: _____ |
| <p style="text-align: center;"><b><u>BACKGROUND</u></b></p> <p><b>1. What is the objective of this action?</b><br/>The objective is to continue the employment.</p> <p><b>2. Why is the action needed now?</b><br/>This action is needed now to continue employment.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>KCDC - Employer<br/>Ben Bentley, Employee</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>None.</p> |   |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>  |   |
| <b>ATTACHMENTS</b>  | Employment Contract   |

## GROSVENOR SQUARE GP CORPORATION

Date: December 1, 2022

To: Board of Directors

From: Tracee Pross, Secretary/Treasurer

Subject: **SPECIAL AGENDA**  
Special Meeting of the Board of Directors  
**Tuesday, December 6, 2022, 5 p.m.**  
901 N. Broadway  
Knoxville, Tennessee 37917

1. Call to Order.
2. Approval is requested to execute the initial minutes for the meeting held on July 28, 2022.

### **REDEVELOPMENT/LEGAL SERVICES (Brad Peters)**

3. Resolution regarding the execution of documents relating to development and financing. **(Attached)**
4. Adjourn.

**THIS MEETING AND ALL COMMUNICATIONS BETWEEN MEMBERS IS SUBJECT TO THE PROVISIONS OF THE TENNESSEE OPEN MEETINGS ACT, TENN. CODE ANN. §8-44-101, *et seq.***

## BOARD ACTION FORM

|  |   |
|--|---|
| <b>MEETING DATE</b>  | December 6, 2022  |
| <b>AGENDA ITEM DESCRIPTION</b>   | Resolution regarding the development and financing of Grovsner Square Apartments.   |
| <b>SUBMITTED BY</b>  | <b>Name, Title / Department:</b> Brad Peters, VP  |
| <b>MEETING TYPE</b>  | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual  |
| <b>CLASSIFICATION</b>  | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval  |
| <b>BUDGET / FINANCIAL IMPACT</b>   | Budgeted: \$ <u>na</u> Expenditure: \$ <u>na</u><br>Source of Funds:  |
| <b>APPROVAL / REVIEWS</b>  | <input checked="" type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input type="checkbox"/> Legal Counsel: _____<br>Other – Name/Title: |
| <b><u>BACKGROUND</u></b>   |   |
| <p><b>1. What is the objective of this action?</b></p> <p>The objective of this action is to obtain authorization to execute documents to provide for the financing and development of Grovsner Square affordable housing development, a 184-unit housing facility for low and moderate income citizens.</p> |   |
| <p><b>2. Why is the action needed now?</b></p> <p>Closing for the project is happening soon.</p>   |   |
| <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b></p> <p>DGA Grovsner Square LP - The entity that will develop and own the development (a KCDC affiliate, Grovsner Square GP Corporation owns 20% of the developer).</p>  |   |
| <p><b>4. What are the long-term and short-term exposures?</b></p> <p>Dominion will insure the project and will broadly indemnify KCDC and Grovsner Square GP Corporation.</p>  |   |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>   | This project builds on the successful public-private partnerships that KCDC finalized with Elmington Capital: Moss Grove, Young High Flats, and Pond Gap Flats.   |
| <b>ATTACHMENTS</b>   | Resolution  |

## **RESOLUTION NO. 2022-\_\_\_\_\_**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF GROSVENOR SQUARE GP CORPORATION REGARDING THE DEVELOPMENT AND FINANCING OF GROSVENOR SQUARE APARTMENTS AND THE EXECUTION OF DOCUMENTS RELATING THERETO**

**WHEREAS**, the Board of Directors of Grosvenor Square GP Corporation (the “Corporation”) has met pursuant to proper notice; and

**WHEREAS**, the Corporation has been organized pursuant to Sections 13-20-101 et seq., Tennessee Code Annotated, as an instrumentality of Knoxville's Community Development Corporation ( “KCDC”); and

