

A G E N D A
JAMES CITY COUNTY ECONOMIC DEVELOPMENT AUTHORITY
REGULAR MEETING
101 Mounts Bay Road, Building D
November 15, 2022
4:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF MINUTES

1. Minutes for Approval

D. FINANCIAL REPORTS

1. Financial Reports

E. CLOSED SESSION

1. Closed session in accordance with the Code of Virginia to discuss a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community pursuant to Va. Code Section 2.2-3711(A) (5).
2. Closed Session Certification

F. NEW BUSINESS

1. Bond Application - Blaine Landing
2. Annual EDA Auditor's Report

G. OLD BUSINESS

H. LIAISON REPORTS

I. DIRECTOR'S REPORT

1. Director's Report

J. UPCOMING DATES OF INTEREST

1. Celebration of Business, The Maine of Williamsburg, November 17 at 4:30 p.m.

K. ADJOURNMENT

ITEM SUMMARY

DATE: 11/15/2022

TO: The Economic Development Authority

FROM: Christopher Johnson- EDA Secretary

SUBJECT: Minutes for Approval

ATTACHMENTS:

	Description	Type
	Minutes for Adoption	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Economic Development Authority Clerk	Sipes, Kate	Approved	11/10/2022 - 1:01 PM

MINUTES
JAMES CITY COUNTY ECONOMIC DEVELOPMENT AUTHORITY
REGULAR MEETING

October 18, 2022
4:00 PM

A. CALL TO ORDER

Mr. Campana called the meeting to order at 4:00 p.m.

B. ROLL CALL

Vince Campana, Chair
Lynn Meredith, Vice Chair
Ellen Gajda
Brandon Nice
Joe Stanko
William Turner

Absent:
Rebecca Mulvain

Also Attending:
Christopher Johnson, Economic Development Authority (EDA) Secretary
Kate Sipes, Assistant Director, Economic Development
Jeff Wiggins, EDA Fiscal Agent
Sue Sadler, Board of Supervisors' Liaison to the EDA, via phone

C. APPROVAL OF MINUTES

1. Minutes Adoption - September 20, 2022

A motion to Approve was made by William Turner; motion Passed.
AYES: 6 NAYS: 0 ABSTAIN: 0 ABSENT: 1
Ayes: Campana, Gajda, Meredith, Nice, Stanko, Turner
Absent: Mulvain

D. FINANCIAL REPORTS

1. September Financial Reports

A motion to Approve was made by Ellen Gajda; motion Passed.
AYES: 6 NAYS: 0 ABSTAIN: 0 ABSENT: 1
Ayes: Campana, Gajda, Meredith, Nice, Stanko, Turner
Absent: Mulvain

Mr. Wiggins presented the revenue and expense reports and informed the EDA the cash balance was approximately \$690,000.

E. CLOSED SESSION

There was no Closed Session.

F. NEW BUSINESS

There was no New Business.

G. OLD BUSINESS

There was no Old Business.

H. LIAISON REPORTS

There were no liaison reports.

I. DIRECTOR'S REPORT

Mr. Johnson referred to the report in the Agenda Packet.

J. UPCOMING DATES OF INTEREST

Mr. Johnson referred to the Director's Report, which listed the upcoming details for the annual Celebration of Business event and Manufacturing Day activities planned with the Williamsburg-James City County School Division.

K. ADJOURNMENT

A motion to Adjourn was made by Lynn Meredith; motion Passed.

AYES: 6 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Campana, Gajda, Meredith, Nice, Stanko, Turner

Absent: Mulvain

1. Adjourn until November 15, 2022

At approximately 4:21 p.m., Mr. Campana adjourned the Authority.

Christopher Johnson, Secretary
Economic Development Authority

Vince Campana, Chair
Economic Development Authority

ITEM SUMMARY

DATE: 11/15/2022

TO: The Economic Development Authority

FROM: Jeffrey Wiggins - EDA Fiscal Agent

SUBJECT: Financial Reports

ATTACHMENTS:

	Description	Type
☐	Revenue Report	Exhibit
☐	Expenditure Report	Exhibit
☐	Balance Sheet	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Economic Development Authority Clerk	Sipes, Kate	Approved	11/10/2022 - 1:01 PM

YEAR-TO-DATE BUDGET REPORT

FOR 2023 04

ACCOUNTS FOR: 300 EDA					REMAINING REVENUE	% COLL
ORIGINAL	ESTIM REV	REVISED ESTIM REV	ACTUAL YTD REVENUE	ACTUAL MTD REVENUE		
308 Charges For Services						
300-308-3400-			Lease Income			
	-14,725.00	-14,725.00	0.00	0.00	-14,725.00	.0%
TOTAL Charges For Services						
	-14,725.00	-14,725.00	0.00	0.00	-14,725.00	.0%
309 Miscellaneous						
300-309-3970-			Marina Property			
	-69,220.00	-69,220.00	-22,847.82	-5,796.37	-46,372.18	33.0%
300-309-3972-			Bond Fee Revenue			
	-70,750.00	-70,750.00	-32,045.25	0.00	-38,704.75	45.3%
TOTAL Miscellaneous						
	-139,970.00	-139,970.00	-54,893.07	-5,796.37	-85,076.93	39.2%
TOTAL EDA						
	-154,695.00	-154,695.00	-54,893.07	-5,796.37	-99,801.93	35.5%
TOTAL REVENUES						
	-154,695.00	-154,695.00	-54,893.07	-5,796.37	-99,801.93	

YEAR-TO-DATE BUDGET REPORT

FOR 2023 04

ORIGINAL	ESTIM REV	REVISED	ESTIM REV	ACTUAL YTD	REVENUE	ACTUAL MTD	REVENUE	REMAINING	REVENUE	% COLL
GRAND TOTAL										
-154,695.00		-154,695.00		-54,893.07		-5,796.37		-99,801.93		35.5%
** END OF REPORT - Generated by Jeffrey Wiggins **										

YEAR-TO-DATE BUDGET REPORT

FOR 2023 04

ACCOUNTS FOR: 300	EDA							
ORIGINAL	APPROP	REVISED	BUDGET	YTD EXPENDED	MTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	% USED
259 EDA Operating								
300-259-0200-				Advertising				
	550.00	550.00		0.00	0.00	0.00	550.00	.0%
300-259-0205-				Promotion				
	46,900.00	46,900.00		7,825.40	0.00	0.00	39,074.60	16.7%
300-259-0220-				Travel And Training				
	1,000.00	1,000.00		0.00	0.00	0.00	1,000.00	.0%
300-259-0235-				Annual Audit				
	11,000.00	11,000.00		6,000.00	4,000.00	5,210.00	-210.00	101.9%
300-259-0319-				Office Supplies				
	200.00	200.00		0.00	0.00	0.00	200.00	.0%
300-259-5900-				Regional Econ Devel Support				
	34,500.00	34,500.00		34,500.00	0.00	0.00	0.00	100.0%
300-259-5902-				VA High Speed Rail				
	1,000.00	1,000.00		0.00	0.00	0.00	1,000.00	.0%
300-259-5903-				James River Commerce Ctr-Ops				
	14,800.00	14,800.00		0.00	0.00	0.00	14,800.00	.0%
300-259-5904-				Mainland Farm Oper Expenses				
	100.00	100.00		0.00	0.00	0.00	100.00	.0%
300-259-5913-				Small Business Assistance				
	10,000.00	10,000.00		0.00	0.00	0.00	10,000.00	.0%
300-259-5915-				Marina Property				
	101.00	101.00		0.00	0.00	0.00	101.00	.0%
300-259-5918-				Contingency				
	34,544.00	34,544.00		0.00	0.00	0.00	34,544.00	.0%
TOTAL EDA Operating								
	154,695.00	154,695.00		48,325.40	4,000.00	5,210.00	101,159.60	34.6%
TOTAL EDA								
	154,695.00	154,695.00		48,325.40	4,000.00	5,210.00	101,159.60	34.6%
TOTAL EXPENSES								
	154,695.00	154,695.00		48,325.40	4,000.00	5,210.00	101,159.60	

YEAR-TO-DATE BUDGET REPORT

FOR 2023 04

ORIGINAL APPROP	REVISED BUDGET	YTD EXPENDED	MTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	% USED
GRAND TOTAL 154,695.00	154,695.00	48,325.40	4,000.00	5,210.00	101,159.60	34.6%
** END OF REPORT - Generated by Jeffrey wiggins **						

BALANCE SHEET FOR 2023 4

FUND: 300 EDA			NET CHANGE FOR PERIOD	ACCOUNT BALANCE
ASSETS				
300401	0000	General Cash	1,796.37	691,813.75
300413	8250	Misc Receivables	.00	32,045.25
300413	8253	Loan Receivables	.00	20,638.00
300415	8275	Lease Receivable	.00	743,088.90
300415	8276	Lease Interest Receivable	.00	3,461.56
300455	0814	Land Improvements	.00	237,988.25
300455	0815	Land	.00	710,794.67
300455	0819	Buildings	.00	290,094.53
300455	0820	Accum Deprec-Buildings	.00	-33,876.81
300455	0831	Infrastructure	.00	182,379.34
300455	0832	Accum Deprec-Infrastructure	.00	-29,124.54
300455	0837	Accum Deprec-Land Improvements	.00	-55,645.56
300455	0840	Land Improvements (ND)	.00	34,200.00
TOTAL ASSETS			1,796.37	2,827,857.34
LIABILITIES				
300585	0920	Deferred Inflow-Leases	.00	-723,836.95
TOTAL LIABILITIES			.00	-723,836.95
FUND BALANCE				
300601	6138	Net Position - Restatement	.00	32,359.86
300601	6140	Net Pos - Net Invmt Cap Assets	.00	-1,362,287.60
300601	6142	Net Pos - Unrestricted	.00	-767,524.98
300601	6150	Revenue-Year To Date	-5,796.37	-54,893.07
300601	6151	Expenditures-Year To Date	4,000.00	48,325.40
300601	6152	Encumbrances-Year To Date	-4,000.00	5,210.00
300601	6909	Bugetary FB Res for Encumbranc	4,000.00	-5,210.00

BALANCE SHEET FOR 2023 4

FUND: 300 EDA		NET CHANGE FOR PERIOD	ACCOUNT BALANCE
FUND BALANCE			
	TOTAL FUND BALANCE	-1,796.37	-2,104,020.39
	TOTAL LIABILITIES + FUND BALANCE	-1,796.37	-2,827,857.34

** END OF REPORT - Generated by Jeffrey Wiggins **

ITEM SUMMARY

DATE: 11/15/2022

TO: The Economic Development Authority

FROM: Christopher Johnson- EDA Secretary

SUBJECT: Closed Session Certification

ATTACHMENTS:

	Description	Type
	Closed Session Certification	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Economic Development Authority Clerk	Sipes, Kate	Approved	11/10/2022 - 1:02 PM

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, on November 15, 2022, the Economic Development Authority of James City County, Virginia, (the “Authority”) convened a regular meeting; and

WHEREAS, at such meeting, the Authority convened a closed meeting pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Authority that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies that, to the best of each member’s knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Authority as were identified in the motion, including: (1) discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the interest in locating or expanding its facilities in the community pursuant to Va. Code Section 2.2-3711(A)(5).

The undersigned hereby certifies that the above resolution was duly adopted by the Directors of the Economic Development Authority of James City County, Virginia, at a meeting duly called and held on November 15, 2022, and that such resolution is in full force and effect on the date hereof.

Vince Campana
Chairman, Economic Development Authority

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
CAMPANA	_____	_____	_____
MEREDITH	_____	_____	_____
GAJDA	_____	_____	_____
MULVAIN	_____	_____	_____
NICE	_____	_____	_____
STANKO	_____	_____	_____
TURNER	_____	_____	_____

ATTEST:

Christopher Johnson
Secretary to the EDA

Adopted by the Economic Development Authority of James City County, Virginia, this 15th day of November 2022.

ITEM SUMMARY

DATE: 11/15/2022

TO: The Economic Development Authority

FROM: Christopher Johnson- EDA Secretary

SUBJECT: Bond Application-Blaine Landing

In January of this year the EDA held a public hearing and adopted an inducement resolution agreeing to assist the developer team of the Blaine Landing housing project with tax-exempt financing. The County Board of Supervisors adopted a resolution in February approving the EDA's role in serving as a conduit issuer of bonds for the project. The financing has progressed to the point now where the developer team is asking the EDA to consider adopting a bond resolution to approve the financing parameters and approve forms of the financing documents so the team can market and sell the bonds in the next few weeks and close the financing before the end of the calendar year.

Below is the updated project budget for the Blaine Landing project, as provided by developer's counsel:

Long term debt - \$6,149,400
 Equity – Tax credit syndicator - \$8,040,541
 Deferred Fee - \$905,414
 GP Loan - \$1,750,000
 Total project cost - \$16,845,355

ATTACHMENTS:

	Description	Type
☐	Bond Resolution	Resolution
☐	Indenture	Exhibit
☐	Loan Agreement	Exhibit
☐	Bond Purchase Agreement	Exhibit
☐	Preliminary Official Statement	Exhibit
☐	Original Application	Exhibit
☐	Regulatory Agreement	Exhibit
☐	Underwriter Engagement Letter	Exhibit
☐	Allocation Letter	Exhibit
☐	Certificate of Allocation	Exhibit
☐	Governor Allocation Application	Exhibit
☐	LHA Volume Cap Application	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date

Economic Development
Authority Clerk

Sipes, Kate

Approved

11/10/2022 - 1:03 PM

**RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES
CITY COUNTY, VIRGINIA AUTHORIZING AND APPROVING THE ISSUANCE OF
REVENUE BONDS FOR THE BENEFIT OF BLAINE LANDING PHASE II, L.P., IN AN
AMOUNT NOT TO EXCEED \$8,800,000
AND THE EXECUTION OF RELATED DOCUMENTS**

WHEREAS, pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), industrial development authorities, including the Economic Development Authority of James City County, Virginia, a political subdivision of the Commonwealth of Virginia (the "Authority"), created by municipalities whose housing authorities have not been activated pursuant to the Housing Authorities Law, Chapter 1, Title 36 of the Code of Virginia of 1950, as amended, are authorized to issue revenue bonds to make loans for the purpose of financing certain facilities used primarily for single and multifamily residences in order to promote safe and affordable housing in the Commonwealth of Virginia and to pledge all or any part of the revenues derived in connection with any such loans to secure the payment of such revenue bonds; and

WHEREAS, there have been described to the Authority the plans to finance or refinance all or a portion of (a) the costs of acquiring, constructing and equipping an affordable housing development to be known as Blaine Landing Phase II, to consist of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces (the "Project"), located at 7581 Richmond Road in Williamsburg, Virginia 23188, in the County of James City, Virginia (the "County"), and expected to be owned and used by Blaine Landing Phase II, L.P., a Virginia limited partnership (the "Borrower") or a party related to the Borrower and (b) the costs incurred in connection with the issuance of the Bonds (as hereinafter defined) as permitted under the Act (collectively (a) and (b), the "Plan of Finance");

WHEREAS, at the request of the Borrower, the Authority (a) adopted a resolution on January 18, 2022 (the "Inducement Resolution") providing preliminary approval of the issuance of its revenue bonds, in one or more series (the "Bonds"), the proceeds of which will be used to make a loan to the Borrower to finance or refinance a portion of the cost of the Plan of Finance and (b) held a public hearing on January 18, 2022, in accordance with the Act and as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, by resolution adopted on February 22, 2022, by the Board of Supervisors of the County, public approval of the issuance of the Bonds was obtained as required by Section 147(f) of the Code and Section 15.2-4906 of the Act;

WHEREAS, the Project has and shall be established and maintained as a "qualified residential rental project" within the meaning of Section 142(d) of the Code;

WHEREAS, the Bonds will be issued pursuant to certain documents (the "Bond Documents"), forms of which are on file with the Authority and the final terms of which are to be approved by the Authorized Official (defined below) in consultation with counsel to the Authority, which Bond Documents include, without limitation, the following: (a) a Trust Indenture between the Authority and a trustee to be named therein, (b) a Loan Agreement between the Authority and the Borrower (the "Loan Agreement"), (c) a Bond Purchase Agreement among the Authority, the

Borrower and the purchaser or underwriter of the Bonds and (d) a Preliminary Official Statement (the "POS") describing the offering of the Bonds;

WHEREAS, the Bonds will be limited obligations of the Authority, the principal of and, premium, if any, and interest on which will be payable solely out of the receipts and revenues of the Authority under the Loan Agreement; and

WHEREAS, at the request of the Borrower, the Authority desires to approve the final terms and details of the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA THAT:

1. The issuance of the Bonds in the aggregate principal amount of up to \$8,800,000, pursuant to the Bond Documents and for the purpose of undertaking the Plan of Finance, is hereby authorized and approved. The Bonds may be issued in one or more series at one time or from time to time, but in no event later than December 31, 2022, and the Bonds of any such series may be either taxable or tax-exempt for purposes of federal income taxation. The Chair and the Vice Chair of the Authority, either of whom may act alone (each, an "Authorized Official") are each hereby authorized and directed to execute the Bonds, which shall bear interest at the rates (which may be variable or fixed), shall mature on such dates and shall be subject to redemption at such times as are set forth in the Bond Documents. Each Authorized Official is hereby authorized to approve the final terms of the Bonds; provided that (a) the interest rate, or initial interest rate if the Bonds are issued as variable rate Bonds, borne by the Bonds shall not exceed the lesser of twelve percent (12%) per annum and the maximum rate of interest permitted by law, (b) the final maturity of the Bonds shall not be later than forty (40) years after the date of the initial issuance of the Bonds, and (c) the aggregate principal amount of the Bonds shall not exceed \$8,800,000. Such approvals shall be evidenced conclusively by the execution and delivery of the Bonds.

2. The Authorized Official is hereby authorized to approve and consent, on behalf of the Authority, to the distribution of the POS and to deem the POS, as approved by the Borrower, final for purposes of Rule 15c2-12 of the Securities and Exchange Commission, except for information the omission of which is permitted by Rule 15c2-12. The Authority authorizes the Authorized Official to execute and deliver to the underwriter or placement agent for the Bonds for distribution a final offering document (the "OS") reflecting the final terms of the Bonds, with such completions, omissions, insertions and changes as shall be approved by the Authorized Official, and such Authorized Official's execution shall constitute conclusive evidence of the approval of any such completions, omissions, insertions and changes. Execution of the final OS shall constitute conclusive evidence that the OS has been deemed final within the meaning of Rule 15c2-12.

3. Each of the Bond Documents and the Bonds shall be in substantially the same forms as submitted to this meeting, which are hereby approved, with such completions, omissions, insertions and changes (including, without limitation, changes of the dates thereof and the captions of the Bonds) as may be approved by the Authorized Official executing them, his or her execution to constitute conclusive evidence of the approval of any such completions, omissions, insertions

and changes. The execution, delivery and performance by the Authority of the Bond Documents are hereby authorized and directed.

4. Each Authorized Official is hereby authorized and directed to execute on behalf of the Authority, and to deliver, the Bonds, the Bond Documents and such other agreements, certificates, documents and instruments (including, without limitation, Internal Revenue Service Form 8038, assignments, regulatory agreements and tax agreements and certificates), and to do and perform such things and acts, as are authorized hereby or as shall be necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Bonds, the Bond Documents or such other agreements, certificates, documents and instruments, and, if required, the Secretary of the Authority is authorized and directed to affix the seal of the Authority to the Bonds, the Bond Documents and such other agreements, certificates, documents and instruments and to attest such seal. The signatures of any Authorized Official and the Secretary of the Authority and the seal of the Authority on the Bonds may be by facsimile. All of the foregoing previously done or performed on behalf of the Authority are in all respects hereby approved, ratified and confirmed.

5. Any authorization herein to execute a document shall include authorization to change the date of such document, record such document where appropriate and to deliver it to the other parties thereto.

6. All other acts of the officers of the Authority that are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the undertaking of the Plan of Finance are hereby approved and confirmed.

7. The Authority hereby confirms its designation of McGuireWoods LLP, Tysons, Virginia to serve as Bond Counsel and its appointment of such firm to supervise the proceedings and approve the issuance of the Bonds.

8. All costs and expenses in connection with the Project, including the fees and expenses of the Authority related to the issuance and sale of the Bonds, and the fees and expenses of Bond Counsel, counsel for the Authority and any underwriter for or purchaser of the Bonds and its counsel, shall be paid promptly from the proceeds of the Bonds or from moneys provided by the Borrower. If for any reason the Bonds are not issued, it is understood that all such fees and expenses shall be paid promptly by the Borrower upon presentation of an invoice and that the Authority shall have no responsibility therefor.

9. The Borrower agrees, and has agreed in the Bond Documents, to indemnify and save harmless the Authority, its officers, directors, employees, attorneys and agents from and against all liabilities, obligations, claims, damages, penalties, losses, costs and expenses in any way connected with the issuance and sale of the Bonds.

10. The Bonds shall be limited obligations of the Authority and shall be payable solely out of revenues, receipts and payments specifically pledged therefor. Neither the directors, officers, agents or employees of the Authority, past, present and future, nor any person executing the Bonds, shall be liable personally on the Bonds by reason of the issuance thereof. The Bonds shall not be deemed to constitute a general obligation debt or a pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof (and the Bonds shall so state on

their face), including the Authority and the County, and neither the Commonwealth of Virginia nor any such political subdivision thereof shall be personally liable thereon, nor in any event shall the Bonds be payable out of any funds or properties other than the special funds and sources provided therefor. Neither the faith and credit nor the taxing power of the Commonwealth of Virginia, or any political subdivision thereof, including the County and the Authority, shall be pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto. The Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

11. This resolution shall take effect immediately upon its adoption.

Adopted: November 15, 2022

CERTIFICATE OF VOTES

Record of the roll-call vote by the Economic Development Authority of James City County, Virginia, upon reading on a resolution titled "**RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA AUTHORIZING AND APPROVING THE ISSUANCE OF REVENUE BONDS FOR THE BENEFIT OF BLAINE LANDING PHASE II, L.P., IN AN AMOUNT NOT TO EXCEED \$8,800,000 AND THE EXECUTION OF RELATED DOCUMENTS**" taken at a meeting of the Authority held on November 15, 2022:

	AYE	NAY	ABSTAIN	ABSENT
Vince Campana III, Chair				
Lynn Meredith, Vice Chair				
Ellen Smith Gajda				
Rebecca Mulvain				
Brandon Nice				
Joseph Stanko				
William Turner				

Dated: November 15, 2022

(SEAL)

Chair, Economic Development Authority of James
City County, Virginia

ATTEST: _____
Secretary

The undersigned Secretary of the Economic Development Authority of James City County, Virginia hereby certifies that the foregoing is a true, correct, and complete copy of a Resolution adopted by the Authority's commissioners present and voting at a meeting duly called and held on November 15, 2022, in accordance with law, and that such Resolution has not been repealed, revoked, rescinded, or amended, but is in full force and effect as of the date hereof.

WITNESS my hand and the seal of the Authority this 15th day of November, 2022.

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA**

By: _____
Secretary

TRUST INDENTURE

Dated as of [December] 1, 2022

between

ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA,
as Issuer

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Trustee

Relating to

[\$8,000,000]

Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of [December] 1, 2022 (the "Indenture"), by and between the **ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "Issuer"), and **U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION**, a national banking association, with its designated corporate trust office located in Richmond, Virginia, as trustee (the "Trustee"). All capitalized terms used in this Indenture and not otherwise defined herein have the meanings ascribed to them in Section 1.01 of this Indenture.

R E C I T A L S:

WHEREAS, the Issuer is authorized, under the powers granted to the Issuer pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as amended (the "Act"), to provide financial assistance to a multifamily rental housing project by issuing its revenue bonds;

WHEREAS, Blaine Landing Phase II, L.P., a Virginia limited partnership (the "Borrower"), has applied to the Issuer for financial assistance for the purpose of providing all or part of the funds with which to pay the cost of the acquisition, construction and equipping of an affordable housing development known as Blaine Landing Phase II, consisting of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, and located at 7581 Richmond Road in the County of James City, Virginia (the "Project") and to pay certain costs of issuance of the Bonds; and

WHEREAS, pursuant to and in accordance with the laws of the Commonwealth of Virginia, including without limitation, the Act, the Issuer has determined to issue its Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022, in the aggregate principal amount of [\$8,000,000] (the "Bonds") pursuant to this Indenture for the purpose of providing funding for the acquisition, construction and equipping of the Project; and

WHEREAS, the Issuer has determined that the purposes of the Act in providing for the acquisition, construction and equipping of the Project will be realized by the issuance of the Bonds, and the loan of such proceeds pursuant to a Loan Agreement dated as of even date herewith (the "Loan Agreement") between the Issuer and the Borrower, and therefore the Issuer has agreed to issue the Bonds and lend the proceeds thereof to the Borrower (the "Loan") and the Borrower has agreed to (i) apply the proceeds of the Loan to pay a portion of the costs of the acquisition, construction and equipping of the Project, (ii) make payments sufficient to pay the principal of and interest on the Bonds when due (whether at maturity, by redemption, acceleration or otherwise), and (iii) observe the other covenants and agreements and make the other payments set forth therein; and

WHEREAS, all acts and proceedings required by law necessary to make the Bonds, when executed by the Issuer, authenticated and delivered by the Trustee and duly issued as provided in this Indenture, the valid, binding and legal limited obligations of the Issuer, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth, in accordance

with its terms, have been done and taken; and the execution and delivery of this Indenture have been in all respects duly authorized; and

WHEREAS, the Trustee has accepted the trusts created by this Indenture, and in evidence thereof has joined in the execution hereof;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of Bond Service Charges on the Bonds according to their true intent and meaning, to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained therein and herein, and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, held, secured and enforced, and in consideration of the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Holders, and for other good and valuable consideration, the receipt of which is acknowledged, the Issuer has executed and delivered this Indenture and absolutely assigns hereby to the Trustee (except Reserved Rights), and to its successors in trust, and its assigns, all right, title and interest of the Issuer in and to (i) the Revenues, including, without limitation, all Loan Payments, Eligible Funds and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan, (ii) the Special Funds, including all accounts in such Special Funds and all money deposited therein and the investment earnings on such money, (iii) all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which money in the Special Funds are invested, and (except for money required to be rebated to the United States of America under the Code) the proceeds derived therefrom, and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind pledged, assigned or transferred, as and for additional security hereunder by the Issuer or by anyone on its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture, (iv) the Note, except for the Reserved Rights and (v) the Loan Agreement, except for the Reserved Rights (the foregoing collectively referred to as the "Trust Estate"),

TO HAVE AND TO HOLD unto the Trustee and its successors in that trust and its assigns forever;

BUT IN TRUST, NEVERTHELESS, and subject to the provisions hereof,

- (a) except as provided otherwise herein, for the equal and proportionate benefit, security and protection of all present and future Holders of the Bonds issued or to be issued under and secured by this Indenture,
- (b) for the enforcement of the payment of the principal of and interest on the Bonds, when payable, according to the true intent and meaning thereof and of this Indenture, and
- (c) to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture,

in each case, without preference, priority or distinction, as to lien or otherwise, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each Bond and

all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and ratably hereby, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that

(i) if the principal of the Bonds and the interest due or to become due thereon shall be well and truly paid, at the times and in the manner to which reference is made in the Bonds, according to the true intent and meaning thereof, or the Outstanding Bonds shall have been paid and discharged in accordance with Article VIII hereof, and

(ii) if all of the covenants, agreements, obligations, terms and conditions of the Issuer under this Indenture shall have been kept, performed and observed and there shall have been paid to the Trustee all sums of money due or to become due to them in accordance with the terms and provisions hereof,

(iii) this Indenture and the rights assigned hereby shall cease, terminate and be void, except as provided in Section 8.03 hereof with respect to the survival of certain provisions hereof; otherwise, this Indenture shall be and remain in full force and effect.

It is declared that all Bonds issued hereunder and secured hereby are to be issued, authenticated and delivered, and that all Revenues assigned hereby are to be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture. The Issuer has agreed and covenanted, and agrees and covenants with the Trustee and with each and all Holders, as follows:

ARTICLE I DEFINITIONS

Section 1.01 Definitions. In addition to the words and terms defined elsewhere in this Indenture or by reference to the Loan Agreement, unless the context or use clearly indicates another meaning or intent:

"Act" means the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as now in effect and as from time to time hereafter amended or supplemented.

"Act of Bankruptcy" means written notice to the Trustee that the Borrower has become insolvent or has failed to pay its debts generally as such debts become due or has admitted in writing its inability to pay any of its indebtedness or has consented to or has petitioned or applied to any court or other legal authority for the appointment of a receiver, liquidator, trustee or similar official for itself or for all or any substantial part of its properties or assets or that any such trustee, receiver, liquidator or similar official has been appointed or that a petition in bankruptcy, insolvency, reorganization or liquidation proceedings (or similar proceedings) have been instituted by or against the Borrower; provided that, if in the case of an involuntary proceeding, such proceeding is not dismissed within 90 days after commencement thereof.

"Additional Payments" means the amounts required to be paid by the Borrower pursuant to the provisions of Section 4.4 of the Loan Agreement.

"Administrative Expenses" means the Ordinary Trustee Fees and Expenses, the Dissemination Agent Fee and the Ordinary Issuer Fees.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Authorized Borrower Representative" means any person who, at any time and from time to time, is designated as the Borrower's authorized representative by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower, which certificate may designate an alternate or alternates. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the Issuer) a written certificate revoking such person's authority to act in such capacity.

"Authorized Denomination" means \$5,000, or any integral multiple of \$1,000 in excess thereof.

"Authorized Official" means the Chair or Vice Chair of the Issuer and any other officer or employee of the Issuer designated by certificate of any of the foregoing as authorized by the Issuer to perform a specified act, sign a specified document or otherwise take action with respect to the Bonds. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Official is an Authorized Official until such time as such provider files with it a written certificate identifying a different person or persons to act in such capacity.

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as in effect now and in the future, or any successor statute.

"Beneficial Owner" means with respect to the Bonds, the Person owning the Beneficial Ownership Interest therein, as evidenced to the satisfaction of the Trustee.

"Beneficial Ownership Interest" means the right to receive payments and notices with respect to the Bonds held in a Book Entry System.

"Bond Counsel" means McGuireWoods LLP or other counsel nationally recognized as having an expertise in connection with the exclusion of interest on obligations of states and local governmental units from the gross income of holders thereof for federal income tax purposes.

"Bond Fund" means the Bond Fund created in Section 4.01 hereof.

"Bond Payment Date" means each Interest Payment Date and any other date Bond Service Charges on the Bonds are due, whether at maturity, upon redemption, Mandatory Tender or acceleration or otherwise.

"Bond Purchase Agreement" means the Bond Purchase Agreement dated _____, 2022, among the Underwriter, the Issuer and the Borrower.

"Bond Resolution" means the certain resolution relating to the issuance and sale of the Bonds, adopted by the Governing Body on November 15, 2022.

"Bond Service Charges" means, for any period or payable at any time, the principal of and interest on the Bonds for that period or payable at that time whether due at maturity or upon redemption, Mandatory Tender, acceleration or otherwise.

"Bond Year" means each annual period of twelve months ending on [November 30]; provided; however, that the first annual period commences on the date of the original issuance and delivery of the Bonds and ends on [November 30, 2023] and the last of which ends on the maturity of the Bonds.

"Bonds" means the Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022 of the Issuer authorized in the Bond Resolution and Section 2.01 hereof in an amount not to exceed [\$8,000,000].

"Book-Entry Form" or "Book-Entry System" means, with respect to the Bonds, a form or system, as applicable, under which (a) physical Bond certificates in fully registered form are issued only to a Depository or its nominee, with the physical Bond certificates "immobilized" in the custody of the Depository and (b) the ownership of book-entry interests in Bonds and Bond Service Charges thereon may be transferred only through a book entry made by others than the Issuer or the Trustee. The records maintained by others than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book-entry interests in those Bonds and Bond Service Charges thereon.

"Borrower" means Blaine Landing Phase II, L.P., a Virginia limited partnership.

"Borrower Documents" means the Financing Documents and the Mortgage Loan Documents to which the Borrower is a party.

"Business Day" means a day other than a Saturday or a Sunday, on which (a) banking institutions in the City of New York or in the city in which the principal office of the Trustee or Remarketing Agent is located are not authorized or obligated by law or executive order to be closed, or (b) The New York Stock Exchange is not closed, and on which the United States Government makes payments of principal and interest on its Treasury obligations.

"Cash Flow Projection" means a cash flow projection prepared by an independent firm of certified public accountants, a financial advisory firm, a law firm or other independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by the Borrower and acceptable to the Rating Agency, establishing, to the satisfaction of the Rating Agency, the sufficiency of (a) the amount

on deposit in the Special Funds, (b) projected investment income to accrue on amounts on deposit in the Special Funds during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Service Charges and the Administrative Expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in Section 3.07, (iii) the release of Eligible Funds from the Negative Arbitrage Account of the Bond Fund, as provided in Section 4.03, (iv) the purchase, sale or exchange of Eligible Investments as provided in Section 4.10 hereof and (v) the sale or other disposition by the Trustee of Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to the Initial Mandatory Tender Date.

"Chairman" means the person serving as Chair of the Issuer.

"Closing Date" means [December 1], 2022.

"Code" means the Internal Revenue Code of 1986, as amended, and in full force and effect on the date hereof.

"Collateral Fund" means the Collateral Fund created in Section 4.01 hereof.

"Commonwealth" means the Commonwealth of Virginia.

"Completion Certificate" means the certificate attached as Exhibit C to the Loan Agreement.

"Continuing Disclosure Agreement" means the Continuing Disclosure Agreement dated as of the date hereof between the Borrower and the Dissemination Agent, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

"Controlling Holders" means in the case of consent or direction to be given hereunder, the Holders of the majority in aggregate principal amount of the Outstanding Bonds.

"Controlling HUD and GNMA Requirements" means the National Housing Act and any applicable HUD or GNMA regulations, and related HUD or GNMA administrative requirements and prohibitions.

"Costs of Issuance" means the "issuance costs" with respect to the Bonds within the meaning of Section 147(g) of the Code.

"Costs of Issuance Fund" means the Costs of Issuance Fund created in Section 4.01 hereof.

"County" means the County of James City, Virginia.

"Depository" means, with respect to the Bonds, DTC, until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, Depository shall mean the successor Depository. Any Depository shall be a securities depository that is a clearing agency under a federal law operating and maintaining, with its participants or otherwise, a Book Entry System to record ownership of book entry interests in Bonds or Bond Service Charges thereon, and to effect transfers of book entry interests in Bonds.

"Designated Office" of the Trustee or the Remarketing Agent means, respectively, the office of the Trustee or the Remarketing Agent at the respective Notice Address set forth in this Section 1.01 or at such other address as may be specified in writing by the Trustee or the Remarketing Agent, as applicable, as provided in Section 12.03.

"Determination of Taxability " means the receipt by the Trustee of (1) a copy of written notice from the Commissioner or any District Director of the Internal Revenue Service or a determination by any court of competent jurisdiction, or (2) an Opinion of Bond Counsel, in either case to the effect that interest on the Bonds is not excludable for regular federal income tax purpose under Section 103(a) of the Code from gross income of any Holders of the Bonds (other than a Holder who is a substantial user of the Project or a related person as defined in the Code).

"Dissemination Agent" means [the Trustee], or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

"Dissemination Agent Fee" means the fee payable to the Dissemination Agent as compensation for its services and expenses in performing its obligations under the Continuing Disclosure Agreement; provided, however, the amount of the Dissemination Agent Fee payable under this Indenture is limited to money withdrawn from the Expense Fund and the Borrower will be responsible to pay the remaining amount of the Dissemination Agent Fee pursuant to Section 4.4 of the Loan Agreement.

"DTC" means The Depository Trust Company (a limited purpose trust company), New York, New York, and its successors or assigns.

"DTC Participant" means any participant contracting with DTC under its book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

"Eligible Funds" means, as of any date of determination, any of:

- (a) the proceeds of the Bonds (including any additional amount paid by the Underwriter to the Trustee as the purchase price of the Bonds);
- (b) money received by the Trustee from Lender Funds and proceeds of the GP Loan;
- (c) remarketing proceeds of the Bonds (including any additional amount paid by the Remarketing Agent to the Trustee as the remarketing price of the Bonds) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer, or any Affiliate of either the Borrower or the Issuer);
- (d) any other amounts, including the proceeds of refunding bonds, for which the Trustee has received an Opinion of Counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an "insider" within the meaning of the Bankruptcy Code) to the effect that (A) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (B) payments of such amounts to Holders would not be avoidable as preferential payments under Section 547 or 550 of the Bankruptcy Code should

the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;

(e) the proceeds of draws by the Trustee on any letter of credit provided to the Trustee for the benefit of the Borrower;

(f) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, provided that no Act of Bankruptcy has occurred during such period; and

(g) investment income derived from the investment of the money described in (a) through (f).

"Eligible Investments" means, subject to the provisions of Section 4.10 and to the extent permitted under the laws of the Commonwealth of Virginia, any of the following obligations which mature (or are redeemable at the option of the Trustee without penalty) at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of this Indenture:

(a) Government Obligations; and

(b) Shares or units in any money market mutual fund rated "Aaa-mf" by Moody's (or the equivalent Highest Rating Category given by the Rating Agency for that general category of security) including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor registered under the Investment Company Act of 1940, as amended, whose investment portfolio consist solely of direct obligations of the government of the United States of America.

"Event of Default" means any of the events described as an Event of Default in Section 6.01 hereof or Section 7.1 of the Loan Agreement.

"Expense Fund" means the Expense Fund created in Section 4.01 hereof.

"Extension Payment" means the amount due, if any, in connection with the change or extension of the Mandatory Tender Date pursuant to Section 3.07, and which shall be determined by a Cash Flow Projection approved in writing by the Rating Agency.

"Extraordinary Issuer Fees and Expenses" means the expenses and disbursements payable to the Issuer under this Indenture or the other Financing Documents for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by Bond Counsel and counsel to the Issuer which are to be paid by the Borrower pursuant to Section 4.4 of the Loan Agreement.

"Extraordinary Services" and **"Extraordinary Expenses"** mean all services rendered and all reasonable expenses properly incurred by the Trustee or the Issuer under this Indenture or the other Financing Documents, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include but are not limited to services rendered or expenses incurred by the Trustee or the Issuer in connection with, or in contemplation of, an Event of Default.

"Federal Tax Status" means, as to the Bonds, the status of the interest on the Bonds as excludible from gross income for federal income tax purposes of the Holders of the Bonds (except on Bonds while held by a substantial user or related person, each as defined in the Code).

"FHA" means the Federal Housing Administration of HUD or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD, the Federal Housing Commissioner and their representatives or agents.

"FHA Commitment" means the Commitment for Insurance of Advances issued by FHA with respect to FHA Insurance on the Mortgage Loan, as the same may be amended.

"FHA Insurance" means the insurance of the Mortgage Note by FHA pursuant to Section 221(d)(4) of the National Housing Act.

"Financing Documents" means this Indenture, the Bonds, the Loan Agreement, the Note, the Tax Agreement, the Regulatory Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement, the Funding Agreement, and any other instrument or document executed in connection with the Bonds, together with all modifications, extensions, renewals and replacements thereof, but excluding the GNMA Documents and the Mortgage Loan Documents.

"Fiscal Year" means, with respect to a Person, that period beginning on January 1 of each year and ending on December 31 of that year or such other fiscal year as shall be designated by such Person as its annual accounting period.

"Force Majeure" means any of the causes, circumstances or events described as constituting Force Majeure in Section 7.1 of the Loan Agreement.

"Funding Agreement" means the [Disbursement Agreement, dated as of _____, 2022, among the Borrower, the Mortgage Lender, the Trustee and HUD].

"GNMA" means the Government National Mortgage Association, an organizational unit within HUD, or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD and his representatives or agents.

"GNMA Certificate" means a mortgage backed security issued by the Mortgage Lender, guaranteed as to timely payment of principal and interest by GNMA pursuant to the National Housing Act and the regulations thereunder, and issued with respect to and backed by the Mortgage Loan.

"GNMA Documents" means any GNMA Certificate, the commitment issued by GNMA to the Mortgage Lender to guarantee the GNMA Certificate and all other documents, certifications and assurances executed and delivered by the Mortgage Lender, GNMA or the Borrower in connection with the GNMA Certificate.

"Governing Body" means the board of directors of the Issuer, or any governing body that succeeds to the functions of the directors of the Issuer.

"Government" shall mean the government of the United States of America, the government of any other nation, any political subdivision of the United States of America or any other nation (including, without limitation, any state, territory, federal district, municipality or possession) and any department, agency or instrumentality thereof; and **"Governmental"** shall mean of, by, or pertaining to any Government.

"Government Obligations" means (i) noncallable, non-redeemable direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (ii) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (i) or (ii) issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity at less than par at the option of anyone other than the holder thereof.

"GP Lender" means Blaine Landing Phase II GP, L.L.C., a Virginia limited liability company.

"GP Loan" means the loan in the principal amount of \$_____ to be made by the GP Lender to the Borrower.

"Highest Rating Category" means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below "Aaa" or "Aaa/VMIG 1" if rated by Moody's or "A-1+" or "AA+" if rated by S&P.

"Holder" or **"Holder of a Bond"** means the Person in whose name a Bond is registered on the Register.

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

"HUD Regulatory Agreement" means the Regulatory Agreement for Multifamily Projects between the Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

"Indenture" means this Trust Indenture dated as of [December] 1, 2022, between the Issuer and the Trustee, as amended or supplemented from time to time.

"Independent" when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, member, partner or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a partner, director, trustee, officer, member or employee who is a director, trustee, officer or employee of any partner of the Borrower or any Affiliate of the Borrower.

"Initial Interest Rate" means ____%.

"Initial Mandatory Tender Date" means [February 1, 2025].

"Initial Remarketing Date" means the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date as provided in Section 3.07 hereof are satisfied.

"Interest Payment Date" means (a) [February] 1 and [August] 1 of each year beginning [August 1, 2023], (b) each Redemption Date and (c) each Mandatory Tender Date. In the case of payment of defaulted interest, "Interest Payment Date" also means the date of such payment established pursuant to Section 2.05.

"Interest Period" means, initially, the period from the Closing Date to and including [July 31, 2023], and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the last day of the month preceding the next Interest Payment Date.

"Interest Rate" means the Initial Interest Rate to, but not including, the Initial Mandatory Tender Date, and thereafter the applicable Remarketing Rate.

"Interest Rate for Advances" means the rate per annum which is two percent plus that interest rate announced by the Trustee from time to time in its lending capacity as a bank as its "Prime Rate" or its "Base Rate".

"Investor Limited Partner" means TowneBank, a Virginia banking corporation, its respective successors and assigns.

"Issuer" means the Economic Development Authority of James City County, Virginia, a political subdivision of the Commonwealth, duly organized and validly existing under the laws of the Commonwealth, and its successors and assigns.

"Issuer Documents" means the Financing Documents to which the Issuer is a party.

"Issuer Fees and Expenses" means, collectively, the Ordinary Issuer Fees and the Extraordinary Issuer Fees and Expenses.

"Lender Funds" means warehouse funds or other funds of the Lender to be advanced by the Lender to the Trustee and/or proceeds, if any, received from the issuance by the Lender of GNMA Certificates, which, in the aggregate, do not exceed the amount set forth herein.

"Loan" means the loan by the Issuer to the Borrower of the proceeds received from the sale of the Bonds.

"Loan Agreement" means the Loan Agreement dated as of even date with this Indenture, between the Issuer and the Borrower and assigned by the Issuer, except for Reserved Rights, to the Trustee, as amended or supplemented from time to time.

"Loan Payments" means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and Section 4.1 of the Loan Agreement.

"Local Time" means Eastern Time (daylight or standard, as applicable) in the County of James City, Virginia.

"Mandatory Tender" means a tender of Bonds required by Section 3.05.

"Mandatory Tender Date" means the latest of (a) the Initial Mandatory Tender Date and (b) if the Bonds Outstanding on such date or on any subsequent Mandatory Tender Date are remarketed pursuant to Section 3.07 for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

"Maturity Date" means [February 1, 2026.]

"Maximum Interest Rate" means the interest rate equal to the lesser of: (a) 12% per annum, or (b) the maximum interest rate per annum permitted by applicable Commonwealth law.

"Moody's" means Moody's Investors Service, a Delaware corporation, and its successors and assigns, or if it shall for any reason no longer perform the functions of a securities rating agency, then any other nationally recognized rating agency designated by the Borrower and acceptable to the Trustee and the Remarketing Agent.

"Mortgage Lender" means AGM Financial Services, Inc., its successors and assigns.

"Mortgage Loan" means the mortgage loan made by the Mortgage Lender to the Borrower pursuant to the Mortgage Loan Documents.

"Mortgage Loan Documents" means the mortgage, the mortgage note, and all other documents required by the Mortgage Lender and/or FHA in connection with the Mortgage Loan.

"National Housing Act" means the National Housing Act of 1937, as amended, and the applicable regulations thereunder.

"Negative Arbitrage Account" means the Negative Arbitrage Account of the Bond Fund created in Section 4.01 hereof.

"Note" means the promissory note of the Borrower, dated as of even date with the Bonds initially issued, in the form attached to the Loan Agreement as Exhibit A and in the principal amount of up to [\$8,000,000], evidencing the obligation of the Borrower to make Loan Payments.

"Notice Address" means:

To the Issuer:	Economic Development Authority of James City County, Virginia 101 Mounts Bay Road, Building D Williamsburg, VA 23185 Attention: _____ Telephone: _____ Email: _____

To the Trustee: U.S. Bank Trust Company, National Association
1051 E. Cary Street, Suite 600
Richmond, Virginia 23219
Attention: U.S. Bank Corporate Trust Services
Telephone: _____
Email: _____

To the Borrower: Blaine Landing Phase II, L.P.
440 Monticello Avenue, Suite 1700
Norfolk, Virginia 23510
Attention: Miles B. Leon

TB Blaine Landing Phase II Affordable Housing,
LLC
c/o TowneBank
6001 Harbor View Boulevard
Suffolk, VA 23435
Attn: Anne C. H. Conner, President Public Finance
and Community Investment

To the Mortgage Lender: AGM Financial Services, Inc.
[Address]
Attention: _____
Telephone: _____
Email: _____

To the Remarketing Agent: Stifel, Nicolaus & Company, Incorporated
[Address]
Attention: _____
Telephone: _____
Email: _____

To the Investor
Limited Partner: TB Blaine Landing Phase II Affordable Housing,
LLC
c/o TowneBank
6001 Harbor View Boulevard
Suffolk, VA 23435
Attn: Anne C. H. Conner, President
Public Finance and Community Investment

or such additional or different address, notice of which is given under Section 12.03 hereof.

"Opinion of Bond Counsel" means an opinion of Bond Counsel.

"Opinion of Counsel" means an opinion from an attorney or firm of attorneys, acceptable to the Trustee, with experience in the matters to be covered in the opinion.

"Optional Redemption Date" means [February 1, 2025].

"Ordinary Issuer Fees" means [an issuance fee in the amount of \$_____, payable on the Closing Date], payable from money withdrawn from the Expense Fund and the Borrower will be responsible for paying the remaining amount of the Ordinary Issuer Fees and Expenses pursuant to Section 4.4 of the Loan Agreement.

"Ordinary Services" and **"Ordinary Expenses"** mean those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to this Indenture.

"Ordinary Trustee Fees and Expenses" means amounts due to the Trustee for the Ordinary Services and the Ordinary Expenses of the Trustee incurred in connection with its duties under this Indenture, consisting of (i) a set-up and acceptance fee in the amount of \$_____ payable at closing and (ii) an annual fee payable each year beginning on [December] 1, 2023 in an amount equal to \$_____ per year; provided, however, the amount of Ordinary Trustee Fees and Expenses payable from funds held under this Indenture is limited to money withdrawn from the Expense Fund and the Borrower will be responsible for paying the remaining amount of the Ordinary Trustee Fees and Expenses pursuant to Section 4.4 of the Loan Agreement. In addition, all amounts due to the Trustee for Extraordinary Services and all Extraordinary Expenses of the Trustee will be paid as provided in Section 6.06 of this Indenture or directly by the Borrower pursuant to Section 4.4 of the Loan Agreement.

"Organizational Documents" means the [Amended and Restated Agreement of Limited Partnership] of the Borrower dated _____, 2022, as the same may be amended.

"Outstanding Bonds," "Bonds outstanding" or "outstanding" as applied to Bonds mean, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under this Indenture, except:

- (a) Bonds cancelled upon surrender, exchange or transfer, or cancelled because of payment on or prior to that date;
- (b) Bonds, or the portion thereof, for the payment or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee on or prior to that date for that purpose (whether upon or prior to the maturity of those Bonds);
- (c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of this Indenture; and
- (d) Bonds in lieu of which others have been authenticated under Section 2.07 of this Indenture.

"Person" or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

"Plans and Specifications" means the plans and specifications describing the Project as now prepared and as they may be changed as provided in the Loan Agreement.

"Predecessor Bond" of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this definition, any Bond authenticated and delivered under Section 2.07 of this Indenture in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in Section 2.07 hereof, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

"Project" means the acquisition, construction and equipping of an affordable housing development known as Blaine Landing Phase II, consisting of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, located at 7581 Richmond Road, Williamsburg, Virginia.

"Project Costs" means the costs of the Project specified in Section 3.6 of the Loan Agreement.

"Project Fund" means the Project Fund created in Section 4.01 hereof.

"Project Purposes" means the making of a loan to finance the Project.

"Rating Agency" means Moody's, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency's successors or assigns, and initially means Moody's so long as Moody's is rating the Bonds.

"Rating Category" means one of the rating categories of the Rating Agency for the specific type and duration of the applicable Eligible Investment.

"Rebate Amount" means the amount required to be rebated to the United States pursuant to Section 148 of the Code.

"Rebate Analyst" means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Borrower to make the computations and give the directions required pursuant to the Tax Agreement. Initially, the Rebate Analyst will be [Tiber Hudson LLC].

"Rebate Analyst Fee" means a fee paid or payable to the Rebate Analyst for each rebate calculation pursuant to the Tax Agreement.

"Rebate Fund" means the Rebate Fund created in Section 4.01 hereof.

"Redemption Date" means any date hereunder on which Bonds are to be redeemed, including (a) the Maturity Date, (b) the date of acceleration of the Bonds and (c) pursuant to Sections 3.01 and 3.05 hereof.

"Register" means the books kept and maintained by the Trustee for registration and transfer of Bonds pursuant to Section 2.06 hereof.

"Regular Record Date" means, with respect to any Bond, the fifth Business Day preceding each Interest Payment Date.

"Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants dated as of even date herewith, among the Issuer, the Borrower, and the Trustee, as in effect on the Closing Date and as it may thereafter be amended and supplemented from time to time in accordance with its terms.

"Remarketing Agent" means Stifel, Nicolaus & Company, Incorporated, or any successor as Remarketing Agent designated in accordance with Section 5.17.

"Remarketing Agent's Fee" means the fee of the Remarketing Agent for its remarketing services.

"Remarketing Agreement" means the Remarketing Agreement dated as of [December] 1, 2022, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

"Remarketing Date" means the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to Section 3.07 hereof for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

"Remarketing Expenses" means the costs and expenses incurred by the Trustee and its counsel, the Remarketing Agent and its counsel, the Issuer and its counsel, and Bond Counsel in connection with the remarketing of the Bonds, including bond printing and registration costs, costs of funds advanced by the Remarketing Agent, registration and filing fees, rating agency fees and other costs and expenses incurred in connection with or properly attributable to the remarketing of Bonds as certified to the Trustee by the Remarketing Agent in writing.

"Remarketing Notice Parties" means the Borrower, the Issuer, the Trustee, and the Remarketing Agent.

"Remarketing Period" means the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to Section 3.07 hereof or the final Maturity Date of the Bonds, as applicable.

"Remarketing Proceeds Account" means the Remarketing Proceeds Account of the Bond Fund created in Section 4.01 hereof.

"Remarketing Rate" means the interest rate or rates established pursuant to Section 2.02(c) hereof and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the final Maturity Date of the Bonds, as applicable.

"Reserved Rights" of the Issuer means (a) the right of the Issuer to amounts payable to it pursuant to Section 4.4 of the Loan Agreement, (b) all rights which the Issuer or its members, directors, officers, officials, agents or employees may have under this Indenture and the Financing Documents to indemnification by the Borrower and by any other persons and to payments for

expenses incurred by the Issuer itself, or its members, directors, officers, officials, agents or employees; (c) the right of the Issuer to receive notices, reports or other information, make determinations and grant approvals hereunder and under the other Financing Documents; (d) all rights of the Issuer to enforce the representations, warranties, covenants and agreements of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or of the Issuer, and set forth in any of the Financing Documents or in any other certificate or agreement executed by the Borrower; (e) all rights of the Issuer in connection with any amendment to or modification of the Financing Documents; and (f) all enforcement remedies with respect to the foregoing.

"Revenues" means (a) the Loan Payments, (b) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (c) any money and investments in the Special Funds, and (d) all income and profit from the investment of the foregoing money. The term **"Revenues"** does not include any money or investments in the Rebate Fund.

"S&P" means S&P Global Ratings, and its successors and assigns, or if it shall for any reason no longer perform the functions of a securities rating agency, then any other nationally recognized rating agency designated by the Borrower and acceptable to the Trustee and the Remarketing Agent.

"Secretary" means the person serving as the Secretary of the Issuer, or in his or her absence, the acting or assistant secretary of the Issuer.

"Special Funds" means, collectively, the Bond Fund, the Project Fund and the Collateral Fund, and any accounts therein, all as created in this Indenture.

"Special Record Date" means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest or principal on that Bond.

"Supplemental Indenture" means any indenture supplemental to this Indenture entered into between the Issuer and the Trustee in accordance with Article VII hereof.

"Surplus Cash" has the meaning specified in the HUD Regulatory Agreement.

"Tax Agreement" means the Tax Certificate and Agreement, dated the Closing Date, executed and delivered by the Issuer and the Borrower.

"Tendered Bond" means any Bond which has been tendered for purchase pursuant to a Mandatory Tender.

"Trust Estate" means the property rights, money, securities and other amounts pledged and assigned to the Trustee hereunder pursuant to the Granting Clauses hereof.

"Trustee" means U.S. Bank Trust Company, National Association until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, "Trustee" shall mean the successor Trustee.

"Undelivered Bond" means any Bond that is required under this Indenture to be delivered to the Remarketing Agent or the Trustee for purchase on a Mandatory Tender Date but that has not been received on the date such Bond is required to be so delivered.

"Underwriter" means Stifel, Nicolaus & Company, Incorporated.