**WHEREAS**, KCDC is the housing, redevelopment and urban renewal authority of the City of Knoxville, Tennessee (the “City”) and is duly incorporated pursuant to Sections 13-20-101 et seq., Tennessee Code Annotated; and

**WHEREAS**, by Sections 13-20-101 et seq., Tennessee Code Annotated, housing and redevelopment authorities in Tennessee are authorized through their respective governing bodies to finance and/or refinance housing and redevelopment projects; and

**WHEREAS**, to further the development of a low-income housing development known as Grosvenor Square Apartments on real property located at approximately 2400 Merchant Drive in the City (the “Property”), KCDC and DGA Residential, LLC (“DGA”) entered into that certain Development Agreement for Grosvenor Square Apartments Project dated as of July 28, 2022 (the “Development Agreement”); and

**WHEREAS**, pursuant to the Development Agreement, the Corporation is the sole general partner of DGA Grosvenor Square LP, a Tennessee limited partnership (the “Partnership”); and

**WHEREAS**, pursuant to the Development Agreement, the Corporation and DGA have formed Grosvenor Square Developer, LLC, a Tennessee limited liability company (the “Developer”) for the purpose of developing the Property; and

**WHEREAS**, KCDC, as issuer (the “Issuer”), proposes to assist the Partnership in the financing of the development of the Property by issuing its Collateralized Multifamily Housing Bonds (Grosvenor Square Project) Series 2022 in an aggregate principal amount not to exceed \$27,500,000 (the “Bonds”), and loaning the proceeds to the Partnership; and

**WHEREAS**, to proceed with the development and financing of the Property, the Corporation, on its own behalf and as sole general partner acting on behalf of the Partnership, desires to:

(i) authorize the transactions contemplated by a Lease from KCDC to the Partnership providing for certain payments in lieu of taxes (the "PILOT Lease"); and

(ii) authorize certain documents in connection with the Bonds, including but not limited to the following (collectively, the "Bond Documents"):

1. Loan Agreement by and among the Issuer and the Partnership relative to the Bonds;

2. Bond Purchase Agreement among the Issuer, the Partnership and Raymond James & Associates, Inc., relating to the Bonds;

3. Land Use Restriction Agreement among the Issuer, the Partnership and U.S. Bank National Association, as Trustee; and

4. Preliminary Official Statement, Official Statement and/or Private Placement Memorandum describing the Bonds, as well as any Remarketing Circular or similar offering document which describes the Bonds and the financing documents relating to the Bonds and which will be used in connection with any remarketing of the Bonds;

Copies of the PILOT Lease and the Bond Documents shall be filed with the records of the Corporation; and

**WHEREAS**, the Board of Directors of the Corporation desires to authorize the officers of the Corporation, for and on behalf of the Corporation on its own behalf and, as the sole general partner, on behalf of the Partnership, as applicable, to execute such documents as they, individually or collectively, determine is necessary, desirable or appropriate to carry out the transactions contemplated in and to ratify such officers' prior actions related to the PILOT Lease and the Bond Documents.

**NOW, THEREFORE, BE, AND IT IS HEREBY, RESOLVED**, that the Corporation, acting on its own behalf or as the sole general partner of the Partnership, as applicable, be and hereby is authorized to approve and to close those certain transactions contemplated in the PILOT Lease and the Bond Documents; and, further