Section 1.02 Interpretation. Any reference herein to the Issuer, to the Governing Body or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions. Any reference to a section or provision of the Constitution of the Commonwealth or the Act, or to a section, provision or chapter of the Code of Virginia, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee or the Borrower under the Bond Resolution, the Bonds, the Financing Documents or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Bond Service Charges in the amount and manner, at the times, and from the sources provided in the Bond Resolution and this Indenture, except as permitted herein.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms "hereof," "hereby," "herein," "hereto," "hereunder," "hereinafter" and similar terms refer to this Indenture; and the term "hereafter" means after, and the term "heretofore" means before, the date of this Indenture. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.03 Captions and Headings. The captions and headings in this Indenture are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

Section 1.04 Content of Certificates and Opinions. Every certificate or opinion provided for in this Indenture with respect to compliance with any provision hereof made or given by an Authorized Official of the Issuer or Authorized Borrower Representative may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion or representation given by counsel or an accountant, unless such Authorized Representative knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which such certificate or statement is based is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters with respect to which information is in the possession of the Issuer or the Borrower, as applicable, upon a certificate or opinion of or representation by an Authorized Official of the Issuer or Authorized Borrower Representative, unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such certificate, opinion or representation is based is erroneous. The same Authorized Official of the Issuer or Authorized Borrower Representative, or the same counsel or accountant, as the case may be, need not certify to all of the matters required

to be certified under any provision of this Indenture, but different officers, counsel or accountants may certify to different matters.

ARTICLE II AUTHORIZATION AND TERMS OF BONDS

Section 2.01 Authorization and General Terms of Bonds.

(a) Issuance of Bonds. It is determined to be necessary to, and the Issuer shall, issue, sell and deliver up to [\$8,000,000] principal amount of Bonds for the Project Purposes. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total authorized principal amount of Bonds which may be issued under the provisions of this Indenture is [\$8,000,000].

(b) General Terms. The Bonds shall be designated "**Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022;**" shall be in substantially the form as set forth in Exhibit A to this Indenture; shall be numbered in such manner as determined by the Trustee in order to distinguish each Bond from any other Bond; shall be in Authorized Denominations; and shall be dated the Closing Date.

(c) Registered Form. All Bonds, unless a Supplemental Indenture shall have been executed and delivered pursuant to Section 7.02 hereof, shall be in fully registered form, and the Holder of a Bond shall be regarded as the absolute owner thereof for all purposes of this Indenture.

(d) Further Details. The Bonds shall be negotiable instruments in accordance with the Act, and shall express the purpose for which they are issued and any other statements or legends which may be required by law. Each Bond shall be of a single maturity, unless the Trustee shall approve the authentication and delivery of a Bond of more than one maturity.

Section 2.02 Maturity and Interest.

(a) General. The Bonds shall bear interest on the principal amount Outstanding from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or provided for, from their date of initial delivery, payable on each Interest Payment Date. The Bonds shall bear interest for each Interest Period at the Interest Rate all as more specifically set forth hereinafter. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. The Bonds shall mature on the Maturity Date, subject to prior redemption as set forth in Section 3.01 hereof and subject to Mandatory Tender for purchase as set forth in Section 3.05 hereof.

(b) Initial Interest Rate. From the date of their initial delivery to, but not including, the Initial Mandatory Tender Date, the interest rate on the Bonds shall be the Initial Interest Rate. On the Initial Mandatory Tender Date, the Bonds shall be subject to Mandatory Tender pursuant to Section 3.05 hereof. If insufficient funds are available to pay the purchase price on the Bonds following such Mandatory Tender on the Initial Mandatory Tender Date, the Bonds shall accrue interest at the Maximum Interest Rate until funds are available for payment of the purchase price, with interest being paid monthly on the first Business Day of each month.

(c) Establishment of Remarketing Rate. The Remarketing Agent shall establish the interest rate on the Bonds Outstanding for each Remarketing Period at the Remarketing Rate in accordance with this Section 2.02. Not less than ten (10) Business Days preceding each Remarketing Date, the Remarketing Agent, taking into consideration prevailing market conditions, shall, using its best professional judgment, determine the minimum rate(s) of interest which, if borne by the Bonds then Outstanding for the Remarketing Period specified by the Remarketing Agent at the direction of the Borrower as provided in Section 3.07 hereof. The rate of interest determined in accordance with the previous sentence shall be the Remarketing Rate for the specified Remarketing Period; provided that if the rate of interest so determined for such period would exceed the maximum interest rate per annum permitted by applicable Commonwealth law, the Bonds Outstanding shall be remarketed for the longest Remarketing Period for which the minimum rate of interest that would enable such Bonds to be remarketed at a price equal to 100% of the principal amount of such Bonds that would not exceed the maximum interest rate permitted by applicable Commonwealth law. Notwithstanding the foregoing, if the rate of interest so determined for any Remarketing Period would exceed the maximum interest rate permitted by applicable Commonwealth law, the Bonds Outstanding shall not be remarketed.

(d) Notice of Remarketing Rate. The Remarketing Agent shall, upon determination of the Remarketing Rate and Remarketing Period, immediately (and in no event later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate and the Remarketing Period) give notice of its determination by telephone or electronic mail, promptly confirmed in writing, to the Trustee, the Issuer, the Investor Limited Partner and the Borrower. The Remarketing Rate and the Remarketing Period shall be conclusive and binding upon the Trustee, the Issuer, the Borrower and the Holders for the purposes of this Indenture.

Section 2.03 Execution and Authentication of Bonds. Unless otherwise provided in the applicable Bond Resolution or Supplemental Indenture, each Bond shall be signed by the Chairman or Vice Chairman and attested by the Secretary or Assistant Secretary of the Issuer in their official capacities (provided that any or all of those signatures may be facsimiles). In case any officer whose signature or a facsimile of whose signature shall appear on any Bond shall cease to be that officer before the issuance of the Bond, such signature or the facsimile thereof nevertheless shall be valid and sufficient for all purposes, the same as if he or she had remained in office until that time. Any Bond may be executed on behalf of the Issuer by an officer who, on the date of execution is the proper officer, although on the date of the Bond that person was not the proper officer.

No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Indenture unless and until a certificate of authentication, substantially in the form set forth in Exhibit A to this Indenture, has been signed by the Trustee. The authentication by the Trustee upon any Bond shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered hereunder and is entitled to the security and benefit of this Indenture. The certificate of the Trustee may be executed by any person authorized by the Trustee, but it shall not be necessary that the same authorized person sign the certificates of authentication on all of the Bonds.

Section 2.04 Source of Payment of Bonds. The Bonds are not and never shall become general obligations of the Issuer, but to the extent provided in and except as otherwise permitted by this Indenture, the Bonds shall be special limited obligations of the Issuer and the Bond Service Charges thereon shall be payable equally and ratably solely from and secured solely by the Trust Estate.

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THIS INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE COMMONWEALTH OR OF ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

NEITHER THE DIRECTORS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE COUNTY, THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Indenture, or in any of the Bonds, or under any judgment obtained against the Issuer, the County or the Governing Body or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any member of the Governing Body or officer, as such, past, present, or future, of the Issuer or the Governing Body, whether directly or through the Issuer, or

otherwise, for the payment for or to the Issuer or any receiver thereof, or for or to any Holder of any Bond, or otherwise of any sum that may be due and unpaid by the Issuer upon any of the Bonds. All such liability of the Issuer, the County, any director of the Issuer and its officers, attorneys, accountants, financial advisors, agents and staff is hereby, and by the acceptance of the Bonds, expressly waived and released as a condition of, and in consideration for, the execution of this Indenture and the issuance of any of the Bonds.

Section 2.05 Payment and Ownership of Bonds. Bond Service Charges shall be payable in lawful money of the United States of America without deduction for the services of the Trustee. Subject to the provisions of Sections 2.09 and 2.10 of this Indenture, (a) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the Designated Office of the Trustee or at the office designated by the Trustee, and (b) interest on any Bond shall be paid on each Interest Payment Date by check or draft which the Trustee shall cause to be mailed on that date to the Person in whose name the Bond (or one or more Predecessor Bonds) is registered at the close of business on the Regular Record Date applicable to that Interest Payment Date on the Register at the address appearing therein.

If and to the extent, however, that the Issuer shall fail to make payment or provision for payment of interest on any Bond on any Interest Payment Date, that interest shall cease to be payable to the Person who was the Holder of that Bond (or of one or more Predecessor Bonds) as of the applicable Regular Record Date. In that event, except as provided below in this Section, when money becomes available for payment of the interest, (a) the Trustee shall, pursuant to Section 6.06(d) hereof, establish a Special Record Date for the payment of that interest which shall be not more than 15 nor fewer than 10 days prior to the date of the proposed payment, and (b) the Trustee shall cause notice of the proposed payment and of the Special Record Date to be mailed by first-class mail, postage prepaid, to each Holder at its address as it appears on the Register not fewer than 10 days prior to the Special Record Date and, thereafter, the interest shall be payable to the Persons who are the Holders of the Bonds (or their respective Predecessor Bonds) at the close of business on the Special Record Date.

Subject to the foregoing, each Bond delivered under this Indenture upon transfer thereof, or in exchange for or in replacement of any other Bond, shall carry the rights to interest accrued and unpaid, and to accrue on that Bond, or which were carried by that Bond.

Except as provided in this Section and the first paragraph of Section 2.07 hereof, (a) the Holder of any Bond shall be deemed and regarded as the absolute owner thereof for all purposes of this Indenture, (b) payment of or on account of the Bond Service Charges on any Bond shall be made only to or upon the order of that Holder or its duly authorized attorney in the manner permitted by this Indenture, and (c) neither the Issuer nor the Trustee shall, to the extent permitted by law, be affected by notice to the contrary. All of those payments shall be valid and effective to satisfy and discharge the liability upon that Bond, including without limitation, the interest thereon, to the extent of the amount or amounts so paid.

Section 2.06 Registration and Transfer of Bonds. So long as any of the Bonds remain Outstanding, the registration and transfer of Bonds, as provided in this Indenture, will be maintained and kept at the Designated Office of the Trustee.

Subject to the provisions set forth above and in Section 2.09 hereof, any Bond may be transferred upon the Register, upon presentation and surrender thereof at the Designated Office of the Trustee, together with an assignment duly executed by the Holder or its duly authorized attorney in any form which shall be satisfactory to the Trustee. Upon transfer of any Bond and on request of the Trustee, the Issuer shall execute in the name of the transferee, and the Trustee shall authenticate and deliver, a new Bond or Bonds, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed principal amount of, and bearing interest at the same rate and maturing on the same date or dates as, the Bonds presented and surrendered for transfer.

In all cases in which Bonds shall be transferred hereunder, the Issuer shall execute, and the Trustee shall authenticate and deliver, Bonds in accordance with the provisions of this Indenture. The transfer shall be made without charge; provided, that the Issuer and the Trustee may make a charge for every exchange or transfer of Bonds sufficient to reimburse them for any tax or excise required to be paid with respect to the transfer. The charge shall be paid before a new Bond is delivered.

All Bonds issued upon any transfer of Bonds shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Bonds surrendered upon transfer.

Section 2.07 Mutilated, Lost, Wrongfully Taken or Destroyed Bonds. If any Bond is mutilated, lost, wrongfully taken or destroyed, in the absence of written notice to the Issuer or the Trustee that a lost, wrongfully taken or destroyed Bond has been acquired by a bona fide purchaser, the Issuer shall execute, and the Trustee shall authenticate and deliver, a new Bond of like date, maturity and denomination as the Bond mutilated, lost, wrongfully taken or destroyed; provided, that (a) in the case of any mutilated Bond, the mutilated Bond first shall be surrendered to the Trustee, and (b) in the case of any lost, wrongfully taken or destroyed Bond, there first shall be furnished to the Trustee evidence of the loss, wrongful taking or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Authorized Borrower Representative, the Trustee and the Authorized Official.

If any lost, wrongfully taken or destroyed Bond shall have matured, instead of issuing a new Bond, the Issuer may direct the Trustee to pay that Bond without surrender thereof upon the furnishing of satisfactory evidence and indemnity as in the case of issuance of a new Bond. The Issuer and the Trustee may charge the Holder of a mutilated, lost, wrongfully taken or destroyed Bond their reasonable fees and expenses in connection with their actions pursuant to this Section.

Every new Bond issued pursuant to this Section by reason of any Bond being mutilated, lost, wrongfully taken or destroyed (a) shall constitute, to the extent of the Outstanding principal amount of the Bond lost, mutilated, taken or destroyed, an additional contractual obligation of the Issuer, regardless of whether the mutilated, lost, wrongfully taken or destroyed Bond shall be enforceable at any time by anyone and (b) shall be entitled to all of the benefits of this Indenture equally and proportionately with any and all other Bonds issued and Outstanding hereunder.

All Bonds shall be held and owned on the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of mutilated, lost, wrongfully taken or destroyed Bonds and, to the extent permitted by law, shall preclude any and all other rights and remedies with respect to the replacement or payment of negotiable instruments or other investment securities without their surrender, notwithstanding any law or statute to the contrary now existing or enacted hereafter.

Section 2.08 Cancellation of Bonds. Any Bond surrendered pursuant to this Article for the purpose of payment or retirement or for exchange, replacement or transfer shall be cancelled upon presentation and surrender thereof to the Trustee.

Notwithstanding any provision of this Indenture to the contrary, the Issuer, or the Borrower on behalf of the Issuer, may deliver at any time to the Trustee for cancellation any Bonds previously authenticated and delivered hereunder, which the Issuer or the Borrower may have acquired in any manner whatsoever. All Bonds so delivered shall be cancelled promptly by the Trustee. Certification of the surrender and cancellation shall be made to the Issuer by the Trustee upon the request of the Issuer. Unless otherwise directed by the Issuer, cancelled Bonds shall be retained and stored by the Trustee for a period of four years after their cancellation. Those cancelled Bonds shall be destroyed by the Trustee by shredding or incineration at that time or at any earlier time directed by the Issuer. The Trustee shall provide certificates describing the destruction of cancelled Bonds to the Issuer.

Section 2.09 Special Agreement with Holders. Notwithstanding any provision of this Indenture or of any Bond to the contrary, with the approval of the Borrower, the Trustee may enter into an agreement with any Holder providing for making all payments to that Holder of principal of and interest on that Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bond, without presentation or surrender of the Bond, upon any conditions which shall be satisfactory to the Trustee and the Borrower; provided, that payment in any event shall be made to the Person in whose name a Bond shall be registered on the Register, with respect to payment of principal, on the date such principal is due, and, with respect to the payment of interest, as of the applicable Regular Record Date or Special Record Date, as the case may be.

The Trustee will furnish a copy of each of those agreements, certified to be correct by an officer of the Trustee, to the Issuer and the Borrower. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Indenture.

Section 2.10 Book-Entry Only System. Notwithstanding any provision of this Indenture to the contrary, the Issuer has directed that all Bonds issued hereunder shall be initially issued in a Book Entry System, registered in the name of a Depository or its nominee as registered owner of the Bonds, and held in the custody of that Depository. Unless otherwise requested by a Depository, a single certificate will be issued and delivered to the Depository for each maturity of Bonds. Beneficial Owners of Bonds in a Book Entry System will not receive physical delivery of Bond certificates except as provided hereinafter. For so long as a Depository shall continue to serve as securities depository for the Bonds as provided herein, all transfers of Beneficial Ownership Interests will be made by book-entry only, and no investor or other party purchasing, selling or

otherwise transferring Beneficial Ownership Interests of Bonds is to receive, hold or deliver any Bond certificate; provided; that, if a Depository fails or refuses to act as securities depository for the Bonds, the Issuer shall take the actions necessary to provide for the issuance of Bond certificates to the Holders of such Bonds.

With respect to Bonds registered in the name of a Depository, the Issuer, the Borrower and the Trustee shall have no responsibility or obligation to any participant therein or to any Person on whose behalf any participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, none of the Issuer, the Borrower or the Trustee shall have any responsibility or obligation with respect to (a) the accuracy of the records of the Depository or any participant therein or any other Person, other than a registered owner of the Bonds, as shown on the Register, or any notice with respect to the Bonds or (b) the payment to any participant in the Depository or any other Person, other than a registered owner of the Bonds, as shown in the Register, of any amount with respect to principal of or interest on or purchase price of the Bonds.

Replacement Bonds may be issued directly to Beneficial Owners of Bonds other than a Depository, or its nominee, but only in the event that (a) the Depository determines not to continue to act as securities depository for the Bonds (which determination shall become effective no less than 90 days after written notice to such effect to the Issuer and the Trustee); or (b) the Issuer has advised a Depository of its determination (which determination is conclusive as to the Depository and Beneficial Owners of the Bonds) that the Depository is incapable of discharging its duties as securities depository for the Bonds; or (c) the Issuer has determined (which determination is conclusive as to the Depository and the Beneficial Owners of the Bonds) that the interests of the beneficial owners of the Bonds might be adversely affected if such book-entry only system of transfer is continued. Upon occurrence of any of the foregoing events, the Issuer and the Borrower shall use commercially reasonable efforts to attempt to locate another qualified securities depository. If the Issuer and the Borrower fail to locate another qualified securities depository to replace the Depository, the Issuer and the Borrower, at the Borrower's expense, shall cause to be authenticated and delivered replacement Bonds, in certificate form, to the Beneficial Owners of the Bonds. In the event that the Issuer makes the determination noted in (b) or (c) above (provided that the Issuer undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the Issuer to make any such determination), and has made provisions to notify the Beneficial Owners of Bonds of such determination by mailing an appropriate notice to the Depository, the Issuer, and the Borrower shall cause to be issued replacement Bonds in certificate form to Beneficial Owners of the Bonds as shown on the records of the Depository provided to the Issuer.

Upon the written consent of 100% of the Beneficial Owners of the Bonds, the Trustee shall withdraw the Bonds from any Depository and authenticate and deliver Bonds fully registered to the assignees of that Depository or its nominee. If the request for such withdrawal is not the result of any Issuer action or inaction, such withdrawal, authentication and delivery shall be at the cost and expense (including costs of printing, preparing and delivering such Bonds) of the persons requesting such withdrawal, authentication and delivery; otherwise such withdrawal, authentication and delivery shall be at the cost and expense of the Borrower.

Whenever, during the term of the Bonds, the beneficial ownership thereof is determined by a book entry at a Depository, (a) the requirements in this Indenture of holding, delivering or

transferring Bonds shall be deemed modified to require the appropriate Person or entity to meet the requirements of the Depository as to registering or transferring the book entry to produce the same effect and (b) delivery of the Bonds will be in accordance with arrangements among the Issuer, the Trustee and the Depository notwithstanding any provision of this Indenture to the contrary.

The Trustee and the Issuer shall enter into any letter of representation with a Depository to implement the Book Entry System of Bond registration described above.

Section 2.11 Delivery of the Bonds. Upon the execution and delivery of this Indenture, and satisfaction of the conditions established by the Issuer in the Bond Resolution and in the Bond Purchase Agreement for delivery of the Bonds, the Issuer shall execute the Bonds and deliver them to the Trustee. Thereupon, the Trustee shall authenticate the Bonds and deliver them to the Depository, as further directed by the Underwriter.

Prior to the delivery of any Bonds against payment therefor, the Trustee shall have received the following:

- (a) a certified copy of the Bond Resolution;
- (b) executed counterparts of this Indenture and the other Financing Documents executed and delivered on the Closing Date specifically set forth in the definition of Financing Documents;
- (c) A request and authorization to the Trustee on behalf of the Issuer and signed by an Authorized Official to authenticate and deliver the Bonds as set forth therein;
- (d) an Opinion of Bond Counsel substantially to the effect that the Bonds constitute legal, valid and binding obligations of the Issuer and that under existing statutes, regulations, published rulings and judicial decisions, the interest on the Bonds is not includable in gross income for federal income tax purposes except with respect to the interest on any Bond for any period during which such Bond is held by a "substantial user" of the Project or a "related person," as those terms are defined for purposes of Section 147(a) of the Code;
- (e) an Opinion of Counsel for the Borrower to the effect that the Borrower Documents have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding agreements of the Borrower in accordance with their respective terms subject to customary qualifications and exceptions;
- (f) funds the Trustee is required to receive for deposit pursuant to Section 4.02 hereof; and
- (g) any other documents or opinions which the Trustee, the Issuer or Bond Counsel may reasonably require, which requirement shall be deemed to be satisfied upon the delivery of the Opinion of Bond Counsel.

ARTICLE III

REDEMPTION, MANDATORY TENDER AND REMARKETING OF BONDS

Section 3.01 Redemption of Bonds.

(a) **Optional Redemption of Bonds.** The Bonds are subject to optional redemption prior to their maturity, at direction of the Authorized Borrower Representative, either in whole or in part on any Business Day on or after the later to occur of (a) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (b) the Optional Redemption Date, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

(b) **Mandatory Redemption of Bonds.** The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, if any, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has not elected to request the remarketing of the Bonds, (ii) the conditions to remarketing set forth in Section 3.07(b) or Section 3.07(d) have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Bond Fund at 11:00 a.m. Eastern time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

(c) **Purchase in Lieu of Redemption.** At the election of the Borrower upon a redemption in whole of the Bonds, by written notice to the Trustee and the Remarketing Agent given not less than five (5) Business Days in advance of such redemption date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date and the call for redemption shall be cancelled. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and any prepayment fee, if due, and shall be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall remain outstanding and shall be registered to or upon the direction of the Borrower.

Section 3.02 Partial Redemption. In the case of a partial redemption of Bonds when Bonds of denominations greater than \$5,000 are then Outstanding, each \$5,000 unit of face value of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of face value represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the Holder of that Bond shall surrender the Bond to the Trustee (a) for payment of the redemption price of the \$5,000 unit or units of face value called for redemption (including without limitation, the interest accrued to the date fixed for redemption and any premium), and (b) for issuance, without charge to the Holder thereof, of a new Bond or Bonds of the same series, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

If less than all of an Outstanding Bond of one maturity in a Book Entry System is to be called for redemption, the Trustee shall give notice to the Depository or the nominee of the Depository that is the Holder of such Bond, and the selection of the Beneficial Ownership Interests in that Bond to be redeemed shall be at the sole discretion of the Depository and its participants.

Section 3.03 Notice of Redemption. Unless waived by any Holder of Bonds to be redeemed, official notice of redemption shall be given by the Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by first class mail, postage prepaid, to the Holder of each Bond to be redeemed, at the address of such Holder shown on the Register at the opening of business on the fifth day prior to such mailing, not less than 30 days nor more than 60 days prior to the date fixed for redemption. A second notice of redemption shall be given, as soon as practicable, by first class mail to the Holder of each Bond which has been so called for redemption (in whole or in part) but has not been presented and surrendered to the Trustee within 60 days following the date fixed for redemption of that Bond.

All official notices of redemption shall be dated and shall state:

- (a) the redemption date,
- (b) the redemption price,
- (c) if less than all Outstanding Bonds are to be redeemed, the identification by designation, letters, numbers or other distinguishing marks (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (d) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,
- (e) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the Designated Office of the Trustee, and
- (f) that the notice of redemption is conditioned upon there being deposited with the Trustee on or prior to the date of redemption money sufficient to pay the redemption price of the Bonds to be redeemed and, in the case of any redemption premium on Bonds, that there be on deposit Eligible Funds sufficient to pay such redemption premium.

Notices of redemption shall be revocable in the event that there is not on deposit with the Trustee prior to the date of redemption money sufficient to pay the redemption price of the Bonds to be redeemed or, in the case of any redemption premium on Bonds, there is not on deposit Eligible Funds sufficient to pay such redemption premium.

If the Bonds are not then held in a Book Entry System, in addition to the foregoing notice, further notice shall be given by the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (i) the CUSIP numbers of all Bonds being redeemed; (ii) the date of issue of the Bonds as originally issued; (iii) the rate of interest borne by each Bond being redeemed; (iv) the maturity date of each Bond being redeemed; and (v) any other descriptive information deemed necessary in the sole discretion of the Trustee to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least 15 days before the redemption date by electronic mail, registered or certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number (if any) identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Failure to receive notice by mailing or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

Notice of any redemption hereunder with respect to Bonds held under a Book Entry System shall be given by the Trustee only to the Depository, or its nominee, as the Holder of such Bonds. Selection of Beneficial Ownership Interests in the Bonds called for redemption is the responsibility of the Depository and any failure of such Depository to notify the Beneficial Owners of any such notice and its contents or effect will not affect the validity of such notice of any proceedings for the redemption of such Bonds.

Section 3.04 Payment of Redeemed Bonds. Notice having been mailed in the manner provided in Section 3.03 hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, including interest accrued to the redemption date.

Upon the payment of the price of Bonds being redeemed or prepaid, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed or prepaid with the proceeds of such check or other transfer.

If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, is held by the Trustee on the redemption date, so as to be available therefor on that date and if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be Outstanding hereunder. If such money shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption.

All money deposited in the Bond Fund and held by the Trustee for the redemption, purchase or prepayment of particular Bonds shall be held in trust for the account of the Holders thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds.

Section 3.05 Mandatory Tender.

(a) Mandatory Tender for Purchase. All Outstanding Bonds shall be subject to mandatory tender by the Holders for purchase in whole and not in part on each Mandatory Tender Date. The purchase price for each such Bond shall be payable in lawful money of the United States of America by check or draft, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date, and shall be paid in full on the applicable Mandatory Tender Date.

(b) Mandatory Tender Dates. The Mandatory Tender Dates shall consist of (i) the Initial Mandatory Tender Date and (ii) any subsequent dates for mandatory tender of the Bonds established by the Borrower with the consent of the Remarketing Agent in connection with a remarketing of the Bonds pursuant to Section 3.07 hereof.

(c) Holding of Tendered Bonds. While tendered Bonds are in the custody of the Trustee pending purchase pursuant hereto, the tendering Holders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Bonds through the day preceding the applicable Mandatory Tender Date is to be paid as if such Bonds had not been tendered for purchase.

(d) Effect of Prior Redemption. Notwithstanding anything herein to the contrary, any Bond tendered under this Section 3.05 will not be purchased if such Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

(e) Purchase of Tendered Bonds. The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Local Time on the Mandatory Tender Date in the following priority; (i) amounts representing proceeds of remarketed Bonds deposited in the Remarketing Proceeds Account, to pay the principal amount, plus accrued interest, of Bonds tendered for purchase, (ii) amounts on deposit in the Collateral Fund, to pay the principal amount of Bonds tendered for purchase, (iii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund to pay the accrued interest; if any, on Bonds tendered for purchase, (iv) amounts on deposit in the Project Fund to pay the accrued interest, if any, on the Bonds tendered for purchase and (v) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

(f) Undelivered Bonds. Bonds shall be deemed to have been tendered for purposes of this Section 3.05 whether or not the Holders shall have delivered such Undelivered Bonds to the Trustee, and subject to the right of the Holders of such Undelivered Bonds to receive the purchase price of such Bonds and interest accrued thereon to the Mandatory Tender Date, such Undelivered Bonds shall be null and void. If such Undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Bonds in replacement thereof pursuant to the remarketing of such Undelivered Bonds.

Section 3.06 Mandatory Tender Notice.

(a) Notice to Holders. Not less than 30 days preceding a Mandatory Tender Date, the Trustee shall give written notice of mandatory tender to the Holders of the Bonds then Outstanding (with a copy to the Borrower, the Investor Limited Partner, and the Remarketing Agent) by first class mail, postage prepaid, at their respective addresses appearing on the Register stating:

(i) the Mandatory Tender Date and that (a) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date, (b) all Outstanding Bonds must be tendered for purchase no later than 12:00 Noon Local Time on the Mandatory Tender Date and (c) Holders will not have the right to elect to retain their Bonds;

(ii) the address of the Designated Office of the Trustee at which Holders should deliver their Bonds for purchase and the date of the required delivery;

(iii) that all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date; and

(iv) any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

(b) Second Notice. In the event that any Bond required to be delivered to the Trustee for payment of the purchase price of such Bond shall not have been delivered to the Trustee on or before the 30th day following a Mandatory Tender Date, the Trustee shall mail a second notice to the Holder of the Bond at its address as shown on the Register setting forth the requirements set forth in this Indenture for delivery of the Bond to the Trustee and stating that delivery of the Bond to the Trustee (or compliance with the provisions of this Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price or redemption price applicable to the Bond.

(c) Failure to Give Notice. Neither failure to give or receive any notice described in this Section 3.06, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this Section 3.06.

Section 3.07 Remarketing of Bonds.

(a) Notice of Mandatory Tender. No later than 11:00 a.m. Local Time on the 35th day prior to each Mandatory Tender Date, the Trustee shall give notice to the Borrower, the Investor Limited Partner and the Remarketing Agent by telephone or electronic mail, confirmed on the same day in writing, which states the aggregate principal amount of Bonds Outstanding, all of which are to be tendered or deemed to be tendered pursuant to Section 3.05 hereof.

(b) Preliminary Conditions to Remarketing. No later than 11:00 a.m. Local Time on the 15th day prior to the Mandatory Tender Date then in effect, the Borrower may give notice to the Remarketing Notice Parties by telephone or electronic mail, confirmed on the same day in writing, that it elects to cause the Bonds to be remarketed. A remarketing of the Bonds shall be permitted

only if the following conditions are satisfied no later than the time the foregoing election notice is given:

- (i) Notice by the Borrower to the Remarketing Agent of the Remarketing Period pursuant to Section 3.10 of the Loan Agreement;
 - (ii) Delivery to the Trustee, the Rating Agency and the Remarketing Agent of a preliminary Cash Flow Projection with respect to the proposed Remarketing Period; and
 - (iii) The Borrower shall have notified the Trustee in writing that it has approved as to form and substance any disclosure document or offering materials which, in the Opinion of Counsel to the Remarketing Agent, is necessary to be used in connection with the remarketing of the Outstanding Bonds.
- (c) Remarketing. Not less than ten (10) days before each Remarketing Date, the Remarketing Agent shall offer for sale and use its best efforts to sell the Bonds Outstanding on the Remarketing Date at a price equal to 100% of the principal amount of such Bonds plus, if such Remarketing Date is a date other than an Interest Payment Date, accrued interest on such Bonds from the preceding Interest Payment Date to which interest has been paid. Not less than four (4) Business Days before each Remarketing Date, the Remarketing Agent shall give notice, by telephone or electronic mail, promptly confirmed in writing, to the Remarketing Notice Parties specifying the principal amount of Bonds, if any, it has remarketed (including Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account), the Remarketing Rate(s) and the Remarketing Period applicable to the Bonds.

The Remarketing Agent shall have the right to remarket any Bond tendered pursuant to Section 3.05 hereof; provided, however, that no such Bond shall be remarketed at a price less than 100% of the principal amount thereof plus accrued interest (if any) without the prior written consent of the Borrower; and provided, further, that the purchase price of any Bond paid to the tendering Holder allocable to such discount shall be paid with Eligible Funds made available by the Borrower therefor and on deposit with the Trustee prior to the remarketing of such Bonds. The Remarketing Agent shall have the right to purchase any Bond tendered or deemed tendered pursuant to Section 3.05 hereof at 100% of the principal amount thereof, and to thereafter sell such Bond. Any such purchase shall constitute a remarketing hereunder.

The Remarketing Agent shall not remarket any Bond to the Issuer, the Borrower, any guarantor of the Bonds or any person which is an "insider" of the Issuer, Borrower, or any such guarantor within the meaning of the Bankruptcy Code.

(d) Final Conditions to Remarketing.

- (i) If, not less than four (4) Business Days preceding the Remarketing Date:
 - (1) the Remarketing Agent shall have notified the Trustee in writing of the remarketing of the Outstanding Bonds and that the proceeds from the remarketing (including proceeds of remarketing of Outstanding Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account) or other funds equal to the amount needed to purchase the remarketed Bonds on the Remarketing

Date are expected to be available to the Trustee on the Remarketing Date for deposit into the Remarketing Proceeds Account; and

(2) the Trustee shall have received written notice from the Remarketing Agent that the Remarketing Agent has received a confirmation of the rating from the Rating Agency; and

(ii) If, not less than two (2) Business Days preceding the Remarketing Date:

(1) there shall be on deposit with the Trustee, from Eligible Funds provided by the Borrower an amount sufficient to pay the Extension Payment set forth in the Cash Flow Projection for deposit (A) to the Negative Arbitrage Account of the Bond Fund with respect to the payment of Bond Service Charges during the new Remarketing Period and (B) to the Expense Fund with respect to the payment of Administrative Expenses during the new Remarketing Period; and

(2) there shall either (A) be on deposit with the Trustee, from Eligible Funds provided by the Borrower an amount sufficient to pay the estimated Remarketing Expenses as certified in writing to the Trustee by the Borrower for deposit in the Expense Fund, or (B) the Remarketing Agent shall have certified in writing to the Trustee that provision for the payment of the estimated Remarketing Expenses shall have been made to the satisfaction of the Remarketing Agent;

then the Trustee shall promptly give notice, by telephone or electronic mail, which notice shall be promptly confirmed in writing, to the Remarketing Agent and the Borrower that (a) all conditions precedent to the remarketing of the Outstanding Bonds have been satisfied and (b) the sale and settlement of the Outstanding Bonds is expected to occur on the Remarketing Date. Following the Trustee's notice, the Outstanding Bonds shall be sold to the purchasers identified by the Remarketing Agent for delivery and settlement on the Remarketing Date, and the Trustee shall apply the funds in the Remarketing Proceeds Account of the Bond Fund on the Remarketing Date to payment of the purchase price of the Outstanding Bonds.

(e) Failure to Satisfy Final Conditions. If, not less than two (2) or four (4) Business Days, as applicable, preceding a Remarketing Date, any condition set forth in paragraph (d) of this Section 3.07 has not been satisfied, then, unless the Outstanding Bonds are otherwise purchased on the Remarketing Date the Remarketing Agent shall not sell any of the Outstanding Bonds on the Remarketing Date.

(f) Remarketing Proceeds. No later than 11:00 a.m. Local Time on each Remarketing Date, the Remarketing Agent shall pay to the Trustee, in immediately available funds, the proceeds theretofore received by the Remarketing Agent from the remarketing of Bonds tendered for purchase on such Remarketing Date; provided, that the Remarketing Agent may use its best efforts to cause the purchasers of the remarketed Bonds to pay the purchase price plus accrued interest (if any) to the Trustee in immediately available funds. The proceeds from the remarketing of the Bonds shall be segregated from any funds of the Borrower and the Issuer and shall in no case be considered to be or be assets of the Borrower or the Issuer. Funds representing remarketing

proceeds received by the Remarketing Agent after 11:00 a.m. Local Time on each Remarketing Date shall be paid to the Trustee as soon as practicable upon such receipt.

(g) **Delivery of Purchased Bonds.** On or before the Business Day next preceding each Remarketing Date, the Remarketing Agent, by telephonic advice, shall notify the Trustee of (i) the principal amount of Bonds to be sold by the Remarketing Agent pursuant to this Section 3.07 hereof and the purchase price, and, unless the Bonds are then in the Book Entry System, the names, addresses and social security numbers or other tax identification numbers of the proposed purchasers thereof and (ii) the principal amount of Bonds tendered for purchase on such Remarketing Date which will not be sold by the Remarketing Agent pursuant to Section 3.07 hereof. Such telephonic advice shall be confirmed by written notice delivered or electronically communicated at the same time as the telephonic advice.

Bonds purchased on a Mandatory Tender Date that have been remarketed shall be delivered to the purchasers thereof as directed by the Remarketing Agent. Bonds delivered as provided in this Section shall be registered in the manner directed by the recipient thereof.

Section 3.08 Cancellation of Bonds. The Trustee shall immediately cancel Bonds if the tender price of the Bonds is paid from amounts other than proceeds derived from the remarketing of the Bonds.

ARTICLE IV REVENUES AND FUNDS

Section 4.01 Creation of Funds. There are hereby established with the Trustee the following funds and accounts to be held in trust and maintained by the Trustee under this Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account (but only at such times as money is to be deposited or held in such Accounts as provided in this Indenture);
- (b) the Project Fund;
- (c) the Costs of Issuance Fund;
- (d) the Collateral Fund;
- (e) the Rebate Fund; and
- (f) the Expense Fund.

Each fund and account therein shall be maintained by the Trustee as a separate and distinct trust fund or account to be held, managed, invested, disbursed and administered as provided in this Indenture. All money deposited in the funds and accounts created hereunder shall be used solely for the purposes set forth in this Indenture. The Trustee shall keep and maintain accurate records pertaining to each fund and account, and all disbursements therefrom, in accordance with its general practices and procedures in effect from time to time. The Trustee may also terminate funds and accounts that are no longer needed.

The Trustee shall, at the written direction of an Authorized Borrower Representative, and may, in its discretion, establish such additional accounts within any fund, and subaccounts within any of the accounts, as the Issuer or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that fund and its accounts, or for the purpose of complying with the requirements of the Code, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Indenture with respect to a deposit or use of money in the Special Funds or the Rebate Fund, or result in commingling of funds not permitted hereunder.

Section 4.02 Allocation of Bond Proceeds and Other Deposits.

(a) Allocation of Bond Proceeds. The entire principal proceeds of the Bonds in the amount of [\$8,000,000] shall be delivered to the Trustee and allocated and deposited to the Project Fund.

(b) Allocation of Eligible Funds. On the Closing Date, the Trustee shall deposit Eligible Funds in the amount of \$_____ to the Negative Arbitrage Account of the Bond Fund.

Section 4.03 Bond Fund. On the Closing Date, there shall be deposited in the Negative Arbitrage Account of the Bond Fund the amount set forth in Section 4.02(b) hereof. Any Extension Payment received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to Section 3.07 hereof shall also be deposited in the Negative Arbitrage Account.

So long as there are any Outstanding Bonds, to the extent the Borrower has not received a credit against Loan Payments, all Loan Payments under the Loan Agreement shall be paid on or before each Interest Payment Date directly to the Trustee, and deposited in the Bond Fund, in at least the amount necessary to pay the interest and the principal due on the Bonds on such Bond Payment Date.

The Bond Fund (and accounts therein for which provision is made in this Indenture) and the money therein shall be used solely and exclusively for the payment of Bond Service Charges as they become due.

Bond Service Charges shall be payable, as they become due (a) in the first instance from the money on deposit in the Bond Fund (other than the Negative Arbitrage Account therein), (b) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (c) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (d) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund.

Upon receipt by the Trustee of a Cash Flow Projection, the Trustee is hereby authorized to release from the Negative Arbitrage Account the amount set forth in the Cash Flow Projection to or at the written direction of the Borrower.

Section 4.04 Project Fund. Upon the deposit of Eligible Funds in the Collateral Fund as provided in Section 4.06 hereof, the Trustee shall disburse a corresponding amount of Bond proceeds on deposit in the Project Fund to, or at the written direction of, the Mortgage Lender, for use by the Borrower to pay Project Costs in accordance with Section 3.6 of the Loan Agreement.

The Trustee shall disburse funds from the Project Fund in accordance with Section 3.6 of the Loan Agreement on the same Business Day that it receives the Eligible Funds, but only if (i) the Trustee receives the fully-signed and completed disbursement request by at least 2:00 PM Local Time on the Business Day immediately prior to such Business Day and (ii) the Trustee receives the Eligible Funds with respect to such disbursement request prior to 10:30 AM Local Time on such Business Day. If the Trustee receives Eligible Funds after 10:30 AM Local Time, the disbursement shall be made on the next succeeding Business Day. Notwithstanding any provisions to the contrary, upon satisfaction of the conditions set forth in Section 3.6 of the Loan Agreement, the Trustee shall be unconditionally and irrevocably obligated to disburse funds from the Project Fund to or at the written direction of the Mortgage Lender. The Trustee shall not disburse money from the Project Fund unless and until Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited in the Collateral Fund. In accordance with Section 3.6 of the Loan Agreement, and prior to making any disbursement, the Trustee shall determine that the aggregate account balance in (a) the Collateral Fund and (b) the Project Fund (less the amount to be disbursed in accordance with the Disbursement Request) is at least equal to the then-Outstanding principal amount of the Bonds; provided, however, to the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is hereby authorized to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund and (ii) transfer a like amount of Eligible Funds on deposit in the Collateral Fund to the Project Fund, in exchange for an allocation of a like amount of Eligible Investments held therein. Upon receipt of Eligible Funds from the Mortgage Lender, if the Trustee is not prepared to immediately make the foregoing disbursement from the Project Fund to the Mortgage Lender, the Trustee shall return such Eligible Funds to the Mortgage Lender.

Money in the Project Fund shall be disbursed in accordance with the provisions of Section 3.6 of the Loan Agreement, the Funding Agreement and this Section 4.04. To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund and the Collateral Fund, the Trustee shall transfer from the Project Fund to the Bond Fund sufficient money to make the necessary interest and principal payments, if any, on each Interest Payment Date without further written direction.

On any Redemption Date, the Trustee will transfer any amounts then on deposit in the Project Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

Upon the occurrence and continuance of an Event of Default hereunder as a result of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant to Section 6.03 hereof, any money remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

Section 4.05 Costs of Issuance Fund. Amounts on deposit in the Cost of Issuance Fund, if any, shall be used by the Trustee to pay costs of issuance as directed by the Borrower and approved by the Investor Limited Partner. Any amounts remaining on deposit in the Costs of Issuance Fund 30 days after the Closing Date shall be returned to or at the direction of the Borrower.

Section 4.06 Collateral Fund.

- (a) The Trustee shall deposit in the Collateral Fund all Eligible Funds received by the Trustee for deposit into the Collateral Fund. Section 4.2 of the Loan Agreement and the Funding Agreement require the Borrower to cause the Mortgage Lender to deposit Eligible Funds with the Trustee for deposit into the Collateral Fund in a principal amount equal to, and as a prerequisite to the disbursement of, the amount of Bond proceeds on deposit in the Project Fund to be disbursed by the Trustee to pay Project Costs.
- (b) Each deposit into the Collateral Fund shall constitute an irrevocable deposit solely for the benefit of the Holders, subject to the provisions hereof.
- (c) The Trustee shall transfer money in the Collateral Fund as follows: (i) on the Mandatory Tender Date, to the Bond Fund, the amount necessary to pay the purchase price of the Bonds, to the extent amounts on deposit in the Remarketing Proceeds Account and the Negative Arbitrage Account of the Bond Fund are insufficient therefor; and (ii) on any Redemption Date or the Maturity Date of the Bonds, to the Bond Fund the amount, together with amounts on deposit in the Bond Fund, necessary to pay the principal and interest due on the Bonds on such date.
- (d) On any Redemption Date, the Trustee will transfer funds held in the Collateral Fund into the Bond Fund to pay Bond Service Charges on the Bonds.
- (e) Amounts on deposit in the Collateral Fund in excess of the amount required to pay Bond Service Charges after payment in full of the Bonds may be transferred to the Project Fund and used to pay Project Costs as provided in Section 3.6 of the Loan Agreement.
- (f) The Bonds shall not be, and shall not be deemed to be, paid or prepaid by reason of any deposit into the Collateral Fund unless and until the amount on deposit in the Collateral Fund is transferred to the Bond Fund and applied to the payment of the principal of any of the Bonds, the principal component of the redemption price of any of the Bonds or the principal component of the tender price of any of the Bonds, all as provided in this Indenture.

Section 4.07 Completion of the Project. The completion of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the Completion Certificate required by Section 3.9 of the Loan Agreement. As soon as practicable after the filing with the Trustee of the Completion Certificate, any balance remaining in the Project Fund (other than the amounts retained by the Trustee as described in the Completion Certificate) shall be deposited or applied in accordance with the direction of the Authorized Borrower Representative pursuant to Section 3.6 of the Loan Agreement.

Section 4.08 Expense Fund. The Trustee shall deposit to the Expense Fund any funds received from the Borrower for deposit into the Expense Fund to pay the amounts required by this Section 4.08. The Trustee shall apply money on deposit in the Expense Fund solely for the following purposes, upon receipt of written instructions from the Borrower, in the following order of priority:

- (a) to transfer money to the Rebate Fund to the extent necessary to pay the Rebate Amount (if any) pursuant to Section 4.09 hereof;

- (b) to pay the Ordinary Trustee Fees and Expenses when due;
- (c) to pay the Dissemination Agent Fee when due;
- (d) to pay the Ordinary Issuer Fees when due;
- (e) to pay the Issuer Fees and Expenses not previously paid; and
- (f) to pay the Remarketing Expenses when due.

To the extent money in the Expense Fund is not sufficient to pay the foregoing fees and expenses, such deficiency shall be paid by the Borrower pursuant to Section 4.4 of the Loan Agreement immediately upon written demand.

Any provision hereof to the contrary notwithstanding, amounts credited to the Expense Fund shall be free and clear of any lien hereunder

Section 4.09 Rebate Fund. Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

Without limiting the generality of the foregoing, the Trustee shall furnish to the Borrower and Investor Limited Partner all information reasonably requested by the Borrower or the Investor Limited Partner with respect to the Bonds and investments of the Funds and accounts maintained by the Trustee hereunder. The Trustee shall make deposits to and disbursements from the Rebate Fund (including rebate payments to the United States required to be made by the Tax Agreement), as well as investments of the amounts therein, in accordance with the written directions received from the Borrower pursuant to the Tax Agreement.

Section 4.10 Investment of Special Funds and Rebate Fund. Except as otherwise set forth in this Section, moneys in the Special Funds and the Rebate Fund shall be invested and reinvested by the Trustee in Eligible Investments at the written direction of the Authorized Borrower Representative. At no time shall the Authorized Borrower Representative direct that any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code. Investments of moneys in the Special Funds shall mature or be redeemable without penalty at such time as may be necessary to make payments from the Special Funds, including on each Interest Payment Date. Any of those investments may be purchased from or sold to the Trustee, the Registrar, an authenticating agent or a paying agent, or any bank, trust company or savings and loan association affiliated with any of the foregoing. The Trustee shall sell or redeem investments credited to the Special Funds to produce sufficient moneys applicable hereunder to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. An investment made from moneys credited to the Special Funds shall constitute part of that respective Fund. All investment earnings from amounts on deposit in the Project Fund shall be credited to the Negative Arbitrage Account of the Bond Fund. All investment earnings from amounts on deposit in the Collateral Fund shall be credited to the Negative Arbitrage Account of the Bond Fund. All gains resulting from the sale of, or income from, any investment made from moneys credited to the Special Funds shall be credited to and become part of the Special Fund from which the investment was made. Notwithstanding the

foregoing, any moneys held under this Indenture without the written direction of the Authorized Borrower Representative shall be invested in Eligible Investments. If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to the Initial Mandatory Tender Date, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any. Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything herein to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and the deposit of Eligible Funds to the Negative Arbitrage Account pursuant to Section 4.02(b) hereof shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

Section 4.11 Money to be Held in Trust. Except where money has been deposited with or paid to the Trustee pursuant to an instrument restricting their application to particular Bonds, all money required or permitted to be deposited with or paid to the Trustee under any provision of this Indenture or the Note, and any investments thereof, shall be held by the Trustee in trust. Except for money held by the Trustee pursuant to Section 4.09 hereof, all money described in the preceding sentence held by the Trustee shall be subject to the lien of the Indenture hereof while so held.

The money in any fund or account established under this Indenture shall be subject to the unclaimed property laws of the Commonwealth.

The Trustee shall cause to be kept and maintained accurate records pertaining to the Special Funds and all deposits and disbursements therefrom. The Trustee shall satisfy this obligation by providing monthly statements for all periods in which there are funds in the Special Funds to the Borrower and the Investor Limited Partner.

Section 4.12 Valuation. For the purpose of determining the amount on deposit to the credit of any Special Fund or Account, the value of obligations in which money in such Fund or Account shall have been invested shall be computed (i) in the case of Government Obligations held in the Special Funds, at the maturity or redemption value (as applicable) as of the maturity or next redemption date and (ii) in the case of all other Eligible Investments, at the then market value thereof.

The Eligible Investments shall be valued by the Trustee at any time requested by the Authorized Borrower Representative on reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Eligible Investments more than once in any calendar month.

Section 4.13 Nonpresentment of Bonds. In the event that any Bond shall not be presented for payment when the principal thereof becomes due, or a check or draft for interest is uncashed, if money sufficient to pay the principal then due of that Bond or of such check or draft shall have been made available to the Trustee for the benefit of its Holder, all liability of the Issuer to that Holder for such payment of the principal then due of the Bond or of such check or draft thereupon shall cease and be discharged completely. Thereupon, it shall be the duty of the Trustee to hold

such money, without liability for interest thereon, in a separate account in the Bond Fund for the exclusive benefit of the Holder, who shall be restricted thereafter exclusively to such money for any claim of whatever nature on its part under this Indenture or on, or with respect to, the principal then due of that Bond or of such check or draft.

Any of such money which shall be so held by the Trustee, and which remain unclaimed by the Holder of a Bond not presented for payment or check or draft not cashed for a period of four years after the due date thereof, shall, subject to any applicable escheat laws, be paid to the Borrower free of any trust or lien, upon a request in writing by the Borrower. Thereafter, the Holder of that Bond shall look only to the Borrower for payment and then only to the amounts so received by the Borrower without any interest thereon, and the Trustee shall not have any responsibility with respect to such money.

Section 4.14 Repayment to the Borrower from the Bond Fund. On any Mandatory Tender Date, any amounts in the Bond Fund in excess of the amount necessary to cover any negative arbitrage (assuming 0.00% interest earnings on all deposits) shall, upon written instruction to the Trustee from the Borrower, be paid to or at the direction of the Borrower. Except as provided in Section 4.09 and Section 4.13 hereof, any amounts remaining in the Bond Fund (a) after all of the Outstanding Bonds shall be deemed paid and discharged under the provisions of this Indenture, and (b) after payment of all fees, charges and expenses of the Trustee and of all other amounts required to be paid under this Indenture, the Loan Agreement, the Tax Agreement, the Regulatory Agreement and the Note, shall be paid to the Borrower to the extent that those amounts are in excess of those necessary to effect the payment and discharge of the Outstanding Bonds; provided however, that if the Trustee has received written notice from the Mortgage Lender of the event of an assignment or conveyance of the Multifamily Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing securing the Mortgage Loan (the “Security Instrument”) to the Federal Housing Commissioner, subsequent to the issuance of the Bonds, all money remaining in all funds and accounts other than the Rebate Fund, and any other funds remaining under this Indenture after payment or provision for payment of debt service on the Bonds and the fees and expenses of the credit enhancer, Issuer, Trustee, and other such parties unrelated to the Borrower (other than funds originally deposited by the Borrower or related parties on or before the date of issuance of the Bonds) shall be returned to the holder of the Security Instrument.

ARTICLE V THE TRUSTEE AND REMARKETING AGENT

Section 5.01 Trustee's Acceptance and Responsibilities. The Trustee accepts the trusts imposed upon it by this Indenture, and agrees to observe and perform those trusts, but only upon and subject to the terms and conditions set forth in this Article, to all of which the parties hereto and the Holders agree.

(a) Prior to the occurrence of a default or an Event of Default (as defined in Section 6.01 hereof) of which the Trustee has been notified, as provided in paragraph (f) of Section 5.02 hereof, or of which by that paragraph the Trustee is deemed to have notice, and after the cure or waiver of all defaults or Events of Default which may have occurred,

(i) the Trustee undertakes to perform only those duties and obligations which are set forth specifically in this Indenture, and no duties or obligations shall be implied to the Trustee;

(ii) in the absence of bad faith on its part, the Trustee may rely conclusively, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture.

(b) In case a default or an Event of Default has occurred and is continuing hereunder (of which the Trustee has been notified, or is deemed to have notice), the Trustee shall exercise those rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(i) this Subsection shall not be construed to affect the limitation of the Trustee's duties and obligations provided in subparagraph (a)(i) of this Section or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in subparagraph (a)(ii) of this Section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by any one of its officers, unless it shall be established that the Trustee was grossly negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in principal amount of the Bonds then Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture or any other Financing Documents relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article V.

Section 5.02 Certain Rights and Obligations of the Trustee. Except as otherwise provided in Section 5.01 hereof:

(a) The Trustee (i) may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees (but shall be answerable therefor only in accordance with the standard specified above), (ii) shall be entitled to the advice of counsel concerning all matters of trusts hereof and duties hereunder, and (iii) may pay reasonable compensation in all cases to all of those attorneys, agents, receivers and employees reasonably

employed by it in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the Issuer or the Borrower) approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action taken or omitted to be taken in good faith in reliance upon that opinion or advice.

(b) Except for its certificate of authentication on the Bonds, the Trustee shall not be responsible for:

- (i) any recital in this Indenture, in the Bonds, or in any other Financing Documents,
- (ii) the validity, priority, recording, rerecording, filing or re filing of this Indenture, any Supplemental Indenture, the Regulatory Agreement, or any of the other Financing Documents,
- (iii) any instrument or document of further assurance or collateral assignment,
- (iv) the filing of any financing statements, amendments thereto or continuation statements,
- (v) insurance of the Project or collection of insurance moneys,
- (vi) the validity of the execution by the Issuer of this Indenture, any Supplemental Indenture or instruments or documents of further assurance,
- (vii) the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby,
- (viii) the value of or title to the Project, or
- (ix) the maintenance of the security hereof.

The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, agreements or obligations on the part of the Issuer or the Borrower under the Loan Agreement; but the Trustee may require of the Issuer or the Borrower full information and advice as to the observance or performance of those covenants, agreements and obligations. Except as otherwise provided in Section 6.04 hereof, the Trustee shall have no obligation to observe or perform any of the duties of the Issuer under the Loan Agreement.

(c) The Trustee shall not be accountable for the application by the Borrower or any other Person of the proceeds of any Bonds authenticated or delivered hereunder.

(d) The Trustee shall be protected, in the absence of bad faith on its part, in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any Person who is the Holder of any Bonds at the time of making the request or giving the authority or consent, shall be conclusive and binding upon all future Holders of the same Bond and of Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or nonexistence of any fact for which the Issuer or the Borrower may be responsible or as to the sufficiency or validity of any instrument, document, report, paper or proceeding, the Trustee, in the absence of bad faith on its part, shall be entitled to rely upon a certificate signed on behalf of the Issuer or Borrower, as appropriate, by an authorized officer or representative thereof as sufficient evidence of the facts recited therein. Prior to the occurrence of a default or Event of Default hereunder of which the Trustee has been notified, as provided in paragraph (f) of this Section, or of which by that paragraph the Trustee is deemed to have notice, the Trustee may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient; provided, that the Trustee in its discretion may require and obtain any further evidence which it deems to be necessary or advisable; and, provided further, that the Trustee shall not be bound to secure any further evidence. The Trustee may accept a certificate of the officer, or an assistant thereto, having charge of the appropriate records, to the effect that legislation has been enacted by the Governing Body in the form recited in that certificate, as conclusive evidence that the legislation has been duly enacted and is in full force and effect.

(f) The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any default or Event of Default hereunder, except Events of Default described in paragraphs (a) or (b) of Section 6.01 hereof, unless the Trustee shall be notified specifically of the default or Event of Default in a written instrument or document delivered to it by the Issuer or by the Holders of at least 10% of the aggregate principal amount of Bonds then Outstanding. In the absence of delivery of a notice satisfying those requirements, the Trustee may assume conclusively that there is no default or Event of Default, except as noted above.

(g) At any reasonable time, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives (i) may inspect and copy fully all books, papers and records of the Issuer pertaining to the Project and the Bonds, and (ii) may make any memoranda from and in regard thereto as the Trustee may desire.

(h) The Trustee shall not be required to give any bond or surety with respect to the execution of these trusts and powers or otherwise in respect of the premises.

(i) Notwithstanding anything contained elsewhere in this Indenture, the Trustee may demand any showings, certificates, reports, opinions, appraisals and other information, and any corporate action and evidence thereof, in addition to that required by the terms hereof, as a condition to the authentication of any Bonds or the taking of any action whatsoever within the purview of this Indenture, if the Trustee deems it to be desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds or the right of any Person to the taking of any other action by the Trustee; provided, that the Trustee shall not be required to make that demand.