**RESOLVED**, that each of the President, the Vice President and any other officer of the Corporation (each, an "Authorized Officer"), or any one of them acting alone, be and hereby is

authorized and directed, on behalf of the Corporation, acting on its own behalf or as sole general partner of the Partnership, as applicable, without the necessity of the joinder by any other officer of the Corporation, to (i) execute and deliver (a) the PILOT Lease, (b) any and all instruments, documents and agreements deemed necessary or desirable by the Authorized Officer to evidence and secure the Bonds, including, but not limited to the Bond Documents, and (c) any and all other instruments, documents and agreements deemed necessary or desirable by an Authorized Officer to carry out the transactions described herein; all in the form approved by the Authorized Officer executing same, the execution of same by such Authorized Officer to constitute conclusive evidence of the approval of same; and further (ii) take all such further action as they may consider necessary or desirable in connection with the transactions described herein and to take from time to time any actions deemed necessary or desirable by such officer to effectuate and comply with the terms of such agreements as are executed on behalf of the Corporation (on its own behalf and/or in its capacity as the sole general partner of the Partnership, as applicable) pursuant to the authorization contained herein; and, further

**RESOLVED**, that any and all other actions heretofore taken on behalf of the Corporation (on its own behalf and on behalf of the Partnership, in its capacity as the sole general partner of the Partnership) by the officers of the Corporation to execute and deliver any of the agreements, documents or instruments authorized by the foregoing resolutions, or to take any of the other actions authorized by the foregoing resolutions, and all acts of the officers of the Corporation that are in conformity with the purposes and intent of these resolutions, are hereby approved, ratified and confirmed in all respects.

Approved at a meeting of the Board of Directors held this 6<sup>th</sup> day of December, 2022.

**GROSVENOR SQUARE GP CORPORATION**

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

34209751.2

## HOLSTON GP CORPORATION

Date: December 1, 2022

To: Board of Directors

From: Tracee Pross, Secretary/Treasurer

Subject: **SPECIAL AGENDA**  
Special Meeting of the Board of Directors  
**Tuesday, December 6, 2022, 5 p.m.**  
901 N. Broadway  
Knoxville, Tennessee 37917

1. Call to Order.
2. Approval is requested to execute the initial minutes for the meeting held on July 28, 2022.

### REDEVELOPMENT/LEGAL SERVICES (Brad Peters)

3. Resolution regarding the execution of documents relating to development and financing. **(Attached)**
4. Adjourn.



## BOARD ACTION FORM

|   |   |
|---|---|
| <b>MEETING DATE</b>   | December 6, 2022  |
| <b>AGENDA ITEM DESCRIPTION</b>  | Resolution regarding the development and financing of the Willow Place Apartments and the execution of documents relating thereto.  |
| <b>SUBMITTED BY</b>   | <b>Name, Title / Department:</b> Brad Peters, VP  |
| <b>MEETING TYPE</b>   | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual  |
| <b>CLASSIFICATION</b>   | <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Approval  |
| <b>BUDGET / FINANCIAL IMPACT</b>  | Budgeted: \$ <u>na</u> Expenditure: \$ <u>na</u><br>Source of Funds:  |
| <b>APPROVAL / REVIEWS</b>   | <input checked="" type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input type="checkbox"/> Legal Counsel: _____<br>Other – Name/Title: _____ |
| <b><u>BACKGROUND</u></b>  |   |
| <p><b>1. What is the objective of this action?</b><br/>         The objective of this action is to obtain authorization to execute documents to provide for the financing and development of (Willow Place) affordable housing development, a 96-unit housing facility for low and moderate income citizens.</p> <p><b>2. Why is the action needed now?</b><br/>         Closing for the project is happening soon.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>         DGA Holston LP - The entity that will develop and own the development (a KCDC affiliate, Holston GP Corporation owns 20% of the developer).</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>         Dominion will insure the project and will broadly indemnify KCDC and Holston GP Corporation.</p> |   |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>  | This project builds on the successful public-private partnerships that KCDC finalized with Elmington Capital: Moss Grove, Young High Flats, and Pond Gap Flats.   |
| <b>ATTACHMENTS</b>  | Resolution  |

## **RESOLUTION NO. 2022-\_\_\_\_\_**

### **RESOLUTION OF THE BOARD OF DIRECTORS OF HOLSTON GP CORPORATION REGARDING THE DEVELOPMENT AND FINANCING OF THE WILLOW PLACE APARTMENTS AND THE EXECUTION OF DOCUMENTS RELATING THERETO**