(j) Before taking action hereunder pursuant to Section 5.04 or Article VI hereof (with the exception of any action required to be taken under Section 6.02 hereof or the acceleration of the Bonds under Section 6.03 hereof), the Trustee may require that a satisfactory indemnity bond be furnished to it for the reimbursement of all expenses which it may incur and to protect it against all liability by reason of any action so taken, except liability which is adjudicated to have resulted from its negligence or willful misconduct. The Trustee may take action without that indemnity, and in that case, the Borrower shall reimburse the Trustee for all of the Trustee's expenses pursuant

to Section 5.03 hereof, provided that the Trustee has acted in good faith and with the care that an ordinarily prudent person in a like position would have acted.

(k) Unless otherwise provided herein, all moneys received by the Trustee under this Indenture shall be held in trust for the purposes for which those moneys were received, until those moneys are used, applied or invested as provided herein; provided, that those moneys need not be segregated from other moneys, except to the extent required by this Indenture or by law. The Trustee shall not have any liability for interest on any moneys received hereunder, except to the extent expressly provided herein.

(l) Any legislation by the Governing Body, and any opinions, certificates and other instruments and documents for which provision is made in this Indenture, may be accepted by the Trustee, in the absence of bad faith on its part, as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

(m) The Trustee shall be entitled to file proofs of claim in bankruptcy. Trustee fees and expenses are intended to constitute administrative expenses in bankruptcy.

(n) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture and the other Financing Documents sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Issuer, the Borrower and such other Person providing notice to the Trustee shall provide to the Trustee an incumbency certificate listing such designated persons, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Issuer, the Borrower or such other Person providing notice to the Trustee elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Trustee has offered the Issuer and the Borrower commercially reasonable security procedures with respect to such instructions and the Issuer and the Borrower have chosen not to avail itself of such procedures. Each of the Issuer, the Borrower and such other Person providing notice to the Trustee agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(o) The permissive right of the Trustee to do things enumerated in this Indenture and the other Financing Documents shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default. The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds. The Trustee shall have no duty to review or analyze any financial statements or other financial information delivered to the Trustee under this Indenture and the other Financing Documents and shall hold such financial statements and other financial information solely as a

repository for the benefit of the Holder; the Trustee shall not be deemed to have notice of any information contained therein or event of default which may be disclosed therein in any manner. The Trustee shall not be responsible or liable for the environmental condition or any contamination of any property which secures the Bonds or for any diminution in value of any such property as a result of any contamination of the property by any hazardous substance, hazardous material, pollutant or contaminant. The Trustee shall not be liable for any claims by or on behalf of the Holders or any other person or entity arising from contamination of the property by any hazardous substance, hazardous material, pollutant or contaminant, and shall have no duty or obligation to assess the environmental condition of any such property or with respect to compliance of any such property under state or federal laws pertaining to the transport, storage, treatment or disposal of, hazardous substances, hazardous materials, pollutants, or contaminants or regulations, permits or licenses issued under such laws. The Trustee in performing its duties and exercising its rights under any of the other Financing Documents shall be entitled to all rights, protections and limitations of liability set forth in this Indenture, and the provisions of this Indenture relating to the rights, protections and limitations of liability of the Trustee shall be deemed to be set forth and included in the Financing Documents, mutatis mutandis, as if references to "hereof", "herein", "this Indenture" and the like set forth in this Indenture referred to the applicable Financing Document.

Section 5.03 Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment or reimbursement by the Borrower, as provided herein and in the Loan Agreement, for customary fees for Ordinary Services rendered hereunder and for all advances, counsel fees and other Ordinary Expenses reasonably and necessarily paid or incurred by it in connection with the provision of Ordinary Services. For purposes hereof, fees for Ordinary Services provided for by its standard fee schedule shall be considered customary. In the event that it should become necessary for the Trustee to perform Extraordinary Services, it shall be entitled to customary extra compensation therefor and to reimbursement for reasonable and necessary Extraordinary Expenses incurred in connection therewith. Unless and until such time as the Trustee resigns or is replaced, and a successor Trustee is appointed pursuant to Section 5.09 hereunder, the Trustee shall continue to perform its duties hereunder notwithstanding the Borrower's failure to timely pay such fees.

Without creating a default or an Event of Default hereunder, however, the Borrower may contest in good faith the necessity for any Extraordinary Service and Extraordinary Expense and the amount of any fee, charge or expense.

The Trustee shall be entitled to compensation or reimbursement for Extraordinary Services or Extraordinary Expenses except for those occasioned by its negligence or willful misconduct. The customary fees for its Ordinary Services and charges of the foregoing shall be entitled to payment and reimbursement only from (i) the Additional Payments made by the Borrower pursuant to the Loan Agreement, or (ii) from moneys available therefor in the Expense Fund or Section 6.06 hereof. Any amounts payable to the Trustee pursuant to this Section 5.03 shall be payable upon demand and shall bear interest from the date of demand therefor at the Interest Rate for Advances.

The provisions of this Section 5.03 shall survive the resignation or removal of the Trustee.

Section 5.04 Intervention by Trustee. The Trustee may intervene on behalf of the Holders, and shall intervene if requested to do so in writing by the Holders of at least 50% of the aggregate

principal amount of Bonds then Outstanding, in any judicial proceeding to which the Issuer or the Borrower is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of the Bonds. The rights and obligations of the Trustee under this Section are subject to the approval of that intervention by a court of competent jurisdiction. The Trustee may require that a satisfactory indemnity bond be provided to it in accordance with Sections 5.01 and 5.02 hereof before it takes action hereunder.

Section 5.05 Successor Trustee. Anything herein to the contrary notwithstanding,

(a) any corporation or association (i) into which the Trustee may be converted or merged, (ii) with which the Trustee or any successor to it may be consolidated, or (iii) to which it may sell or transfer its corporate trust assets and corporate trust business as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, merger, consolidation, sale or transfer, ipso facto, shall be and become successor Trustee hereunder and shall be vested with all of the title to the whole property or Trust Estate hereunder; and

(b) that corporation or association shall be vested further, as was its predecessor, with each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

Any successor Trustee, however, (i) shall be a trust company or a bank having the powers of a trust company, (ii) shall be in good standing within the Commonwealth, (iii) shall be duly authorized to exercise trust powers within the Commonwealth, and (iv) shall have a reported capital, surplus and retained earnings of not less than \$100,000,000.

Section 5.06 Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including without limitation, the laws of the Commonwealth) denying or restricting the right of banks or trust companies to transact business as trustees in that jurisdiction. It is recognized that, (a) if there is litigation under this Indenture or other instruments or documents relating to the Bonds and the Project, and in particular, in case of the enforcement hereof or thereof upon a default or an Event of Default, or (b) if the Trustee should deem that, by reason of any present or future law of any jurisdiction, it may not (i) exercise any of the powers, rights or remedies granted herein to the Trustee, (ii) hold title to the properties, in trust, as granted herein, or (iii) take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an individual or additional institution as a co-Trustee. The following provisions of this Section are adapted to these ends.

In the event that the Trustee appoints an individual or additional institution as a co-Trustee, each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee shall be exercisable by, vest in and be conveyed to that co-Trustee, but only to the extent necessary for it to be so vested and conveyed and to enable that co-Trustee to exercise it. Every covenant, agreement and obligation necessary to the exercise thereof by that co-Trustee shall run to and be enforceable by it.

Should any instrument or document in writing from the Issuer reasonably be required by the co-Trustee so appointed by the Trustee for vesting and conveying more fully and certainly in and to that co-Trustee those trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens, that instrument or document shall be executed, acknowledged and delivered, but not prepared, by the Issuer. In case any co-Trustee or a successor to it shall die, become incapable of acting, resign or be removed, all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the co-Trustee shall be exercised by, vest in and be conveyed to the Trustee, to the extent permitted by law, until the appointment of a successor to the co-Trustee.

Section 5.07 Resignation by the Trustee. The Trustee may resign at any time from the trusts created hereby by giving written notice of the resignation to the Issuer, the Borrower and the Remarketing Agent, and by mailing written notice of the resignation to the Holders as their names and addresses appear on the Register at the close of business fifteen days prior to the mailing. The resignation shall take effect upon the appointment of a successor Trustee as provided for in Section 5.09 of this Indenture or an order of a court of competent jurisdiction allowing the Trustee to resign.

Section 5.08 Removal of the Trustee. The Trustee may be removed at any time by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the Remarketing Agent, and signed by either (a) the Borrower, with the written consent of the Issuer, or (b) on behalf of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding.

The Trustee also may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Issuer or the Holders of not less than 50% in aggregate principal amount of the Bonds then Outstanding under this Indenture.

The removal of the Trustee under this Section 5.08 shall take effect upon the appointment of a successor Trustee as provided for in Section 5.09 of this Indenture.

Section 5.09 Appointment of Successor Trustee. If (a) the Trustee shall resign, shall be removed, shall be dissolved, or shall become otherwise incapable of acting hereunder, (b) the Trustee shall be taken under the control of any public officer or officers, or (c) a receiver shall be appointed for the Trustee by a court, then a successor Trustee shall be appointed by the Issuer, with the written consent of the Borrower; provided, that if a successor Trustee is not so appointed within ten days after (i) a notice of resignation or an instrument or document of removal is received by the Issuer, as provided in Sections 5.07 and 5.08 hereof, respectively, or (ii) the Trustee is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, so long as the Issuer shall not have appointed a successor Trustee, the Holders of a majority in aggregate principal amount of Bonds then Outstanding may designate a successor Trustee by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of those Holders. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within 60 days after the

occurrence of the event described in clause (i) or (ii) above, the Holder of any Bond Outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Every successor Trustee appointed pursuant to this Section (a) shall be a trust company or a bank having the powers of a trust company (b) shall be in good standing within the Commonwealth, (c) shall be duly authorized to exercise trust powers within the Commonwealth, (d) shall have a reported capital, surplus and retained earnings of not less than \$100,000,000, and (e) shall be willing to accept the trusteeship under the terms and conditions of this Indenture.

Every successor Trustee appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer and the Borrower an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of its predecessor. Upon the written request of its successor, the Issuer or the Borrower, and payment of all fees and expenses owed to it, the predecessor Trustee (a) shall execute and deliver an instrument or document transferring to its successor all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the predecessor Trustee hereunder, and (b) shall take any other action necessary to duly assign, transfer and deliver to its successor all property (including without limitation, all securities and moneys) held by it as Trustee. Should any instrument or document in writing from the Issuer be requested by any successor Trustee for vesting and conveying more fully and certainly in and to that successor the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens vested or conveyed or intended to be vested or conveyed hereby in or to the predecessor Trustee, the Issuer shall execute, acknowledge and deliver that instrument or document.

In the event of a change in the Trustee, the predecessor Trustee shall cease to be custodian of any moneys which it may hold pursuant to this Indenture and shall cease to be registrar, authenticating agent and paying agent for any of the Bonds, to the extent it served in any of those capacities.

Section 5.10 Adoption of Authentication. In case any of the Bonds shall have been authenticated, but shall not have been delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee and may deliver those Bonds so authenticated as provided herein. In case any Bonds shall not have been authenticated, any successor Trustee may authenticate those Bonds either in the name of any predecessor or in its own name. In all cases, the certificate of authentication shall have the same force and effect as provided in the Bonds or in this Indenture with respect to the certificate of authentication of the predecessor Trustee.

Section 5.11 Dealing in Bonds. The Trustee, its Affiliates, and any directors, officers, employees or agents thereof, in good faith, may become the owners of Bonds secured hereby with the same rights which it or they would have hereunder if the Trustee did not serve in that capacity.

Section 5.12 Representations, Agreements and Covenants of Trustee. The Trustee hereby represents that it is a national banking association, duly organized and validly existing under the laws of the United States of America, in good standing and duly authorized to exercise corporate trust powers in the Commonwealth, and that it has an unimpaired reported capital, surplus and retained earnings of not less than \$100,000,000. The Trustee covenants that it will take such action, if any, as is necessary to remain in good standing and duly authorized to exercise corporate trust powers in the Commonwealth, and that it will maintain an unimpaired reported capital, surplus and retained earnings of not less than \$100,000,000. The Trustee accepts and agrees to observe and perform the duties and obligations of the Trustee to which reference is made in any other instrument or document providing security for any of the Bonds expressly subject to this Indenture, including this Article V.

Section 5.13 Right of Trustee to Pay Taxes and Other Charges. The Trustee is hereby authorized (but not obligated) to advance funds (a) to pay taxes, assessments and other governmental charges with respect to the Project, (b) for the discharge of mechanics' and other liens relating to the Project, (c) to obtain and maintain insurance for the Project and pay premiums therefor, and (d) generally, to make payments and incur expenses in the event that the Borrower fails to do so as required by the Loan Agreement. The Trustee may make those advances, but without prejudice to any rights of the Trustee or the Holders against the Borrower for failure of the Borrower to do so.

Any amount so paid at any time, with interest thereon at the Interest Rate for Advances from the date of payment, (a) shall be an additional obligation secured by this Indenture, (b) shall be given a preference in payment over any Bond Service Charges, and (c) shall be paid out of the Revenues, if not caused otherwise to be paid. The Trustee shall make the advance, if it shall have been requested to do so by the Holders of at least 50% of the aggregate principal amount of Bonds then Outstanding and shall have been provided with adequate funds for the purpose of making the advance.

Section 5.14 Interpleader. In the event of a dispute between any of the parties hereto with respect to the disposition of any funds held by the Trustee hereunder, or the Trustee receives conflicting demands made upon the Trustee with respect to the Trustee's duties hereunder or any other document related to the Bonds, the Trustee shall be entitled to file a suit in interpleader in a court of competent jurisdiction seeking to require the parties to interplead and litigate in such court their several claims and rights among themselves. Upon the filing of such a suit and the deposit of the applicable funds to such court, the Trustee will ipso facto be fully released and discharged from all obligations to further perform any and all duties imposed hereunder or any other document related to the Bonds regarding such matter and/or such funds that are the subject of such interpleader suit. In the event that the Trustee remains as Trustee under this Indenture and receives a court order, directive or other request regarding the interpleader suit, the Trustee shall be entitled to rely upon such instruction without incurring any obligation or liability and the parties hereto release, hold harmless and indemnify the Trustee for any obligation or liability for so relying on such court instruction.

Section 5.15 Survival of Certain Provisions. The provisions of Sections 5.01 through 5.14 of this Indenture shall survive the release, discharge and satisfaction of this Indenture.

Section 5.16 Concerning the Remarketing Agent. The Remarketing Agent identified in Section 1.01 hereof shall serve as the Remarketing Agent for the Bonds. The Remarketing Agent shall designate to the Trustee its Designated Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower and the Trustee. In addition, the Remarketing Agent will agree particularly to:

- (a) keep such records relating to its computations of interest rates for the Bonds as shall be consistent with prudent industry practice and to make such records available for inspection by the Issuer, the Trustee and the Borrower at all reasonable times; and
- (b) perform all of its functions and duties under this Indenture.

The Remarketing Agent shall be entitled to advice of legal counsel on any matter relating to the Remarketing Agent's obligations hereunder and shall be entitled to act upon the opinion of such counsel in the exercise of reasonable care in fulfilling such obligations.

The Remarketing Agent shall be entitled to appoint additional co-Remarketing Agents to assist in the performance of the Remarketing Agent's obligations under this Indenture, and any such appointment shall be effective without any action by the Issuer or the Borrower being necessary; provided that any such co-Remarketing Agent, shall have a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, shall be in conformity with all standards and requirements of the Municipal Securities Rulemaking Board and the Securities and Exchange Commission, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent shall take responsibility for any co-Remarketing Agent it appoints. In the event any Remarketing Agent is removed pursuant to Section 5.17, any Co-Remarketing Agent appointed by such Remarketing Agent shall be deemed to be removed as well.

Section 5.17 Qualification of Remarketing Agent. The Remarketing Agent shall be a commercial bank, national banking association, trust company, or a member in good standing of the Financial Industry Regulatory Authority having a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. Subject to the terms of the Remarketing Agreement, the Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' notice of such resignation to the Issuer, the Borrower, the Investor Limited Partner and the Trustee. The Remarketing Agent may be removed, with prior notice to the Issuer, at any time by the Borrower, with at least 30 days' notice of such removal to the Remarketing Agent.

Upon any resignation or removal of the Remarketing Agent, the departing Remarketing Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity to its successor.

The Trustee, within 30 days of the resignation or removal of the Remarketing Agent or the appointment of a successor Remarketing Agent, shall give notice thereof by registered or certified mail to the Rating Agency (if the Bonds are then rated) and to the Holders of the Bonds.

Section 5.18 Additional Duties. Notwithstanding any provisions hereof to the contrary, the Trustee shall have the following additional duties:

- (a) The Trustee shall provide the Rating Agency such information within its possession as the Rating Agency shall reasonably require from time to time in order to maintain the rating on the Bonds;
- (b) Subject to Section 5.02(j) hereof, the Trustee shall continue to perform its function hereunder without regard to the insufficiency of payment of its fees, provided that nothing herein shall negate the Trustee's right to compensation and indemnification hereunder and as provided in the Loan Agreement; and
- (c) The Trustee shall provide to the Underwriter upon its request a list of the names and addresses of the registered Holders of all Bonds then outstanding at the sole cost and expense of the Underwriter or, if the Bonds are held in Book Entry Form, the special position report (or similar list of Beneficial Owners) from the Depository.

Section 5.19 Notices to Rating Agency and Remarketing Notice Parties. The Trustee shall notify the Rating Agency and the Remarketing Notice Parties of (a) the occurrence of an Event of Default of which the Trustee has actual notice, (b) the occurrence of any monetary or other material default under the Loan of which the Trustee has actual notice, (c) any change in the identity of the Trustee, (d) any amendments, modifications, supplements or changes to this Indenture, the Loan Agreement, the Note or the Bonds, including any extension of principal or modification of interest or redemption premium due on any of the Bonds, in each case only in the event the Trustee has actual notice, (e) any change or proposed change in the structure or identity of the Borrower of which the Trustee has actual knowledge, (f) any change or notification of proposed change of the Mandatory Tender Date or Remarketing Date, (g) any partial prepayment of the Loan or the giving of notice of the call for redemption of any Bonds, (h) any change in the investment of funds subject to the lien of this Indenture other than Eligible Investments, (i) any defeasance or acceleration of the Bonds hereunder, (j) any change in the Remarketing Agent or Mortgage Lender of which its Trustee has actual knowledge or (k) any sale of Eligible Investments below par, as shown in a Cash Flow Projection delivered to the Rating Agency prior to the sale date.

ARTICLE VI DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND HOLDERS

Section 6.01 Defaults; Events of Default. The occurrence of any of the following events is defined as and declared to be and to constitute an Event of Default hereunder:

- (a) Payment of any interest on any Bond shall not be made when and as that interest shall become due and payable;
- (b) Payment of the principal of any Bond shall not be made when and as that principal shall become due and payable, whether at stated maturity, upon acceleration or otherwise;
- (c) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in this Indenture or in the Bonds, which failure shall

have continued for a period of 30 days after written notice, by registered or certified mail, to the Issuer, the Borrower, and the Investor Limited Partner specifying the failure and requiring that it be remedied, which notice shall be given by the Trustee at the written request of the Holders of not less than 50% in aggregate principal amount of Bonds then Outstanding; and

(d) The occurrence and continuance of an Event of Default as defined in Section 7.1 of the Loan Agreement.

The term "default" or "failure" as used in this Article means (i) a default or failure by the Issuer in the observance or performance of any of the covenants, agreements or obligations on its part to be observed or performed contained in this Indenture or in the Bonds, or (ii) a default or failure by the Borrower under the Loan Agreement, exclusive of any period of grace or notice required to constitute a default or failure an Event of Default, as provided above or in the Loan Agreement.

The Trustee and the Issuer agree that notwithstanding the provisions hereof, no default under the terms of this Indenture shall constitute or be construed as resulting in a default under the Mortgage Loan Documents unless such event also constitutes a default thereunder.

Section 6.02 Notice of Default. If an Event of Default shall occur, the Trustee shall give written notice of the Event of Default, by registered or certified mail, to the Issuer, the Borrower, the Investor Limited Partner and the Remarketing Agent, within five days after the Trustee has notice of the Event of Default pursuant to Section 5.02(f) of this Indenture. If an Event of Default occurs of which the Trustee has notice pursuant to this Indenture, the Trustee shall give written notice thereof, within thirty days after the Trustee's receipt of notice of its occurrence, to the Holders of all Bonds then Outstanding as shown by the Register at the close of business fifteen days prior to the mailing of that notice; provided, that except in the case of a default in the payment of the principal of or interest on any Bond, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of notice to the Holders is in the interests of the Holders.

Section 6.03 Acceleration. Upon the occurrence of an Event of Default described in Section 6.01(a) and (b), the Trustee may declare, and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding the Trustee shall declare, by a notice in writing delivered to the Borrower and the Investor Limited Partner, the principal of all Bonds then Outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. Upon the occurrence of any Event of Default other than those described in Section 6.01(a) and (b), the Trustee may, with the written consent of all Holders of Bonds then Outstanding, declare by a notice in writing delivered to the Borrower and the Investor Limited Partner, the principal of all Bonds then Outstanding (if not then due and payable), and the interest thereon, to be due and payable immediately. Upon such declaration, that principal and interest shall become and be due and payable immediately. Interest on the Bonds shall accrue to the date determined by the Trustee for the tender of payment to the Holders pursuant to that declaration; provided, that interest on any unpaid principal of Bonds Outstanding shall continue to accrue from the date determined by the Trustee for the tender of payment to the Holders of those Bonds.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement hereunder (after an opportunity for hearing by the Issuer and the Borrower),

(a) all sums payable hereunder (except the principal of and interest on Bonds which have not reached their stated maturity dates but which are due and payable solely by reason of that declaration of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds in respect of which the default shall have occurred, shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee, and

(b) all existing Events of Default shall have been cured, then and in every case, the Trustee shall waive the Event of Default and its consequences and shall rescind and annul that declaration. No waiver or rescission and annulment shall extend to or affect any subsequent Event of Default or shall impair any rights consequent thereon.

Section 6.04 Other Remedies; Rights of Holders.

(a) With or without taking action under Section 6.03 hereof, upon the occurrence and continuance of an Event of Default, the Trustee may pursue any available remedy, including without limitation actions at law or equity to enforce the payment of Bond Service Charges or the observance and performance of any other covenant, agreement or obligation under this Indenture, the Loan Agreement, the Regulatory Agreement or the Note or any other instrument providing security, directly or indirectly, for the Bonds.

(b) If, upon the occurrence and continuance of an Event of Default, the Trustee is requested so to do in writing by the Holders of at least 50% in aggregate principal amount of Bonds Outstanding, the Trustee (subject to the provisions of Sections 5.01 and 5.02 and particularly subparagraph 5.01(c)(iv) and Subsection 5.02(j) of those Sections), shall exercise any rights and powers conferred by this Section and by Section 6.03 hereof.

(c) No remedy conferred upon or reserved to the Trustee (or to the Holders) by this Indenture is intended to be exclusive of any other remedy. Subject to the provisions of Section 6.04(a) hereof, each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or otherwise to the Trustee or to the Holders now or hereafter existing.

(d) No delay in exercising or omission to exercise any remedy, right or power accruing upon any default or Event of Default shall impair that remedy, right or power or shall be construed to be a waiver of any default or Event of Default or acquiescence therein. Every remedy, right and power may be exercised from time to time and as often as may be deemed to be expedient.

(e) No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any remedy, right or power consequent thereon.

(f) As the assignee of all right, title and interest of the Issuer in and to the Loan Agreement (except for the Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Loan Agreement. In exercising any remedy, right or power

thereunder or hereunder, the Trustee shall take any action which would best serve the interests of the Holders in the judgment of the Trustee, applying the standards described in Sections 5.01 and 5.02 hereof, subject to the provisions of Section 6.04(a) hereof.

Section 6.05 Right of Holders to Direct Proceedings. Anything to the contrary in this Indenture notwithstanding, the Holders of a majority in aggregate principal amount of Bonds then Outstanding shall have the right at any time to direct, by an instrument or document in writing executed and delivered to the Trustee, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture or any other proceedings hereunder; provided, that (a) any direction shall not be other than in accordance with the provisions of law and of this Indenture, (b) the Trustee shall be indemnified as provided in Sections 5.01 and 5.02, and (c) the Trustee may take any other action which it deems to be proper and which is not inconsistent with the direction.

Section 6.06 Application of Money. After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of money and to all Ordinary Trustee Fees and Expenses and fees of the Trustee for Extraordinary Services and Extraordinary Expenses (including without limitation, reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under this Article VI), all money received by the Trustee, shall be applied as follows, subject to Section 2.05 hereof and any provision made pursuant to Section 4.10 or 4.11 hereof:

(a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of such money shall be deposited in the Bond Fund and shall be applied:

First -- To the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

Second -- To the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to this Article, all of such money shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any

installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable pursuant to this Article, and if that declaration thereafter shall have been rescinded and annulled under the provisions of Section 6.03 or 6.10 hereof, subject to the provisions of paragraph (b) of this Section in the event that the principal of all of the Bonds shall become due and payable later, the money shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of Article II.

(d) Whenever money is to be applied pursuant to the provisions of this Section, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of money available for application and the likelihood of additional money becoming available for application in the future. Whenever the Trustee shall direct the application of such money, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the money is available therefor. The Trustee shall give notice of the deposit with it of any money and of the fixing of that date, all consistent with the requirements of Section 2.05 hereof for the establishment of, and for giving notice with respect to, a Special Record Date for the payment of overdue interest. The Trustee shall not be required to make payment of principal of a Bond to the Holder thereof, until the Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if it is paid fully.

Section 6.07 Remedies Vested in Trustee. All rights of action (including without limitation, the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto. Any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining any Holders as plaintiffs or defendants. Any recovery of judgment shall be for the benefit of the Holders of the Outstanding Bonds, subject to the provisions of this Indenture.

Section 6.08 Rights and Remedies of Holders. A Holder shall not have any right to institute any suit, action or proceeding for the enforcement of this Indenture, for the execution of any trust hereof, or for the exercise of any other remedy hereunder, unless:

(a) there has occurred and is continuing an Event of Default of which the Trustee has been notified, as provided in paragraph (f) of Section 5.02 hereof, or of which it is deemed to have notice under that paragraph,

(b) the Holders of at least 50% in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee and shall have afforded the Trustee reasonable opportunity to proceed to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name, and shall have offered indemnity to the Trustee as provided in Sections 5.01 and 5.02 hereof, and

(c) the Trustee thereafter shall have failed or refused to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name.

At the option of the Trustee, that notification (or notice), request, opportunity and offer of indemnity are conditions precedent in every case, to the institution of any suit, action or proceeding described above.

No one or more Holders of the Bonds shall have any right to affect, disturb or prejudice in any manner whatsoever the security or benefit of this Indenture by its or their action, or to enforce, except in the manner provided herein, any remedy, right or power hereunder. Any suit, action or proceedings shall be instituted, had and maintained in the manner provided herein for the benefit of the Holders of all Bonds then Outstanding. Nothing in this Indenture shall affect or impair, however, the right of any Holder to enforce the payment of the Bond Service Charges on any Bond owned by that Holder at and after the maturity thereof, at the place, from the sources and in the manner expressed in that Bond.

Section 6.09 Termination of Proceedings. In case the Trustee shall have proceeded to enforce any remedy, right or power under this Indenture in any suit, action or proceedings, and the suit, action or proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, the Issuer and the Holders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as if no suit, action or proceedings had been taken.