**WHEREAS**, the Board of Directors of Holston GP Corporation (the “Corporation”) has met pursuant to proper notice; and

**WHEREAS**, the Corporation has been organized pursuant to Sections 13–20–101 et seq., Tennessee Code Annotated, as an instrumentality of Knoxville's Community Development Corporation (“KCDC”); and

**WHEREAS**, KCDC is the housing, redevelopment and urban renewal authority of the City of Knoxville, Tennessee (the “City”) and is duly incorporated pursuant to Sections 13–20–101 et seq., Tennessee Code Annotated; and

**WHEREAS**, by Sections 13–20–101 et seq., Tennessee Code Annotated, housing and redevelopment authorities in Tennessee are authorized through their respective governing bodies to finance and/or refinance housing and redevelopment projects; and

**WHEREAS**, to further the development of a low-income housing development known as Willow Place Apartments on real property located on certain property located on the north side of Holston Hills Road, across the street from Holston River Park (which park is located at 3300 Holston Hills Road in Knoxville, Tennessee) (the “Property”), KCDC and DGA Residential, LLC (“DGA”) entered into that certain Development Agreement for Holston Apartments Project dated as of July 28, 2022 (the “Development Agreement”); and

**WHEREAS**, pursuant to the Development Agreement, the Corporation is the sole general partner of DGA Holston LP, a Tennessee limited partnership (the “Partnership”); and

**WHEREAS**, pursuant to the Development Agreement, the Corporation and DGA have formed Holston Developer, LLC, a Tennessee limited liability company (the “Developer”) for the purpose of developing the Property; and

**WHEREAS**, KCDC, as issuer (the “Issuer”), proposes to assist the Partnership in the financing of the development of the Property by issuing its Collateralized Multifamily Housing Bonds (Willow Place Project) Series 2022 in an aggregate principal amount not to exceed \$15,000,000 (the “Bonds”), and loaning the proceeds to the Partnership; and

**WHEREAS**, to proceed with the development and financing of the Property, the Corporation, on its own behalf and as sole general partner acting on behalf of the Partnership, desires to:

(i) authorize the transactions contemplated by a Lease from KCDC to the Partnership providing for certain payments in lieu of taxes (the "PILOT Lease"); and

(ii) authorize the following documents in connection with the Bonds (collectively, the "Bond Documents"):

1. Loan Agreement by and among the Issuer and the Partnership relative to the Bonds;

2. Bond Purchase Agreement among the Issuer, the Partnership and Raymond James & Associates, Inc., relating to the Bonds;

3. Land Use Restriction Agreement among the Issuer, the Partnership and U.S. Bank National Association, as Trustee; and

4. Preliminary Official Statement, Official Statement and/or Private Placement Memorandum describing the Bonds, as well as any Remarketing Circular or similar offering document which describes the Bonds and the financing documents relating to the Bonds and which will be used in connection with any remarketing of the Bonds;

Copies of the PILOT Lease and the Bond Documents shall be filed with the records of the Corporation; and

**WHEREAS**, the Board of Directors of the Corporation desires to authorize the officers of the Corporation, for and on behalf of the Corporation on its own behalf and, as the sole general partner, on behalf of the Partnership, as applicable, to execute such documents as they, individually or collectively, determine is necessary, desirable or appropriate to carry out the transactions contemplated in and to ratify such officers' prior actions related to the PILOT Lease and the Bond Documents.