Section 6.10 Waivers of Events of Default. Except as hereinafter provided, at any time, in its discretion, the Trustee may waive any Event of Default hereunder and its consequences and may rescind and annul any declaration of maturity of principal of or interest on, the Bonds. The Trustee shall do so upon the written request of the Holders of:

- (a) at least a majority in aggregate principal amount of all Bonds then Outstanding in respect of which an Event of Default in the payment of Bond Service Charges exists, or
- (b) at least 50% in aggregate principal amount of all Bonds then Outstanding, in the case of any other Event of Default.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) of Section 6.01 hereof or any declaration of acceleration in connection therewith rescinded or annulled, unless at the time of that waiver or rescission and annulment payments of the amounts provided in Section 6.03 hereof for waiver and rescission and annulment in connection with acceleration of maturity have been made or provision has been made therefor. In the case of the waiver or rescission and annulment, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued, abandoned or determined adversely to it, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

Section 6.11 Notice of Defaults; Opportunity to Cure. Anything herein to the contrary notwithstanding, no default under Section 6.01(c) or (d) hereof shall constitute an Event of Default until actual notice of such default by certified mail shall be given by the Trustee or by the owners

of not less than a majority of the Bonds then Outstanding to the Issuer and the Borrower and the Investor Limited Partner, and the Issuer, the Investor Limited Partner and the Borrower (or the Mortgage Lender on behalf of the Borrower) shall have had sixty (60) days after receipt of such notice to correct such default or cause such default to be corrected and shall not have corrected such default or caused such default to be corrected within the applicable period; provided, however, if such default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default hereunder if the Issuer, the Investor Limited Partner or the Borrower (or the Mortgage Lender on behalf of the Borrower) has commenced and is diligently pursuing appropriate action to cure such default, and there will be no material adverse effect on the rights of the Trustee or the owners of the Bonds under this Indenture, the Financing Documents or the GNMA Certificates as a result of such extension.

The Investor Limited Partner shall be entitled to cure any Event of Default hereunder within the time frame provided to the Borrower hereunder. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

ARTICLE VII SUPPLEMENTAL INDENTURES

Section 7.01 Supplemental Indentures Generally. The Issuer and the Trustee may enter into indentures supplemental to this Indenture, as provided in this Article and pursuant to the other provisions therefor in this Indenture.

Section 7.02 Supplemental Indentures Not Requiring Consent of Holders. Without the consent of, or notice to, any of the Holders, the Issuer and the Trustee may enter into indentures supplemental to this Indenture which shall not, in the opinion of the Issuer and Bond Counsel, be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

- (a) To cure any ambiguity, inconsistency or formal defect or omission in this Indenture;
- (b) To grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that lawfully may be granted to or conferred upon the Holders or the Trustee;
- (c) To assign additional revenues under this Indenture;
- (d) To accept additional security and instruments and documents of further assurance with respect to the Project;
- (e) To add to the covenants, agreements and obligations of the Issuer under this Indenture, other covenants, agreements and obligations to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in this Indenture;

- (f) To evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under this Indenture, the Loan Agreement and the Bonds;
- (g) To facilitate (i) the transfer of Bonds issued by the Issuer under this Indenture and held in Book Entry Form from one Depository to another and the succession of Depositories, or (ii) the withdrawal of Bonds issued by the Issuer under this Indenture and delivered to a Depository for use in a Book Entry System and the issuance of replacement Bonds in fully registered form and in the form of physical certificates to others than a Depository;
- (h) To permit the Trustee to comply with any obligations imposed upon it by law;
- (i) To specify further the duties and responsibilities of the Trustee;
- (j) To achieve compliance of this Indenture with any applicable federal securities or tax law;
- (k) To make amendments to the provisions hereof relating to arbitrage matters under Section 148 of the Code, if, in the Opinion of Bond Counsel, those amendments would not adversely affect the Federal Tax Status of the Bonds which amendments may, among other things, change the responsibility for making the relevant calculations, provided that in no event shall such amendment delegate to the Trustee, without its consent, in its sole discretion the obligation to make or perform the calculations required under Section 148 of the Code; and
- (l) To permit any other amendment which, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Holders.

The provisions of Subsections 7.02(h) and (j) shall not be deemed to constitute a waiver by the Trustee, the Issuer or any Holder of any right which it may have in the absence of those provisions to contest the application of any change in law to this Indenture or the Bonds.

Section 7.03 Supplemental Indentures Requiring Consent of Holders. Exclusive of Supplemental Indentures to which reference is made in Section 7.02 hereof and subject to the terms, provisions and limitations contained in this Section, and not otherwise, with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding, evidenced as provided in this Indenture, and with the consent of the Borrower if required by Section 7.04 hereof, the Issuer and the Trustee may execute and deliver Supplemental Indentures adding any provisions to, changing in any manner or eliminating any of the provisions of this Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing in this Section or Section 7.02 hereof shall permit, however, or be construed as permitting:

- (a) without the consent of the Holder of each Bond so affected, (i) an extension of the maturity of the principal of or the interest on any Bond or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or
- (b) without the consent of the Holders of all Bonds then Outstanding, (i) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (ii) a reduction in the aggregate principal amount of the Bonds required for consent to a Supplemental Indenture.

If the Issuer shall request that the Trustee execute and deliver any Supplemental Indenture for any of the purposes of this Section, upon (i) being satisfactorily indemnified with respect to its expenses in connection therewith, and (ii) if required by Section 7.04 hereof, receipt of the Borrower's consent to the proposed execution and delivery of the Supplemental Indenture, the Trustee shall cause notice of the proposed execution and delivery of the Supplemental Indenture to be mailed by first-class mail, postage prepaid, to all Holders of Bonds then Outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding that mailing.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee's failure to mail, or the failure of any Holder to receive, the notice required by this Section. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as provided in this Section. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Designated Office of the Trustee for inspection by all Holders.

If the Trustee shall receive, within a period prescribed by the Borrower, of not less than 60 days, but not exceeding one year, following the mailing of the notice, an instrument or document or instruments or documents, in form to which the Trustee does not reasonably object, purporting to be executed by the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding (which instrument or document or instruments or documents shall refer to the proposed Supplemental Indenture in the form described in the notice and specifically shall consent to the Supplemental Indenture in substantially that form), the Trustee shall, but shall not otherwise, execute and deliver the Supplemental Indenture in substantially the form to which reference is made in the notice as being on file with the Trustee, without liability or responsibility to any Holder, regardless of whether that Holder shall have consented thereto.

Any consent shall be binding upon the Holder of the Bond giving the consent and, anything herein to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange therefor (regardless of whether the subsequent Holder has notice of the consent to the Supplemental Indenture). A consent may be revoked in writing, however, by the Holder who gave the consent or by a subsequent Holder of the Bond by a revocation of such consent received by the Trustee prior to the execution and delivery by the Trustee of the Supplemental Indenture. At any time after the Holders of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Holders of the required percentage of Bonds have filed those consents. That written statement shall be conclusive evidence that the consents have been so filed.

If the Holders of the required percentage in aggregate principal amount of Bonds Outstanding shall have consented to the Supplemental Indenture, as provided in this Section, no Holder shall have any right (a) to object to (i) the execution or delivery of the Supplemental Indenture, (ii) any of the terms and provisions contained therein, or (iii) the operation thereof, (b) to question the propriety of the execution and delivery thereof, or (c) to enjoin or restrain the Trustee or the Issuer from that execution or delivery or from taking any action pursuant to the provisions thereof.

Section 7.04 Consent of Borrower. Anything contained herein to the contrary notwithstanding, a Supplemental Indenture executed and delivered in accordance with this Article VII which affects in any material respect any rights or obligations of the Borrower shall not become effective unless and until the Borrower and the Investor Limited Partner shall have consented in writing to the execution and delivery of that Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture and a copy of the proposed Supplemental Indenture to be mailed to the Borrower and the Investor Limited Partner, as provided in Section 12.03 hereof, (a) at least 30 days (unless waived by the Borrower and the Investor Limited Partner) before the date of the proposed execution and delivery in the case of a Supplemental Indenture to which reference is made in Section 7.02 hereof, and (b) at least 30 days (unless waived by the Borrower and the Investor Limited Partner) before the giving of the notice of the proposed execution and delivery in the case of a Supplemental Indenture for which provision is made in Section 7.03 hereof.

Section 7.05 Responsibilities of Trustee. Notwithstanding anything else contained herein, the Trustee shall not be required to enter into any Supplemental Indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Section 7.06 Authorization to Trustee; Effect of Supplement. The Trustee is authorized to join with the Issuer in the execution and delivery of any Supplemental Indenture in accordance with this Article and to make the further agreements and stipulations which may be contained therein. Thereafter,

- (a) That Supplemental Indenture shall form a part of this Indenture;
- (b) All terms and conditions contained in that Supplemental Indenture as to any provision authorized to be contained therein shall be deemed to be a part of the terms and conditions of this Indenture for any and all purposes;
- (c) This Indenture shall be deemed to be modified and amended in accordance with the Supplemental Indenture; and
- (d) The respective rights, duties and obligations under this Indenture of the Issuer, the Borrower, the Trustee, the Remarketing Agent and all Holders of Bonds then Outstanding shall be determined, exercised and enforced hereunder in a manner which is subject in all respects to those modifications and amendments made by the Supplemental Indenture.

Express reference to any executed and delivered Supplemental Indenture may be made in the text of any Bonds issued thereafter, if that reference is deemed necessary or desirable by the Trustee or the Issuer. A copy of any Supplemental Indenture for which provision is made in this Article, except a Supplemental Indenture described in clause (g) of Section 7.02 hereof, shall be mailed by the Trustee. The Trustee shall not be required to execute any supplemental indenture containing provisions adverse to the Trustee.

Section 7.07 Opinion of Counsel. Before the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee an Opinion of Counsel to the effect that (a) any proposed Supplemental Indenture complies with the provisions of this Indenture, and (b)

it is proper for the Trustee to join in the execution of that Supplemental Indenture under the provisions of this Article.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee and the Issuer an Opinion of Bond Counsel to the effect that such Supplemental Indenture will not adversely affect the Federal Tax Status of the Bonds.

Section 7.08 Modification by Unanimous Consent. Notwithstanding anything contained elsewhere in this Indenture, the rights and obligations of the Issuer and of the Holders, and the terms and provisions of the Bonds and this Indenture or any Supplemental Indenture, may be modified or altered in any respect with the consent of (a) the Issuer, (b) the Holders of all of the Bonds then Outstanding, (c) the Borrower and the Investor Limited Partner and (d) if such modification or alteration contains provisions adverse to the Trustee, the Trustee.

ARTICLE VIII DEFEASANCE

Section 8.01 Release of Indenture. If (a) the Issuer shall pay all of the Outstanding Bonds, or shall cause them to be paid and discharged, or if there otherwise shall be paid to the Holders of the Outstanding Bonds, all Bond Service Charges due or to become due thereon, and (b) provision also shall be made for the payment of all other sums payable hereunder or under the Loan Agreement, the Regulatory Agreement and the Note, then this Indenture shall cease, terminate and become null and void (except for those provisions surviving by reason of Section 8.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 8.02 hereof), and the covenants, agreements and obligations of the Issuer hereunder shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of Section 8.03 hereof if applicable,

(a) the Trustee shall release this Indenture (except for those provisions surviving by reason of Section 8.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 8.02 hereof), and shall execute and deliver to the Issuer any instruments or documents in writing as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer,

(b) the Trustee shall release and satisfy the Note and deliver such release and satisfaction to the Borrower; and

(c) the Trustee shall assign and deliver to the Borrower any property subject at the time to the lien of this Indenture which then may be in its possession, except amounts in the Bond Fund required (i) to be paid to the Borrower under Section 4.14 hereof, or (ii) to be held by the Trustee under Section 4.13 hereof or otherwise for the payment of Bond Service Charges.

Section 8.02 Payment and Discharge of Bonds. All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of this Indenture, including without limitation, Section 8.01 hereof, if:

(a) the Trustee as paying agent shall have received, in trust for and irrevocably committed thereto, sufficient money, or

(b) the Trustee shall have received (i) in trust for and irrevocably committed thereto, noncallable Government Obligations; (ii) certification by an Independent public accounting firm of national reputation to the effect that the Government Obligations have such maturities or redemption dates and interest payment dates, and bear such interest, as will be sufficient together with any money to which reference is made in subparagraph (a) above, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (which earnings are to be held likewise in trust and so committed, except as provided herein), for the payment of all Bond Service Charges on those Bonds at their maturity; and (iii) an Opinion of Bond Counsel to the effect that the conditions of this Section 8.02 have been satisfied.

Any money held by the Trustee in accordance with the provisions of this Section may be invested by the Trustee only in noncallable Government Obligations having maturity dates, or having redemption dates which, at the option of the Holder of those obligations, shall be not later than the date or dates at which money will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this Section is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this Section, that income, interest or increment shall be transferred at the time of that determination in the manner provided in Section 4.14 hereof for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this Section 8.02, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged, set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this Section 8.02.

Section 8.03 Survival of Certain Provisions. Notwithstanding the foregoing, any provisions of the Bond Resolution and this Indenture which relate to the maturity of Bonds, interest payments and dates thereof, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, non-presentment of Bonds, the holding of money in trust, and repayments to the Borrower from the Bond Fund, the rebate of money to the United States in accordance with Section 4.09 hereof, and the rights and duties of the Trustee in connection with all of the foregoing, shall remain in effect and be binding upon the Trustee and the Holders notwithstanding the release and discharge of this Indenture. The provisions of this Article shall survive the release, discharge and satisfaction of this Indenture. The obligations of the Borrower to pay the Trustee its fees and expenses hereunder shall survive the release, discharge and satisfaction of this Indenture.

**ARTICLE IX
COVENANTS AND AGREEMENTS
OF THE ISSUER**

Section 9.01 Covenants and Agreements of the Issuer. In addition to any other covenants and agreements of the Issuer contained in this Indenture or the Bond Resolution, the Issuer further covenants and agrees with the Holders and the Trustee as follows:

(a) Payment of Bond Service Charges. The Issuer will cause all Bond Service Charges to be paid solely from the sources provided herein, on the dates, at the places and in the manner provided in this Indenture; provided that the principal, premium, if any, and interest on the Bonds are payable by the Issuer solely from the Trust Estate, and nothing in the Bonds or this Indenture shall be considered as assigning or pledging any other funds or assets of the Issuer other than the Trust Estate.

(b) Revenues and Assignment of Revenues. The Issuer will not assign the Revenues or create or authorize to be created any debt, lien or charge thereon, other than the assignment thereof under this Indenture.

(c) Recordings and Filings. At the expense of the Borrower, the Issuer will cause this Indenture, and any related instruments or documents relating to the assignment made by it under this Indenture to secure the Bonds, to be recorded and filed in the manner and in the places which may be required by law in order to preserve and protect fully the security of the Holders and the rights of the Trustee hereunder.

(d) Inspection of Project Books. All books, instruments and documents in the Issuer's possession relating to the Project and the Revenues shall be open to inspection and copying at all times during the Issuer's regular business hours by any accountants or other agents of the Trustee which the Trustee may designate from time to time.

(e) Register. At reasonable times and under reasonable regulations established by the Trustee, the Register may be inspected and copied (at the expense of the person making such copies) by the Borrower, the Trustee, by Holders of 50% or more in principal amount of the Bonds then Outstanding, or a designated representative thereof.

(f) Rights and Enforcement of the Loan Agreement. The Trustee may enforce, in its name or in the name of the Issuer, all rights of the Issuer for and on behalf of the Holders, except for Reserved Rights, and may enforce all covenants, agreements and obligations of the Borrower under and pursuant to the Loan Agreement, regardless of whether the Issuer is in default in the pursuit or enforcement of those rights, covenants, agreements or obligations. The Issuer, however, will do all things and take all actions on its part necessary to comply with covenants, agreements, obligations, duties and responsibilities on its part to be observed or performed under the Loan Agreement, and will take all actions within its authority to keep the Loan Agreement in effect in accordance with the terms thereof.

(g) Issuer Not to Adversely Affect Federal Tax Status of Bonds. The Issuer covenants that it (i) will take, or require to be taken, all actions that may be reasonably required of the Issuer to maintain the Federal Tax Status of the Bonds, and (ii) will not take or authorize to be taken any

actions that would adversely affect the Federal Tax Status of the Bonds under the provisions of the Code.

Section 9.02 Observance and Performance of Covenants, Agreements, Authority and Actions. The Issuer will observe and perform faithfully at all times all covenants, agreements, authority, actions, undertakings, stipulations and provisions to be observed or performed on its part under the Bond Resolution, the Issuer Documents and the Bonds which are executed, authenticated and delivered under this Indenture, and under all proceedings of its Governing Body pertaining thereto.

The Issuer represents:

- (a) It is duly authorized by the Constitution and laws of the Commonwealth, including particularly and without limitation the Act, to issue the Bonds, to execute and deliver the Issuer Documents and to provide the security for payment of the Bond Service Charges in the manner and to the extent set forth in this Indenture.
- (b) All actions required on its part to be performed for the issuance, sale and delivery of the Bonds and for the execution and delivery of the Issuer Documents have been taken duly and effectively.
- (c) The Bonds will be valid and enforceable special obligations of the Issuer according to their terms.

Section 9.03 Enforcement of Issuer's Obligations. Each obligation of the Issuer required to be undertaken pursuant to the Bond Resolution, the Issuer Documents and the Bonds is binding upon the Issuer. THE BONDS AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE COMMONWEALTH, THE COUNTY, NOR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC, OF THE COMMONWEALTH OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN) SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NEITHER THE BONDS NOR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE COMMONWEALTH, THE COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE COMMONWEALTH OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. PRINCIPAL OF AND PREMIUM (IF ANY) AND INTEREST ON THE BONDS ARE PAYABLE SOLELY FROM THE REVENUES PLEDGED PURSUANT TO THIS INDENTURE.

ARTICLE X
AMENDMENTS TO LOAN AGREEMENT, NOTE,
AND REGULATORY AGREEMENT

Section 10.01 Amendments Not Requiring Consent of Holders. The Issuer, the Borrower, the Investor Limited Partner and the Trustee may, without the consent of or notice to the Holders, consent to any amendment, change or modification of the Loan Agreement, the Note, or the Regulatory Agreement, as may be required (a) by the provisions of the Note, the Loan Agreement, or the Regulatory Agreement, (b) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Loan Agreement, the Note, or the Regulatory Agreement, (c) in connection with an amendment or to effect any purpose for which there could be an amendment of this Indenture pursuant to Section 7.02 hereof, or (d) in connection with any other change therein which is not to the prejudice of the Trustee or the Holders of the Bonds, in the judgment of the Trustee.

Section 10.02 Amendments Requiring Consent of Holders. Except for the amendments, changes or modifications contemplated in Section 10.01 hereof, neither the Issuer nor the Trustee shall consent to:

- (a) any amendment, change or modification of the Loan Agreement or the Note which would change the amount or time as of which Loan Payments and Eligible Funds are required to be paid, without the giving of notice as provided in this Section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of all of the then Outstanding Bonds affected by such amendment, change or modification, or
- (b) any other amendment, change or modification of the Loan Agreement, the Note or the Regulatory Agreement without the giving of notice as provided in this Section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding affected by such amendment, change or modification.

The consent of the Holders shall be obtained as provided in Section 7.03 hereof with respect to Supplemental Indentures.

If the Issuer or the Borrower shall request at any time the consent of the Trustee to any proposed amendment, change or modification of the Loan Agreement, the Note, or the Regulatory Agreement contemplated in subparagraphs (a) or (b) of this Section, upon being indemnified satisfactorily with respect to expenses, the Trustee shall cause notice of the proposed amendment, change or modification to be provided in the manner which is required by Section 7.03 hereof with respect to notice of Supplemental Indentures. The notice shall set forth briefly the nature of the proposed amendment, change or modification and shall state that copies of the instrument or document embodying it are on file at the Designated Office of the Trustee for inspection by all Holders.

Section 10.03 Opinion of Bond Counsel. Before the Issuer and the Trustee shall consent to any amendment, change or modification of any of the documents described in Sections 10.01 and 10.02 there shall be delivered to the Trustee and the Issuer an Opinion of Bond Counsel to the effect that

such amendment, change or modification will not adversely affect the Federal Tax Status of the Bonds.

Section 10.04 Responsibilities of the Trustee. Notwithstanding anything else contained herein, the Trustee shall not be required to enter into any amendment, change, or modification of any of the documents described in Section 10.01 and 10.02 which affects the Trustee's own rights, duties or immunities under this Indenture or any other Financing Document.

Section 10.05 Opinion of Counsel. Before the Trustee shall consent to any amendment, change or modification of any of the documents described in Sections 10.01 and 10.02 there shall be delivered to the Trustee an Opinion of Counsel that (a) any proposed amendment, change, or modification of any of the documents described in Sections 10.01 and 10.02 complies with the provisions of this Indenture, and (b) it is proper for the Trustee to join in the execution of that amendment, change, or modification under the provisions of this Article.

ARTICLE XI MEETINGS OF HOLDERS

Section 11.01 Purposes of Meetings. A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article XI, to take any action (a) authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Bonds, (b) under any provision of this Indenture or (c) authorized or permitted by law.

Section 11.02 Call of Meetings. The Trustee may (but shall not be obligated to) call at any time a meeting of Holders pursuant to Section 11.01 to be held at any reasonable time and place the Trustee shall determine. Notice of such meeting, setting forth the time, place and generally the subject thereof, shall be mailed by first-class mail, postage prepaid, not fewer than 15 nor more than 90 days prior to the date of the meeting to the Holders at their addresses as they appear on the Register on the fifteenth day preceding such mailing, which fifteenth day, preceding the mailing, shall be the record date for the meeting.

At any time, the Issuer or the Borrower, or the Holders of at least 50% in aggregate principal amount of the Bonds then Outstanding, shall have requested the Trustee to call a meeting of Holders, by written request setting forth the purpose of the meeting, and the Trustee shall not have mailed the notice of the meeting within 20 days after receipt of the request, then the Issuer, the Borrower and the Investor Limited Partner or the Holders of Bonds in the amount above specified may determine the time and the place of the meeting and may call the meeting to take any action authorized in Section 12.01, by mailing notice thereof as provided above.

Any meetings of Holders shall be valid without notice, if the Holders of all Bonds then Outstanding are present in person or by proxy, or if notice is waived before or after the meeting by the Holders of all Bonds Outstanding who were not so present at the meeting, and if the Issuer, the Borrower and the Trustee are either present by duly authorized representatives or have waived notice, before or after the meeting.

Section 11.03 Voting. To be entitled to vote at any meeting of Holders, a Person shall (a) be a Holder of one or more Outstanding Bonds as of the record date for the meeting as determined above, or (b) be a person appointed by an instrument or document in writing as proxy by a Person

who is a Holder as of the record date for the meeting, of one or more Outstanding Bonds. Each Holder or proxy shall be entitled to one vote for each \$100,000 principal amount of Bonds held or represented by it.

The vote upon any resolution submitted to any meeting of Holders shall be by written ballots on which shall be subscribed the signatures of the Holders of Bonds or of their representatives by proxy and the identifying number or numbers of the Bonds held or represented by them.

Section 11.04 Meetings. Notwithstanding any other provisions of this Indenture, the Trustee may make any reasonable regulations which it may deem to be advisable for meetings of Holders, with regard to:

- (a) proof of the holding of Bonds and of the appointment of proxies,
- (b) the appointment and duties of inspectors of votes,
- (c) recordation of the proceedings of those meetings,
- (d) the execution, submission and examination of proxies and other evidence of the right to vote, and
- (e) any other matters concerning the conduct, adjournment or reconvening of meetings which it may think fit.

The Trustee shall appoint a temporary chair of the meeting by an instrument or document in writing, unless the meeting shall have been called by the Issuer, the Borrower or by the Holders, as provided in Section 11.02, in which case the Issuer, the Borrower or the Holders calling the meeting, as the case may be, shall appoint a temporary chair in like manner. A permanent chair and a permanent secretary of the meeting shall be elected by vote of the Holders of a majority in principal amount of the Bonds represented at the meeting and entitled to vote.

The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at the meeting and their counsel, any representatives of the Trustee and its counsel, any representatives of the Issuer and its counsel and any representatives of the Borrower and its counsel.

Section 11.05 Miscellaneous. Nothing contained in this Article XI shall be deemed or construed to authorize or permit any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders under any of the provisions of this Indenture or of the Bonds by reason of any call of a meeting of Holders or any rights conferred expressly or impliedly hereunder to make a call.

ARTICLE XII MISCELLANEOUS

Section 12.01 Limitation of Rights. With the exception of rights conferred expressly in this Indenture, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is

intended or shall be construed to give to any Person other than the parties hereto, the Remarketing Agent, the Borrower, the Investor Limited Partner and the Holders of the Bonds any legal or equitable right, remedy, power or claim under or with respect to this Indenture or any covenants, agreements, conditions and provisions contained herein. This Indenture and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, the Remarketing Agent, the Borrower, the Investor Limited Partner and the Holders of the Bonds, as provided herein.

Section 12.02 Severability. In case any section or provision of this Indenture, or any covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Indenture, or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Indenture or any other covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Indenture, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein.

Any illegality, invalidity or inoperability shall not affect any legal, valid and operable section, provision, covenant, agreement, stipulation, obligation, act, action, part or application, all of which shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law from time to time.

Section 12.03 Notices. Except as provided in Section 6.02 hereof, it shall be sufficient service or giving of any notice, request, complaint, demand or other instrument or document, if it is duly mailed by first-class mail, postage pre-paid, or is forwarded by overnight courier service, delivery charges pre-paid. Notices to the Issuer, the Borrower, the Investor Limited Partner, the Trustee and the Remarketing Agent shall be delivered to their respective Notice Address.

Duplicate copies of each notice, request, complaint, demand or other instrument or document given hereunder by the Issuer, the Trustee or the Borrower or the Investor Limited Partner to one or both of the others also shall be given to the others.

The Issuer, the Trustee, the Borrower, the Investor Limited Partner, the Mortgage Lender, the Remarketing Agent, the Rating Agency and the Remarketing Agent may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or Persons to whose attention the same shall be directed.

In connection with any notice mailed pursuant to the provisions of this Indenture, a certificate of the Trustee, the Issuer, the Borrower, the Investor Limited Partner or the Holders of the Bonds, whichever or whoever mailed that notice, that the notice was so mailed shall be conclusive evidence of the proper mailing of the notice.

Section 12.04 Suspension of Mail and Courier Service. If because of the suspension of delivery of first-class mail or of delivery by overnight courier services, or for any other reason, the Trustee shall be unable to mail by the required class of mail or forward by overnight courier service any notice required to be given by the provisions of this Indenture, the Trustee shall give such notice

in such other manner as in the judgment of the Trustee shall most effectively approximate the required mailing or forwarding thereof, and the giving of that notice in that manner for all purposes of this Indenture shall be deemed to be in compliance with the requirement of this Section. Except as otherwise provided herein, the mailing of any notice shall be deemed complete upon deposit of that notice in the mail and the giving of any notice by any other means of delivery shall be deemed complete upon receipt of the notice by the delivery service.

Section 12.05 Payments Due on Saturdays, Sundays and Holidays. If any Interest Payment Date or a date of maturity of the principal of any Bonds is a Saturday, Sunday or a day on which the Trustee is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest and principal need not be made by the Trustee on that date, but that payment may be made on the next succeeding Business Day on which the Trustee is open for business with the same force and effect as if that payment were made on the Interest Payment Date or date of maturity, and no interest shall accrue for the period after that date.

Section 12.06 Instruments of Holders. Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, required under this Indenture to be executed by any Holder may be in any number of concurrent writings of similar tenor and may be executed by that Holder in person or by an agent or attorney appointed in writing. Proof of (a) the execution of any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, (b) the execution of any writing appointing any agent or attorney, and (c) the ownership of Bonds, shall be sufficient for any of the purposes of this Indenture, if made in the following manner, and if so made, shall be conclusive in favor of the Trustee with regard to any action taken thereunder, namely:

- (i) The fact and date of the execution by any person of any writing may be proved by the certificate of any officer in any jurisdiction, who has power by law to take acknowledgments within that jurisdiction, that the person signing the writing acknowledged that execution before that officer, or by affidavit of any witness to that execution; and
- (ii) The fact of ownership of Bonds shall be proved by the Register maintained by the Trustee.

Nothing contained herein shall be construed to limit the Trustee to the foregoing proof, and the Trustee may accept any other evidence of the matters stated therein which it deems to be sufficient. Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, of the Holder of any Bond shall bind every future Holder of the same Bond, with respect to anything done or suffered to be done by the Issuer, the Borrower or the Trustee pursuant to that writing.

Section 12.07 Priority of this Indenture. This Indenture shall be superior to any liens which may be placed upon the Revenues or any other funds or accounts created pursuant to this Indenture.

Section 12.08 Extent of Covenants; No Personal Liability. All covenants, stipulations, obligations and agreements of the Issuer contained in this Indenture are and shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized by the Act and permitted by the Constitution and laws of the Commonwealth. No covenant,

stipulation, obligation or agreement of the Issuer contained in this Indenture shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the Governing Body in other than that person's official capacity. Neither the members of the Governing Body nor any official executing the Bonds, this Indenture, the Loan Agreement or any amendment or supplement hereto or thereto shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance or execution hereof or thereof.

Section 12.09 Binding Effect. This Indenture shall inure to the benefit of and shall be binding upon the Issuer and the Trustee and their respective successors and assigns, subject, however, to the limitations contained herein.

Section 12.10 Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 12.11 Governing Law. This Indenture and the Bonds shall be deemed to be contracts made under the laws of the Commonwealth and for all purposes shall be governed by and construed in accordance with the laws of the Commonwealth.

Section 12.12 Mortgage Loan Documents and Regulations Control.

(a) In the event of any conflict and to the extent that there is any inconsistency or ambiguity between the provisions of this Indenture and the provisions of the Controlling HUD and GNMA Requirements or the Mortgage Loan Documents, the Controlling HUD and GNMA Requirements and Mortgage Loan Documents will be deemed to be controlling, and any such ambiguity or inconsistency will be resolved in favor of, and pursuant to the terms of the Controlling HUD and GNMA Requirements and Mortgage Loan Documents, as applicable. The Trustee shall conclusively rely upon an Opinion of Counsel regarding any such conflict, and absent receipt of such Opinion of Counsel, the Trustee shall conclusively presume no conflict exists.

(b) Enforcement of the covenants in this Indenture will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Borrower or any officer, employee or agent of the Borrower in his or her individual capacity, the Project, the Mortgage Loan proceeds, any reserves or deposits required by HUD in connection with the Mortgage Loan transaction, or the rents or deposits or other income of the Project other than available "Surplus Cash" as defined in the HUD Regulatory Agreement (but in no event greater than 75% of the total amount of Surplus Cash).

(c) Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Indenture will not serve as a basis for default on the Mortgage Loan, the underlying mortgage, or any of the other Mortgage Loan Documents.

(d) In the event of an assignment or conveyance of the Mortgage Loan to the FHA Commissioner, subsequent to the issuance of the Bonds, all money remaining in all funds and accounts other than the Rebate Fund, and any other funds remaining under this Indenture after payment or provision for payment of debt service on the Bonds and the fees and expenses of the credit enhancer, Issuer, Trustee, and other such parties unrelated to the Borrower (other than funds

originally deposited by the Borrower or related parties on or before the date of issuance of the Bonds) shall be returned to the Mortgage Lender.

(e) Nothing contained herein or in the Loan Agreement, shall inhibit or impair the right of FHA to require or agree to any amendment, change or modification of any Mortgage Loan Documents related to the Project for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective or inconsistent provision contained therein, or in regard to matters or questions arising under said Mortgage Loan Documents so long as any such amendment, change or modification shall not adversely affect the payment terms of the Bonds.

(f) If this Indenture contains any provision requiring the Issuer, the Borrower or the Trustee or any other party to the transaction to take any action necessary to preserve the tax exemption of interest on the Bonds or prohibiting any such party to the transaction from taking any action that might jeopardize such tax exemption, such provision is qualified to except any actions required (or prohibited) by HUD, FHA or GNMA pursuant to the National Housing Act, the FHA Insurance Regulations or the GNMA Regulations, Section 8 of the U.S. Housing Act of 1937 and the administrative regulations and guidelines promulgated by HUD thereunder, and any of the other documents executed by any party to the transaction, as required by HUD and/or GNMA, in connection with this transaction.

Section 12.13 Identifying Information of the Trustee. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust, or other legal entity, the Trustee will require documentation to verify its formation and existence as a legal entity. The Trustee may also seek financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

[Signature Page Follows]

IN WITNESS WHEREOF, the Issuer and the Trustee have caused this Trust Indenture to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA**

(SEAL)

By: _____
Chair

ATTEST:

By: _____
Secretary

[Issuer Signature Page to Trust Indenture]

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as Trustee**

By: _____
M. Dorsel Robinson, Vice President

[Trustee Signature Page to Trust Indenture]

EXHIBIT A
[BOND FORM]

NOTICE: Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

REGISTERED
NO. R-1

REGISTERED
[\$8,000,000]

ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA

MULTIFAMILY HOUSING REVENUE BOND
(BLAINE LANDING PHASE II), SERIES 2022

INITIAL INTEREST RATE	MATURITY DATE	DATED DATE	CUSIP

As described below	[February 1, 2026]	[December 1, 2022]	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: EIGHT MILLION AND 00/100 DOLLARS (\$8,000,000)

INITIAL MANDATORY TENDER DATE: [February 1, 2025]

The Economic Development Authority of James City County, Virginia (the "Issuer"), a political subdivision of the Commonwealth of Virginia, for value received, promises to pay to the Registered Owner specified above or registered assigns, but solely from the sources and in the manner referred to herein, the Principal Amount specified above on the Maturity Date specified above (subject to the rights of redemption and tender set forth herein), and to pay from those sources interest on the unpaid principal balance of said Principal Amount calculated at the aforesaid Interest Rate on (a) [February] 1 and [August] 1 of each year beginning [August 1, 2023], (b) each Redemption Date, and (c) each Mandatory Tender Date (the "**Interest Payment Dates**") until the principal amount is paid or duly provided for. This Bond will bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date.

From the Dated Date set forth above to, but not including, the Initial Mandatory Tender Date set forth above, this Bond shall bear interest at the Initial Interest Rate. Thereafter, this Bond shall bear interest at the Remarketing Rate (as defined in the Indenture). Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months, for the actual number of days elapsed.

The principal of this Bond is payable upon presentation and surrender hereof at the designated corporate trust office of the trustee, presently U.S. Bank Trust Company, National Association (the "**Trustee**"). Interest is payable on each Interest Payment Date by check or draft mailed to the person in whose name this Bond (or one or more predecessor bonds) is registered (the "**Holder**") at the close of business on the fifth Business Day preceding that Interest Payment Date (the "**Regular Record Date**") on the registration books for this issue maintained by the Trustee, as registrar, at the address appearing therein. Any interest which is not timely paid or duly provided for shall cease to be payable to the Holder hereof (or of one or more predecessor bonds) as of the Regular Record Date, and shall be payable to the Holder hereof (or of one or more predecessor bonds) at the close of business on a Special Record Date to be fixed by the Trustee for the payment of that overdue interest. Notice of the Special Record Date shall be mailed to Holders not less than ten days prior thereto. The principal of and interest on this Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent. While the Bonds are held in a book-entry system and in certain other circumstances, all as provided in the Indenture, principal of and interest on this Bond is required to be paid by wire transfer or other arrangement, other than any payment of the entire unpaid principal amount hereof.

THE BONDS AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE TRUST ESTATE PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE COMMONWEALTH, THE COUNTY, NOR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC, OR AGENCY, OF THE COMMONWEALTH, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN) SHALL IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NEITHER THIS BOND NOR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE COMMONWEALTH, THE COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE COMMONWEALTH, THE COUNTY OR THE ISSUER (EXCEPT TO THE LIMITED EXTENT PROVIDED HEREIN), WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER.

NO COMMISSIONER, MEMBER, DIRECTOR, OFFICER, AGENT, EMPLOYEE OR ATTORNEY OF THE ISSUER, INCLUDING ANY PERSON EXECUTING THE INDENTURE OR THE BONDS, SHALL BE LIABLE PERSONALLY ON THE BONDS OR FOR ANY REASON RELATING TO THE ISSUANCE OF THE BONDS. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS, OR FOR ANY CLAIM BASED ON THE BONDS, OR OTHERWISE IN RESPECT OF THE BONDS, OR BASED ON OR IN RESPECT OF THE INDENTURE OR ANY SUPPLEMENTAL INDENTURE, AGAINST ANY COMMISSIONER, MEMBER, DIRECTOR, OFFICER, EMPLOYEE OR AGENT, AS SUCH, OF THE ISSUER OR ANY SUCCESSOR, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING, BY THE ACCEPTANCE OF THIS BOND AND AS PART OF THE CONSIDERATION FOR THE ISSUE OF THE BONDS, EXPRESSLY WAIVED AND RELEASED.

NEITHER THE DIRECTORS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE COUNTY, THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

This Bond is one of a duly authorized issue of Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022 (the "**Bonds**"), issuable under the Trust Indenture dated as of [December] 1, 2022 (the "**Indenture**"), between the Issuer and the Trustee, aggregating in principal amount [\$8,000,000] and used for the purpose of financing a loan (the "**Loan**") to be made to Blaine Landing Phase II, L.P., a Virginia limited partnership (the "**Borrower**"). The Loan will be used by the Borrower to pay a portion of the costs of acquiring, constructing and equipping the Project, as defined in the Indenture, as further provided in the Loan Agreement dated as of even date with the Indenture (the "**Loan Agreement**"), between the Issuer and the Borrower. The Bonds are special obligations of the Issuer, issued or to be issued under and are to be secured and entitled equally and ratably to the protection given by the Indenture. The Bonds are issued pursuant to, under authority of and in compliance with the laws of the Commonwealth of Virginia, and particularly the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia, as now in effect and as from time to time hereafter amended or supplemented (the "**Act**"), and a resolution duly enacted by the Board of Directors (the "**Governing Body**") of the Issuer.

The Bonds are subject to redemption and tender prior to their stated maturity as follows:

(a) Optional Redemption. The Bonds are subject to optional redemption prior to their maturity, at direction of the Authorized Borrower Representative, either in whole or in part on any Business Day on or after the later to occur of (a) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (b) the Optional Redemption Date (as defined in the Indenture) at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

(b) Mandatory Redemption. The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit

in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

(c) Mandatory Tender. The Bonds are subject to mandatory tender in whole on each Mandatory Tender Date. Holders will not have the right to elect to retain their Bonds. Upon presentation and surrender of the Bonds by the Holder on the date fixed for tender, the Holder shall be paid the principal amount of the Bonds to be tendered, plus accrued interest on such Bonds to the tender date.

Reference is made to the Indenture for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Holders of the Bonds, and the terms and conditions upon which the Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Indenture.

The Borrower is required by the Loan Agreement to cause the Mortgage Lender (as defined in the Indenture) to deposit on its behalf Eligible Funds with the Trustee in the amounts and at the times necessary to pay the principal of and interest (the "**Bond Service Charges**") on the Bonds. In the Indenture, the Issuer has assigned to the Trustee, to provide for the payment of the Bond Service Charges on the Bonds, the Issuer's right, title and interest in and to the Loan Agreement, except for Reserved Rights as defined in the Indenture. To secure its compliance with certain covenants in the Loan Agreement, the Borrower has executed and delivered the Regulatory Agreement and Declaration of Restrictive Covenants (the "**Regulatory Agreement**") between itself, the Trustee and the Issuer, dated as of even date with the Indenture.

Copies of the Indenture, the Loan Agreement and the Regulatory Agreement are on file in the designated corporate trust office of the Trustee.

The Bond Service Charges on the Bonds are payable solely from the Revenues, as defined and as provided in the Indenture (being, generally, the amounts payable under the Loan Agreement and any unexpended proceeds of the Bonds), and are an obligation of the Issuer only to the extent of the Revenues. The Bonds are not secured by an obligation or pledge of any money raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer.

The Bonds are issuable only as fully registered bonds and, except as hereinafter provided, in printed or typewritten form, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), which shall be considered to be the Holder for all purposes of the Indenture, including, without limitation, payment by the Issuer of Bond Service Charges, and receipt of notices to, giving of consents by and exercise of rights of, Holders. There shall be a single Bond representing each maturity, and all Bonds shall be immobilized in the custody of DTC with the owners of beneficial interests in those Bonds (the "book entry interests") having no right to receive from the Issuer Bonds in the form of physical securities or certificates. Ownership of book entry interests in the Bonds shall be shown by book-entry on the system maintained and operated by DTC, its participants (the "Participants") and certain persons acting through the Participants, and transfers of ownership of book-entry interests shall be made only by that book entry system, the Issuer and the Trustee having no responsibility therefor. DTC is to maintain records of the positions of Participants in the Bonds, and the Participants and persons

acting through Participants are to maintain records of the purchasers and owners of book entry interests in the Bonds. The Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository (as defined in the Indenture) or to another nominee of a Depository, without further action by the Issuer and otherwise at the expense of the Borrower.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book-entry system, the Issuer may attempt to have established a securities depository/book-entry system relationship with another qualified Depository under the Indenture. If the Issuer does not or is unable to do so, the Issuer and the Trustee, after the Trustee has made provision for notification of the owners of book entry interests by the then Depository, shall permit withdrawal of the Bonds from the Depository, and authenticate and deliver Bond certificates in fully registered form (in denominations of \$5,000, or any integral multiple of \$1,000 in excess thereof) to the assignees of the Depository or its nominee, all at the cost and expense (including costs of printing or otherwise preparing and delivering replacement Bond certificates) of those persons requesting such authentication and delivery, if the event is not the result of Issuer action or inaction (including action at the request of the Borrower).

The Indenture permits certain amendments or supplements to the Indenture, the Loan Agreement, the Regulatory Agreement and the Note not prejudicial to the Holders to be made without the consent of or notice to the Holders, and certain other amendments or supplements thereto to be made with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding.

The Holder of each Bond has only those remedies provided in the Indenture.

The Bonds shall not constitute the personal obligation, either jointly or severally, of the members of the Governing Body or of any other officer or official of the Issuer.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

It is certified and recited that there have been performed and have happened in regular and due form, as required by law, all acts and conditions necessary to be done or performed by the Issuer or to have happened (a) precedent to and in the issuing of the Bonds in order to make them legal, valid and binding special obligations of the Issuer, and (b) precedent to and in the execution and delivery of the Indenture and the Loan Agreement; that payment in full for the Bonds has been received; and that the Bonds do not exceed or violate any constitutional or statutory limitation.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

IN WITNESS OF THE ABOVE, the Issuer has caused this Bond to be to be executed and delivered by the manual or facsimile signature of its Chairman and attested by the manual or facsimile signature of its Secretary as of the day and year first written above.

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA**

[SEAL]

By: _____
Chair

ATTEST:

By: _____
Secretary

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Indenture.

Date of Registration and Authentication: [December] 1, 2022.

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION**

By: _____
Authorized Officer

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ the within Bond and irrevocably constitutes and appoints _____ attorney to transfer that Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agent Medallion Program or in such other guarantee program acceptable to the Registrar.

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Please insert social security number or other tax identification number of transferee

DTC FAST RIDER

Each Bond shall remain in the Trustee's custody subject to the provisions of the FAST Balance Certificate Agreement currently in effect between the Trustee and DTC.

LOAN AGREEMENT

Dated as of [December] 1, 2022

between

ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA

and

BLAINE LANDING PHASE II, L.P.

[\$8,000,000]

Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022

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LOAN AGREEMENT

THIS LOAN AGREEMENT made and entered into as of [December] 1, 2022, between the **ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (together with its successors, the "**Issuer**"), and **BLAINE LANDING PHASE II, L.P.**, a Virginia limited partnership (the "**Borrower**"), under the following circumstances summarized in the following recitals (the capitalized terms not defined in the recitals being used therein as defined in Article I hereof):

A. The Issuer is authorized under the powers granted to the Issuer pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia as amended (the "**Act**") to enter into loan agreements with respect to one or more projects authorized under the Act for such payments and upon such terms and conditions as the Issuer may deem advisable in accordance with the provisions of the Act.

B. The Issuer has determined that the public purposes set forth in the Act will be furthered by the issuance, sale, and delivery of the Issuer's Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022 (the "**Bonds**"), pursuant to a Trust Indenture (the "**Indenture**"), dated as of even date with this Agreement, as the same may be modified, amended or supplemented from time to time, between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**"), to provide funds to pay a portion of the cost of the acquisition, construction and equipping of an affordable housing development known as Blaine Landing Phase II, consisting of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, and located at 7581 Richmond Road in the County of James City, Virginia (the "**Project**") and to pay certain costs of issuance of the Bonds.

C. To provide and secure amounts to repay to the Issuer the Loan of the Bond proceeds, the Borrower will obtain the Mortgage Loan from the Mortgage Lender and shall cause the Mortgage Lender to make certain payments to the Trustee under the Indenture for the benefit of the Issuer.

D. The Issuer and the Borrower each have full right and lawful authority to enter into this Agreement and to perform and observe the provisions hereof on their respective parts to be performed and observed.

NOW THEREFORE, in consideration of the premises and the mutual representations and agreements hereinafter contained, the Issuer and the Borrower agree as follows (provided that any obligation of the Issuer created by or arising out of this Agreement shall never constitute a general debt of the Issuer or give rise to any pecuniary liability of the Issuer but shall be payable solely out of Revenues):

ARTICLE I DEFINITIONS

Section 1.1. Use of Defined Terms. In addition to the words and terms defined elsewhere in this Agreement, the words and terms in this Agreement shall have the meanings set forth in the Trust Indenture (the "**Indenture**"), dated as of the date of this Agreement between the Issuer and the Trustee.

Section 1.2. Interpretation. Any reference herein to the Issuer, to the Governing Body or to any member, director or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the Commonwealth or the Act, or to a section, provision or chapter of the Virginia Code or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee or the Borrower under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Agreement; and the term "hereafter" means after, and the term "heretofore" means before, the date of delivery of the Bonds. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Section 1.3. Captions and Headings. The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

ARTICLE II REPRESENTATIONS

Section 2.1. Representations of the Issuer. The Issuer represents and covenants that:

- (a) The Issuer is a political subdivision duly organized, validly existing and in good standing under the Act and the laws of the Commonwealth.
- (b) The Issuer has the power and lawful authority to execute and deliver the Financing Documents to which it is a party which will be executed and delivered on the Closing Date (the "Issuer Documents"), to issue the Bonds and receive the proceeds of the Bonds, to apply the proceeds of the Bonds to make the Loan, to assign the revenues derived and to be derived by the Issuer from the Loan to the Trustee and to perform and observe the provisions of the Issuer Documents and the Bonds on its part to be performed and observed, and to enter into the transactions contemplated by the Issuer Documents.
- (c) The Issuer has duly authorized the execution and delivery of each of the Issuer Documents, the issuance sale and delivery of the Bonds and the performance of the obligations of the Issuer thereunder.
- (d) The Issuer Documents and the Bonds have been duly executed and delivered by the Issuer and constitute the legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights, and except to the extent that availability of the remedy of specific

performance or injunctive relief is subject to the discretion of the court before which any proceeding therefor may be brought.

(e) None of the Issuer nor any director, member, commissioner, officer or employee of the Issuer has any interest, financial, employment or other, in the Borrower, the Project or the transactions contemplated hereby.

(f) There is no action, suit, proceeding, inquiry or investigation pending or, to the knowledge of the Issuer, threatened against the Issuer by or before any court, governmental agency or public board or body, which (i) affects or questions the existence or the territorial jurisdiction of the Issuer or the title to office of any member of the Issuer; (ii) affects or seeks to prohibit, restrain or enjoin the execution and delivery of any of the Issuer Documents, or the issuance, execution or delivery of the Bonds; (iii) affects or questions the validity or enforceability of any of the Issuer Documents or the Bonds; (iv) questions the exclusion from gross income for federal income taxation of interest on the Bonds; or (v) questions the power or authority of the Issuer to perform its obligations under any of the Issuer Documents or the Bonds or to carry out the transactions contemplated by any of the Issuer Documents or the Bonds.

(g) The Issuer makes no representation or warranty, express or implied, that the proceeds of the Bonds will be sufficient to finance the acquisition, construction and equipping of the Project or that the Project will be adequate or sufficient for the Borrower's intended purposes.

(h) The Issuer has found and determined that the issuance of the Bonds under the Indenture and the acquisition, construction and equipping of the Project by the Borrower will further the purposes of the Act.

(i) The Issuer has not pledged and covenants that it will not pledge the amounts derived from this Loan Agreement other than to secure the Bonds (except for Reserved Rights, which the Issuer retains).

(j) The Issuer, or bond counsel at the direction of the Issuer, will duly file Internal Revenue Form 8038 which shall contain the information required to be filed pursuant to Section 149 of the Code.

Section 2.2. Representations and Covenants of the Borrower. The Borrower represents and covenants that:

(a) It is a limited partnership duly formed and in full force and effect under the laws of the Commonwealth, is in good standing and duly qualified to transact business in the Commonwealth, is not in violation of any provision of any applicable Organizational Documents, and is authorized to own and operate the Project in the Commonwealth.

(b) It has full power and authority to execute, deliver and perform the Borrower Documents and to enter into and carry out the transactions contemplated by those documents. The execution, delivery and performance of the Borrower Documents do not, and will not, violate any provision of law applicable to the Borrower and do not, and will not, conflict with or result in a default under any agreement or instrument to which the Borrower is a party or by which it is bound. The Borrower Documents have, by proper action, been duly authorized, executed and delivered by the

Borrower and all steps necessary have been taken to constitute the Borrower Documents valid and binding obligations of the Borrower, enforceable in accordance with their terms except as may be limited by laws relating to bankruptcy, insolvency, reorganization or moratorium or other similar laws affecting creditors' rights.

(c) The general partner of the Borrower is Blaine Landing Phase II GP, L.L.C., a Virginia limited liability company (the "General Partner"). The limited partner of the Borrower is TB Blaine Landing Phase II Affordable Housing, LLC, a Virginia limited liability company, and its respective successors and assigns (the "Investor Limited Partner"). The Borrower does not currently operate or conduct any business except as related to the financing, acquisition, ownership, operation and construction of the Project. The Borrower has no material assets or property other than its anticipated interest in the Project.

(d) The General Partner is a limited liability company, duly organized under the laws of the Commonwealth of Virginia and duly qualified to transact business in the Commonwealth of Virginia, and has the requisite legal authority to become and to act as a general partner of the Borrower. The Investor Limited Partner is a Virginia banking corporation and duly qualified to transact business in the Commonwealth of Virginia, and has the requisite legal authority to become and act as a limited partner of the Borrower.

(e) The provision of financial assistance to be made available to it under this Agreement and the commitments therefor made by the Issuer have induced the Borrower to undertake the transactions contemplated by this Agreement.

(f) The Borrower will use and operate the Project in a manner consistent with the Act and in accordance with the Regulatory Agreement for as long as required by the Act and the Code and knows of no reason why the Project will not be so operated. If, in the future, there is a cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternate use by the Borrower or others approved by the Issuer which will be consistent with the Act, the Code and the Regulatory Agreement. A form of the Regulatory Agreement is attached hereto as Schedule I and will be executed, delivered and recorded against the Project upon the acquisition thereof and the closing of the Mortgage Loan.

(g) The Project will be completed in accordance with the Plans and Specifications and the portion of the Project funded with the proceeds of the Bonds will constitute a qualified residential rental project within the meaning of Section 142(d) of the Code and will be operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable Governmental regulations and as to be consistent with the Act.

(h) The Project will be located entirely within the jurisdiction of the Issuer.

(i) The Borrower has obtained or will obtain all consents, approvals, permits, authorizations and orders of any governmental or regulatory agency that are required to be obtained by the Borrower as a condition precedent to the issuance of the Bonds, the execution and delivery of the Borrower Documents or the performance by the Borrower of its obligations thereunder, or that were or are required for the acquisition, construction, equipping and/or operation of the Project.

- (j) No litigation at law or in equity or proceeding before any governmental agency involving the Borrower is pending or, to the best of its knowledge, threatened in which any liability of the Borrower 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 Borrower or that would affect its existence or authority to do business, the acquisition, construction, equipping or operation of the Project, the validity of any Borrower Documents or the performance of its obligations thereunder.
- (k) The Borrower is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money and is not in material default under any instrument under and subject to which any indebtedness has been incurred, and no event has occurred and is continuing that, under the provisions of any such agreement, with the lapse of time or the giving of notice, or both, would constitute an event of default by the Borrower thereunder.
- (l) The Borrower is not in default under or in violation of, and the execution, delivery and compliance by the Borrower with the terms and conditions of the Borrower Documents do not and will not conflict with or constitute or result in a default by the Borrower in any material respect under or violate, (i) the Borrower's organizational documents, (ii) any agreement or other instrument to which the Borrower is a party or by which it or its assets are bound, or (iii) to the best of its knowledge, any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Borrower 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.
- (m) The Borrower has received and reviewed a copy of the Indenture and approves the terms and conditions thereof and agrees to the terms thereof.
- (n) The Borrower has filed or caused to be filed all federal, state and local tax returns that are required to be filed or has obtained appropriate extensions therefor, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.
- (o) Neither the Borrower nor any related Person thereto shall acquire any Bonds in any amount.
- (p) Upon the closing of the Mortgage Loan, the Borrower will have fee simple title in the real property and will have absolute ownership of the personal property comprising the Project, and there will be no liens or encumbrances against such property other than the liens contemplated by the Mortgage Loan Documents.
- (q) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or the Issuer is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Project; and that it has not relied on the Issuer or its counsel for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Agreement and the Indenture or otherwise relied on the Issuer or its counsel in any manner.

(r) The Project will be, upon the closing of the Mortgage Loan, in compliance with all requirements of the Regulatory Agreement currently applicable, including all applicable requirements of the Act and Code. The Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Act and the Code. All leases with tenants of the Project will comply with all applicable laws and the Regulatory Agreement. The Project will meet the requirements of this Agreement, the Regulatory Agreement, the Act and the Code with respect to multifamily rental housing upon completion.

(s) The proceeds of the Bonds shall be used or deemed used exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(b) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code, and (ii) are made exclusively with respect to a "qualified residential rental project" within the meaning of Section 142(d) of the Code and that for the greatest number of buildings the proceeds of the Bonds shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code; provided, however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Trustee nor the Issuer shall have any obligation to enforce this covenant nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders of the Bonds for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or event of default under this Agreement or the Indenture.

The Borrower acknowledges that the representations and covenants herein made by the Borrower have been expressly and specifically relied upon by the Issuer in determining to make the Loan to the Borrower and the Loan would not have been made but for such representations and covenants.

ARTICLE III PLAN OF FINANCING

Section 3.1. Issuance of Bonds; Application of Proceeds. To provide funds to finance the Loan for purposes of assisting the Borrower in paying Project Costs, the Issuer shall simultaneously with the execution and delivery hereof proceed with the issuance and delivery of the Bonds upon receipt by the Trustee of the items listed in Section 2.11 of the Indenture. The Issuer agrees to deposit the proceeds of sale of the Bonds in accordance with the Indenture.

The Bonds will be issued pursuant to the Indenture in the aggregate principal amount, will bear interest, will mature and will be subject to redemption, mandatory tender and remarketing as set forth therein. The Borrower hereby approves the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds will be issued, sold and delivered and will comply with those provisions of the Indenture that contemplate action by the Borrower, all as if the Borrower were a party to the Indenture.