**NOW, THEREFORE, BE, AND IT IS HEREBY, RESOLVED**, that the Corporation, acting on its own behalf or as the sole general partner of the Partnership, as applicable, be and hereby is authorized to approve and to close those certain transactions contemplated in the PILOT Lease and the Bond Documents; and, further

**RESOLVED**, that each of the President, the Vice President and any other officer of the Corporation (each, an "Authorized Officer"), or any one of them acting alone, be and hereby is

authorized and directed, on behalf of the Corporation, acting on its own behalf or as sole general partner of the Partnership, as applicable, without the necessity of the joinder by any other officer of the Corporation, to (i) execute and deliver (a) the PILOT Lease, (b) any and all instruments, documents and agreements deemed necessary or desirable by the Authorized Officer to evidence and secure the Bonds, including, but not limited to the Bond Documents, and (c) any and all other instruments, documents and agreements deemed necessary or desirable by an Authorized Officer to carry out the transactions described herein; all in the form approved by the Authorized Officer executing same, the execution of same by such Authorized Officer to constitute conclusive evidence of the approval of same; and further (ii) take all such further action as they may consider necessary or desirable in connection with the transactions described herein and to take from time to time any actions deemed necessary or desirable by such officer to effectuate and comply with the terms of such agreements as are executed on behalf of the Corporation (on its own behalf and/or in its capacity as the sole general partner of the Partnership, as applicable) pursuant to the authorization contained herein; and, further

**RESOLVED**, that any and all other actions heretofore taken on behalf of the Corporation (on its own behalf and on behalf of the Partnership, in its capacity as the sole general partner of the Partnership) by the officers of the Corporation to execute and deliver any of the agreements, documents or instruments authorized by the foregoing resolutions, or to take any of the other actions authorized by the foregoing resolutions, and all acts of the officers of the Corporation that are in conformity with the purposes and intent of these resolutions, are hereby approved, ratified and confirmed in all respects.

\      **Approved at a meeting of the Board of Directors held this 6<sup>th</sup> day of December, 2022.**

**HOLSTON GP CORPORATION**

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

## KNOXVILLE'S HOUSING DEVELOPMENT CORPORATION

Date: December 1, 2022

To: Board of Directors

From: Tracee B. Pross, Secretary

Subject: **AGENDA**  
Special Meeting of the Board of Directors  
**Tuesday, December 6, 2022, 5:00 p.m.**  
901 N. Broadway  
Knoxville, Tennessee 37917

1. Call to order.
2. Approval is requested to execute the minutes for the meeting held on May 26, 2022.

### **REDEVELOPMENT/LEGAL MATTERS (Brad Peters)**

3. Approval is requested to authorize execution of Contract 23004 for in fill housing units in the Five Points Community to Ardour Enterprises, LLC.
4. Adjourn

## BOARD ACTION FORM

|  |  |
|--|--|
| <b>MEETING DATE</b>  | December 6, 2022   |
| <b>AGENDA ITEM DESCRIPTION</b>   | Approval is requested to authorize execution of Contract 23004 for in fill housing units in the Five Points Community to Ardour Enterprises, LLC.  |
| <b>SUBMITTED BY</b>  | <b>Name, Title / Department:</b> Brad Peters, VP of Redevelopment  |
| <b>MEETING TYPE</b>  | <input type="checkbox"/> Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/> Annual   |
| <b>CLASSIFICATION</b>  | <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Approval   |
| <b>BUDGET / FINANCIAL IMPACT</b>   | <b>Budgeted:</b> \$ <u>2see pgm detail</u> <b>Expenditure:</b> \$ _____<br><b>Source of Funds:</b> National Housing Trust Fund; City; loan; KCDC   |
| <b>APPROVAL / REVIEWS</b>  | <input checked="" type="checkbox"/> Department Head /VP <input checked="" type="checkbox"/> Budget/Finance<br><input checked="" type="checkbox"/> Executive Director/CEO <input checked="" type="checkbox"/> Legal Counsel: Brad Peters<br><b>Other – Name/Title:</b> Terry McKee, Procurement Director          |
| <b><u>BACKGROUND</u></b>   |  |
| <p><b>1. What is the objective of this action?</b><br/>         This is for the construction and/or provision of in fill housing in KCDC's Five Points property. There are four 5-bedroom and 5 four-bedroom single family homes to be awarded to Ardour Enterprises, LLC.</p> <p><b>2. Why is the action needed now?</b><br/>         To provide additional housing for those in need as soon as possible.</p> <p><b>3. Who are the parties involved and what are their roles (if appropriate)?</b><br/>         KCDC and its owner's representative, Partners, will oversee the work of the contractors.</p> <p><b>4. What are the long-term and short-term exposures?</b><br/>         There are no short or long term exposures to KCDC outside the normal contractual guarantees.</p> |  |
| <b>HISTORICAL / TRANSACTIONAL INFORMATION (who, when, where)</b>   | The Five Points site transformation has been underway for several years. This has included numerous phases and this is the latest phase of the overall project. KCDC issued an RFP for this infill housing and elects to award the two portions of it to two separate vendors to best meet the needs that exist. |
| <b>ATTACHMENTS</b>   | Solicitation recap document.   |



**Benjamin M. Bentley, President**  
 901 Broadway, N.E. ♦ Knoxville, TN 37917  
 865.403.1100 ♦ Fax 865.403.1117  
 800.848.0298 (Tennessee Relay Center)

**TO:** The KCDC Board

**FROM:** Benjamin M. Bentley, Secretary

**DATE:** November 16, 2022

**SUBJECT:** Approval of the award of a contract for provision of in fill housing units in KCDC's Five Points Community C23004 with Ardour Enterprises, LLC. Staff requests Board approval of the following recommendation.

KCDC's Procurement Policy requires written formal solicitations (publicly advertised and opened) in all cases where the aggregate cost of the item(s) or service(s) requested is \$50,000 or more.

|                           |  |
|---------------------------|--|
| <b>Scope of Work</b>      | This is for the construction of infill housing at KCDC's Five Points property. The general description of the work is a turnkey solution for the design build services of affordable single-family housing on vacant lots. |
| <b>Funding Source</b>     | National Housing Trust Fund; City Funds; Loan Funds; KCDC Funds  |
| <b>Total Award Amount</b> | \$4,265,020.00 (Not to exceed number, could be one or more contracts)  |
| <b>Review Committee</b>   | Brad Peters, Vice President of Redevelopment/Legal Services<br>Terry McKee, Procurement Director   |
| <b>Solicitation Type</b>  | Request for Proposals  |

| <b>Results</b>           |                              |                                 |
|--------------------------|------------------------------|---------------------------------|
| <b>Company</b>           | <b>4 and 5 Bedroom homes</b> | <b>Recommended for Approval</b> |
| Ardour Enterprises, LLC* | \$4,265,020.00               | Yes                             |

| <b>This solicitation was distributed to:</b>                                  |   |
|---|---|
| KCDC's Web Page   | KCDC's Registered Vendors                   |
| KCDC property offices for publication on their bulletin boards                |   |
| Associated Construction Women*  | Associated General Contractors of Tennessee |
| Atlanta Chapter <i>National Association of Black Women in Construction</i> *+ | Black Contractors Association+              |
| Centro Hispano de East Tennessee+   | Construction Market Data                    |

**KNOXVILLE'S HOUSING DEVELOPMENT CORPORATION**



|   |  |
|---|--|
| Dodge Data & Analytics  | Knox County's Supplier Diversity Office*+        |
| Knoxville Area Urban League+                                      | Knoxville Builder's Exchange                     |
| Knoxville Chamber Partnership                                     | Knoxville's DBAC Office*+                        |
| Knoxville Equity Partners+  | SCORE  |
| SERC  | Small Business Administration                    |
| Tennessee Small Business Development Center                       | Tennessee Minority Supplier Development Council+ |
| WJBE Radio+   |  |
| U.S. Department of Commerce Minority Business Development Agency+ |  |

\* Denotes an organization promoting/assisting Woman Owned Businesses

+ Denotes an organization promoting/assisting Minority Owned Businesses