Pending disbursement pursuant to Section 3.6 hereof, the proceeds of the Bonds deposited in the Project Fund shall constitute a part of the Revenues assigned by the Issuer to the Trustee as security for the payment of Bond Service Charges as provided in the Indenture.

Section 3.2. The Loan. The Issuer agrees, upon the terms and conditions herein, to make the Loan to the Borrower with the proceeds received by the Issuer from the sale of the Bonds by causing such proceeds to be deposited with the Trustee for disposition as provided in the Indenture. The obligation of the Issuer to finance the Loan shall be deemed fully discharged, and the principal amount of the Bonds shall be deemed fully advanced to the Borrower under the Note, upon the deposit of the proceeds of the Bonds with the Trustee. The Loan shall be evidenced by the Note payable to the Issuer and assigned to the Trustee.

Section 3.3. Mortgage Loan to Borrower. To provide and secure funds for the repayment of the Loan, and to provide for the delivery of the Eligible Funds, the Borrower shall on or before [December 1, 2022] obtain the Mortgage Loan from the Mortgage Lender and enter into the Funding Agreement. In particular, the Borrower will promptly take all necessary actions on its part to close the Mortgage Loan and satisfy all other terms and conditions of the FHA Commitment and the requirements of the Mortgage Lender no later than [December 1, 2022].

The Borrower represents that the Mortgage Loan is to be insured by FHA pursuant to and in accordance with the provisions of Section 221(d)(4) of the National Housing Act and applicable regulations thereunder, and that the Mortgage Loan will be in the maximum original principal amount of \$_____. The Mortgage Loan will be secured on a non-recourse basis pursuant to the Mortgage Loan Documents.

In connection with the Mortgage Loan, the Borrower shall execute and deliver such documents as may be customarily utilized for insured mortgage loans under the provisions of Section 221(d)(4) of the National Housing Act and applicable regulations thereunder, with such omissions, insertions and variations as may be permitted by such regulations and as may be consistent with the terms and provisions of this Agreement.

The Mortgage Lender will deposit Eligible Funds with the Trustee in exchange for disbursement by the Trustee of an equal amount of Bond proceeds. Over the course of construction, the Mortgage Lender shall deposit funds in the aggregate amount of [\$8,000,000] to the Trustee for deposit into the Collateral Fund to enable the Trustee to disburse the full amount of Bond proceeds from the Project Fund as approved by the Mortgage Lender. Each deposit of Eligible Funds will be made in connection with a completed and fully executed Disbursement Request in the form attached hereto as Exhibit B. Any Bond proceeds so approved by the Mortgage Lender for disbursement to the Mortgage Lender or its agent for the benefit of the Borrower which are related to a deposit of Eligible Funds from the Mortgage Lender shall constitute an FHA-insured advance of the Mortgage Loan.

Section 3.4. Acquisition, Construction, Installation, Equipment and Improvement. The Borrower (a) has acquired or is in the process of acquiring, a fee simple interest in the Project site and shall construct and equip the Project with all reasonable dispatch and in accordance with the Plans and Specifications, (b) shall pay when due all fees, costs and expenses incurred in connection with that acquisition, construction, installation, equipping and improvement from funds made

available therefor in accordance with this Agreement or otherwise, except to the extent being contested in good faith, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable under the terms of any contract, order, receipt, writing and instruction in connection with the acquisition, construction, improvement and equipping of the Project, and shall enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is that of the Borrower and any contracts made by the Borrower with respect thereto, whether acquisition contracts, construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower on its own behalf and not as agent or contractor for the Issuer. The Borrower agrees that it will compensate all workers employed in the construction, improvement, and equipping of the Project as required by law.

Section 3.5. Plans and Specifications. The Plans and Specifications have been or shall be filed with the Issuer and the Trustee. The Borrower may revise the Plans and Specifications from time to time, provided that no revision shall be made which would change the purpose of the Project to other than purposes permitted by the Act and the Regulatory Agreement. The sources and uses contemplated by the plan of financing for the Project are set forth in Exhibit D hereto, and at or prior to the execution and delivery of this Agreement, the Borrower shall provide to the Issuer evidence acceptable to the Issuer, in its sole discretion, of the availability of all financing contemplated by the plan of financing for the Project including, without limitation (and without regard to whether the immediate availability of such financing is a condition to undertaking the Project), the equity portion of the financing and all other public and private financing and any interim or bridge financing to be provided in anticipation of the closing of any of the foregoing aspects of the financing therefor. Any material changes in the plan of financing or to any information contained in Exhibit D shall be communicated promptly to the Issuer. Copies of all documents evidencing that financing, and the security therefor, all in form reasonably acceptable to the Issuer, have been provided to the Issuer.

No material revision of the Plans and Specifications shall be made unless the Borrower has first delivered to the Issuer and the Trustee a narrative description of the proposed revision accompanied by a certificate of the Authorized Borrower Representative certifying the change in Project Costs resulting from the revision and that the moneys then on deposit in the Project Fund together with other identified available moneys will be sufficient to pay in full the Project Costs including the change in Project Costs resulting from such revision.

Section 3.6. Disbursements from the Project Fund. Subject to the provisions below, disbursements from the Project Fund shall be made only to pay any of the following Project Costs:

- (a) Costs incurred directly or indirectly for or in connection with the acquisition, construction, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.
- (b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction period with respect to the Project.

- (c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during the construction period.
- (d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project.
- (e) Subject to the limitations set forth in the Tax Agreement, Costs of Issuance of the Bonds, including, financial, legal, accounting, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee properly incurred under the Indenture that may become due and payable during the construction period.
- (f) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, construction, improvement and equipping of the Project.
- (g) Payment of interest on the Bonds.
- (h) Payments to the Rebate Fund.

Disbursements from the Project Fund for the payment of Project Costs shall be made by the Trustee only to, or at the direction of, the Mortgage Lender upon satisfaction of all of the following conditions:

- (i) The receipt by the Trustee of notice and instruction of a completed disbursement request (a "Disbursement Request") in the form attached hereto as Exhibit B, signed by an Authorized Borrower Representative and approved by the Mortgage Lender, providing the amount of the disbursement request (a "Disbursement Amount") and the expected date of disbursement (a "Disbursement Date").
- (ii) Promptly upon receipt of a completed and fully-executed Disbursement Request, the Trustee will confirm in writing to the Mortgage Lender (A) the Disbursement Amount, (B) that the account balance of the Collateral Fund plus the account balance of the Project Fund is at least equal to the then-outstanding principal amount of the Bonds and (C) whether the Trustee has actual knowledge that an Event of Default (as determined in accordance with Section 5.02(f) of the Indenture) or a Determination of Taxability has occurred. If an Event of Default or a Determination of Taxability has occurred to the knowledge of the Trustee, the Trustee shall make no further disbursements from the Project Fund so long as such Event of Default or Determination of Taxability continues to exist except (Y) in accordance with the final paragraph of Section 4.04 of the Indenture or (Z) in accordance with Section 3.01 of the Indenture.
- (iii) Upon receipt of confirmation from the Trustee of the matters described in clause (ii) above and on or before the expected Disbursement Date, the Mortgage Lender will transfer to the Trustee, by immediately available funds, the Eligible Funds equal to the Disbursement Amount, in the case of a transfer from the Mortgage Lender, in accordance with the Funding Agreement.

(iv) Upon receipt by the Trustee from the Mortgage Lender of the Eligible Funds in an amount equal to the Disbursement Amount, such Eligible Funds shall be deposited in the Collateral Fund as provided in Section 4.2 hereof. In the event that the amount of the Eligible Funds received by the Trustee does not equal the amount of the Disbursement Request, the Trustee shall promptly return such Eligible Funds to the Mortgage Lender. In the event that the Trustee is not prepared to immediately disburse funds from the Project Fund in accordance with the Disbursement Request, it shall return the Eligible Funds to the party that deposited it with the Trustee.

(v) Upon satisfaction of the conditions set forth in clauses (i) through (iv) above, the Trustee shall be unconditionally and irrevocably obligated to disburse funds from the Project Fund in accordance with the Disbursement Request. The Trustee shall disburse funds from the Project Fund in accordance with the instructions contained in the Disbursement Request (A) on the same Business Day that it receives the Eligible Funds in the event the Trustee receives the Eligible Funds with respect to such Disbursement Request prior to 10:30 AM Local Time on such Business Day or (B) on the next succeeding Business Day if the Trustee receives the Eligible Funds after 10:30 AM Local Time.

The Borrower hereby acknowledges and agrees that it shall submit Disbursement Requests to the Trustee no more frequently than once each calendar month and that it shall, simultaneously with the submission of each Disbursement Request to the Trustee, provide a copy of such request to the Mortgage Lender. Each such Disbursement Request shall be consecutively numbered. Proceeds of the Bonds disbursed pursuant to the provisions of this Agreement may only be used to pay those Project Costs identified in the Sources and Uses of Funds attached hereto as Exhibit D, as it may be amended pursuant to the agreement of FHA, the Mortgage Lender and the Borrower.

The Borrower's right to request disbursements from the Project Fund is limited to the principal amount of the Loan.

The Borrower agrees that it will not request disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code, and in the notice of public hearing pertaining to the Bonds unless the Borrower provides to the Mortgage Lender, with a copy to the Trustee and the Issuer, an Opinion of Bond Counsel to the effect that such disbursement will not adversely affect the Federal Tax Status of the Bonds.

Any money in the Project Fund remaining after the Completion Date and payment, or provision for payment, in full of the Project Costs, at the direction of the Authorized Borrower Representative, promptly shall be paid into the Bond Fund for payment of Bond Service Charges.

Notwithstanding any provision of this Agreement or any provision of the Indenture to the contrary, the Trustee shall not disburse funds from the Project Fund unless and until the Trustee confirms that the account balance of the Collateral Fund plus the account balance of the Project Fund, less the amount of the requested disbursement from the Project Fund, is at least equal to the then-outstanding principal amount of the Bonds.

Section 3.7. Funding Agreement. The Borrower shall execute the Funding Agreement to coordinate the funding of a portion of the Project Costs with proceeds of the Bonds. Under the Funding Agreement, the Mortgage Lender shall agree to deliver Eligible Funds to the Trustee in exchange for the release of a corresponding amount of Bond proceeds from the Project Fund (representing advances under the Mortgage Loan) pursuant to and consistent with Sections 3.6 and 4.7 hereof and Sections 4.04 and 4.06 of the Indenture.

Section 3.8. Borrower Required to Pay Costs in Event Project Fund Insufficient. If money in the Project Fund is not sufficient to pay all Project Costs, the Borrower, nonetheless, will complete the Project in accordance with the Plans and Specifications and shall pay all such additional Project Costs from its own funds. The Borrower shall pay all Costs of Issuance of the Bonds in excess of the amount permitted by the Tax Agreement. The Borrower shall not be entitled to any reimbursement for any such additional Project Costs or payment of Costs of Issuance from the Issuer, the Trustee or any Holder; nor shall it be entitled to any abatement, diminution or postponement of any Loan Payments or other amounts to be paid under this Agreement.

Section 3.9. Completion Date. The Borrower shall notify the Issuer and the Trustee of the Completion Date (as defined below) by the delivery of a Completion Certificate signed by the Authorized Borrower Representative substantially in the form of Exhibit C attached hereto. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a), (b), and (d) of the Completion Certificate and an accountant's determination has been made that the representation in Section 2.2(s) is true and correct. The date of delivery of the Completion Certificate is referred to herein as the "Completion Date."

Section 3.10. Remarketing of Bonds. The Borrower is hereby granted the right to (a) request a remarketing of the Bonds in the manner and to the extent set forth in Section 3.07 of the Indenture and (b) with the written consent of the Remarketing Agent (which consent shall not be unreasonably withheld), designate the length of the Remarketing Period and the related Mandatory Tender Date in the manner and to the extent set forth in Sections 3.05 and 3.07 of the Indenture.

Section 3.11. Investment of Fund Money. At the written request of the Authorized Borrower Representative, any money held as part of any of the Special Funds or the Rebate Fund shall be invested or reinvested by the Trustee in Eligible Investments as provided in the Indenture. The Issuer (to the extent within its control) and the Borrower each hereby covenants that it will restrict that investment and reinvestment and the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of delivery of and payment for the Bonds or subsequent intentional acts, so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. No provision of this Agreement shall be construed to impose upon the Trustee any obligation or responsibility for compliance with arbitrage regulations.

The Borrower shall provide the Issuer with, and the Issuer may base its certifications as authorized by the Tax Agreement on, a certificate of an Authorized Borrower Representative for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Borrower on the date of delivery of and payment for the Bonds regarding the amount and

use of the proceeds of the Bonds and the facts, estimates and circumstances on which those expectations are based.

Section 3.12. Rebate Calculations and Payments. If required by the terms of the Tax Agreement, the Borrower shall appoint a Rebate Analyst, the expense of which shall be borne by the Borrower.

At the times required by the Tax Agreement, the Borrower shall cause the Rebate Analyst to calculate the Rebate Amount as of the end of that Bond Year or the date of such payment and the Rebate Analyst shall notify the Trustee and the Borrower of that amount. If the amount then on deposit in the Rebate Fund created under the Indenture is less than the Rebate Amount (taking into account the amount or amounts, if any, previously paid to the United States), the Borrower shall, within 30 days after the date of the aforesaid calculation, deposit or cause to be deposited to the credit of the Rebate Fund an amount sufficient to cause the Rebate Fund to contain an amount equal to the Rebate Amount. The obligation of the Borrower to make or cause to be made such payments shall remain in effect and be binding upon the Borrower notwithstanding the release and discharge of the Indenture or the termination of this Agreement. The Borrower shall obtain such records of the computations made pursuant to this Section as are required under Section 148(f) of the Code and shall retain such records for at least six (6) years after the maturity or retirement of the Bonds.

The Borrower further covenants that, during the term of the Bonds, in the event the Borrower sells or otherwise disposes of the Project, it will require that the transferee execute a covenant similar to that in this Section in the sale or other documents concerning the disposition and will require such transferee to include such a covenant in future transfer documents. The special covenants of the Borrower in this Section shall survive the defeasance or payment in full of the Bonds notwithstanding any other provision of this Agreement until the requirements for payment of any Rebate Amount has been fully satisfied.

ARTICLE IV LOAN PAYMENTS; ELIGIBLE FUNDS AND ADDITIONAL PAYMENTS

Section 4.1. Loan Repayment; Delivery of Note. In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, Loan Payments equal to the amount necessary to pay interest on and principal of the Bonds due on the next Bond Payment Date. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and this Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or transferred thereto from the Collateral Fund or the Project Fund for the payment of Bond Service Charges on that date.

To evidence the Borrower's obligations under this Agreement, the Borrower shall execute and deliver the Note concurrently with the issuance and delivery of the Bonds.

Payments on the Note shall inure equally and ratably to the benefit of the Holders of all Outstanding Bonds. So long as no Event of Default has occurred and is subsisting hereunder, payments by the Borrower on the Note shall be used by the Trustee to make a like payment of Bond Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (a) the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Trustee to the Borrower, and shall be canceled by the Borrower, or (b) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and the Note shall be surrendered by the Trustee to the Borrower for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrower is entitled to a credit under express terms of this Agreement or the Note, all payments on the Note shall be in the full amount required thereunder.

Section 4.2. Eligible Funds. In consideration of and as a condition to the disbursement of Bond proceeds in the Project Fund to pay Project Costs, and to secure the Borrower's obligation to make Loan Payments, the Borrower shall direct the Mortgage Lender, in the Funding Agreement, to deliver or cause to be delivered to the Trustee on or before each such disbursement Eligible Funds equal to the amount of the proposed disbursement from the Project Fund. All such amounts shall be paid to the Trustee for the benefit of the Holders and shall be held in the Collateral Fund and disbursed in accordance with the provisions of the Indenture. Upon receipt of Eligible Funds and satisfaction of the other conditions set forth in Section 3.6 hereof, the Trustee shall be unconditionally and irrevocably obligated to disburse an equal amount of funds in the Project Fund to, or at the direction of, the Mortgage Lender as provided in Section 3.6 hereof. In no event may funds held in the Collateral Fund be used to pay Project Costs.

Section 4.3. Bond Fund and Collateral Fund. The Borrower and the Issuer each acknowledge that any interest of either the Borrower or the Issuer in the Bond Fund or the Collateral Fund and any money deposited therein is subordinate to the interest of the Holders therein.

Section 4.4. Additional Payments. The Borrower shall pay as Additional Payments hereunder the following:

(a) Whether out of the proceeds of the Mortgage Loan or other funds, all Costs of Issuance of the Bonds, the costs of obtaining the FHA Insurance and all expenses incurred in closing the Mortgage Loan.

(b) All Extension Payments and other sums required under Section 3.07 of the Indenture in order to revise or extend the Mandatory Tender Date or remarket the Bonds, and the Borrower further agrees to execute any and all certificates required by the Issuer, the Trustee or the Remarketing Agent in order to effectuate such revision, extension or remarketing.

(c) To the Trustee, (i) the Ordinary Trustee Fees and Expenses to the extent that the funds available in the Expense Fund for the payment thereof are not sufficient and available therefor and (ii) the Extraordinary Trustee Fees and Expenses.

(d) To the Issuer (i) the Ordinary Issuer Fees to the extent that the funds available under the Indenture for the payment thereof are not sufficient and available therefor and (ii) the Extraordinary Issuer Fees and Expenses.

(e) All costs of printing any replacement Bonds required to be issued under the Indenture to the extent such costs are not paid by the Holders.

(f) To the extent not paid by the Trustee from the Expense Fund, all of the fees and expenses of the Rebate Analyst (including, but not limited to, the Rebate Analyst Fee) and any other necessary consultant employed by the Borrower, the Trustee or the Issuer in connection with any of the requirements imposed by Section 4.09 of the Indenture and the Tax Agreement to the extent that the funds available under the Indenture for the payment thereof are not sufficient and available therefor. The Borrower shall provide or cause to be provided all information and money (including money necessary to make deposits to the Rebate Fund required by the Indenture and the Tax Agreement and the fees and expenses of the Rebate Analyst to the extent available money in the Bond Fund under the Indenture are inadequate to pay such amounts) to the Trustee and the Rebate Analyst to enable the Trustee and the Rebate Analyst to comply with the Indenture and the Tax Agreement.

(g) To the Dissemination Agent, the Dissemination Agent Fee to the extent the funds available in the Expense Fund are not sufficient and available therefor, as well as any other costs and expenses in order to provide for compliance with the terms of the Continuing Disclosure Agreement.

(h) To the Remarketing Agent, the Remarketing Agent Fee and any Remarketing Expenses.

In the event the Borrower is in default under any provision of any of the Borrower Documents, the Borrower shall be liable to, and upon demand shall pay to, the Issuer, the Trustee and the Mortgage Lender all reasonable fees and disbursements of such persons and their agents (including attorneys' fees and expenses) which are reasonably connected therewith or incidental thereto except to the extent such fees and disbursements are paid from money available therefor under the Indenture.

Upon the payment, prepayment, or incurrence of any such cost, expense, or liability described in this Section by any such party, the Additional Payments in respect thereof shall be payable upon written demand to the Borrower, which demand shall be accompanied by invoices or other appropriate documentation concerning the nature, amount and incurrence of such cost, expense or liability. If the Additional Payments payable under this Section are not paid upon such demand, such Additional Payments shall bear interest from the date of such payment or the incurrence thereof at the Interest Rate for Advances until the amount due shall have been fully paid.

The obligations of the Borrower under this Section shall survive the termination of this Agreement and the payment and performance of all of the other obligations of the Borrower hereunder and under the other Borrower Documents, including the Tax Agreement.

Section 4.5. Place of Payments. The Borrower shall make all Loan Payments directly to the Trustee at its Designated Office. The Borrower shall direct the Mortgage Lender to deposit all Eligible Funds directly with the Trustee at its Designated Office. Additional Payments shall be made by the Borrower directly to the person or entity to whom or to which they are due.

Section 4.6. Obligations Unconditional. The obligations of the Borrower to make Loan Payments, Additional Payments and any payments required of the Borrower under Sections 4.08 and 4.09 of the Indenture shall be absolute and unconditional, and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other Person; provided that the Borrower may contest or dispute the amount of any such obligation arising under Section 4.08 of the Indenture so long as such dispute or contest does not result in an Event of Default under the Indenture.

Section 4.7. Assignment of Agreement and Revenues; Trustee is Third Party Beneficiary. To secure the payment of Bond Service Charges, the Issuer shall assign to the Trustee, by the Indenture, its rights under and interest in this Agreement (except for the Reserved Rights). The Borrower hereby agrees and consents to those assignments. The Issuer shall not attempt to further assign, transfer or convey its interest in the Revenues or this Agreement or create any pledge or lien of any form or nature with respect to the Revenues, Loan Payments or Eligible Funds hereunder.

The Trustee shall be a third party beneficiary to this Agreement.

ARTICLE V ADDITIONAL AGREEMENTS AND COVENANTS

Section 5.1. Right of Inspection. At all reasonable times and upon reasonable notice, the Borrower shall allow any duly authorized representative of the Issuer or the Trustee to visit and inspect the Project, to examine and make copies of and from its books of record and account, and to discuss its affairs, finances, and accounts with its officers, and shall furnish to the Issuer and the Trustee any information reasonably required regarding its business affairs and financial condition within a reasonable time after receipt of written request therefor.

Section 5.2. Borrower to Maintain its Existence; Sale of Project. The Borrower shall maintain its existence, not dissolve or sell, transfer or otherwise dispose of all or substantially all of its assets and not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it; provided, that it may do so if the surviving, resulting or transferee entity is other than the Borrower, it assumes in writing all of the obligations of the Borrower under the Borrower Documents and it has a net worth equal to or greater than that of the Borrower immediately prior to such consolidation, merger, sale or transfer. The Borrower shall

not permit one or more other entities to consolidate with or merge into it; or take any action or allow any action to be taken to terminate the existence of the Borrower except as provided herein.

No sale, assignment or transfer of title to the Project, except as may be otherwise required by Fannie Mae or the Mortgage Lender, shall be made unless (a) the Mortgage Lender and Fannie Mae consent to such assignment or transfer, (b) the transferee or assignee, as the case may be, assumes all the duties of the Borrower under the Borrower Documents, provided that such assumption may contain an exculpation of the assignee from personal liability with respect to any obligation hereunder, except the Borrower's obligation to indemnify the Trustee and reimburse the Trustee for the fees and expenses of the Trustee, and (c) no Event of Default as certified in writing to the Trustee by the Borrower shall have occurred and be continuing under the Indenture or this Agreement. The Trustee shall consent to any such assignment or transfer if (i) the Mortgage Lender notifies it in writing that the aforesaid condition (a) is satisfied, (ii) the Trustee receives an Opinion of Bond Counsel to the effect that such transfer or assignment would not adversely affect the Federal Tax Status of the Bonds, and (iii) the Trustee receives written confirmation from the Rating Agency that such transfer or assignment will not result in a withdrawal or reduction in any rating on the Outstanding Bonds by the Rating Agency (if the Bonds are then rated by the Rating Agency). Upon the assumption of the duties of the Borrower by an assignee as provided herein, the outgoing Borrower shall be released from all executory obligations so assumed; provided, however, the Borrower shall not be released from its obligation to pay or reimburse the fees and expenses of the Issuer and the Trustee and to indemnify the Trustee and the Issuer without the express written consent of the Trustee and the Issuer, as applicable, which consent shall not be unreasonably withheld. Nothing contained in this Section shall be construed to supersede any provisions regarding assignment and transfer of the Project contained in the Mortgage Loan Documents.

Notwithstanding anything to the contrary contained herein or in any other Borrower Document, and subject to the consent of FHA to the extent required by the Controlling HUD and GNMA Requirements or the Mortgage Loan Documents, the following shall be permitted and shall not require the prior written approval of Issuer or Trustee, (a) the transfer by Investor Limited Partner of its interest in Borrower in accordance with the terms of Borrower's Organizational Documents, (b) the removal of the General Partner of Borrower in accordance with the Organizational Documents and the replacement thereof with the Investor Limited Partner or any of its affiliates, (c) the transfer of ownership interests in the Investor Limited Partner, (d) upon the expiration of the tax credit compliance period, as determined under Section 42 of the Code, the transfer of the interests of the Investor Limited Partner in Borrower to Borrower's General Partner or any of its affiliates, and (e) any amendment to the Organizational Documents to memorialize the transfers or removals described above. The parties agree that this section shall control to the extent of any conflict in any Borrower Documents. Trustee and Issuer agree that all approvals and consents of the Trustee and/or Issuer under any loan documents related to the Bonds shall not be unreasonably withheld, delayed, or conditioned. Furthermore, the Trustee and Issuer each consents to those purchase options and rights of first refusal in favor of the General Partner of Borrower or its designee which are set forth in Borrower's Organizational Documents, and agrees that transfer of title to the Project in accordance therewith shall not constitute a default under the loan documents related to the Bonds, provided that Borrower gives Trustee and Issuer prior written notice of such transfer and contact information for such transferee, and provided that the transferee

agrees to assume the duties and obligations of the Borrower respecting the Loan on the same terms as those imposed on the Borrower.

Section 5.3. Indemnification. The Borrower releases the Issuer and the Trustee from, agrees that the Issuer and the Trustee shall not be liable for, and indemnifies, defends and holds the Issuer and the Trustee harmless against, all liabilities, claims, costs and expenses and attorneys' fees (including, without limitation, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) imposed upon, incurred or asserted against the Issuer or the Trustee on account of: (a) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the acquisition, financing, construction, rehabilitation, occupation, design, possession, management, equipping, furnishing, maintenance, operation and use of the Project or from any work or thing done in or about the Project site, or any sidewalks, passageways, driveways, curbs, vaults and vault space, streets or parking areas on the Project site or adjacent thereto; (b) any violation of any environmental law, rule or regulation with respect to, or the release of any hazardous material from the Project or any part thereof; (c) any lien (other than liens permitted under the Mortgage Loan Documents) or any taxes (including, without limitation, all ad valorem taxes, assessments, impositions and other charges imposed on the Issuer or the Trustee with respect to the Project or any portion thereof); (d) any breach or default on the part of the Borrower in the performance of any covenant or agreement of the Borrower under this Agreement, the Regulatory Agreement, the Note or any related document, or arising from any act or failure to act by the Borrower, or any of its agents, contractors, servants, employees or licensees; (e) the Borrower's failure to comply with any requirement of this Agreement including the covenant in Section 5.4 hereof; (f) any action taken or omitted to be taken by the Issuer or the Trustee at the request of or with the consent of the Borrower; (g) the issuance, offering, sale, delivery or remarketing of the Bonds; (h) any loss of the tax exemption on the Bonds; (i) any audit or inquiry by the Internal Revenue Service with respect to the Project and/or the tax-exempt status of the Bonds; and (j) any other claim, action or proceeding brought with respect to any matter set forth in clause (a), (b), (c), (d), (e), (f), (g) or (h) above; provided, however, that the indemnification provided in this Section shall not apply to any matter arising or resulting from the willful misconduct of the Issuer or the gross negligence or willful misconduct of the Trustee or any information provided by the Issuer or the Trustee in writing for use in connection with the offering and sale of the Bonds; and provided, further, that nothing herein shall be construed as an indemnification of the obligation to pay principal or interest on the Loan as provided in the Indenture.

The Borrower agrees to indemnify the Trustee for and to hold it harmless against all liabilities, claims, costs and expenses incurred without gross negligence or willful misconduct on the part of the Trustee, on account of any action taken or omitted to be taken by the Trustee in accordance with the terms of the Bonds or the Financing Documents or any action taken at the request of or with the consent of the Borrower, including the costs and expenses of the Trustee in defending itself against any such claim, action or proceeding brought in connection with the exercise or performance of any of its powers or duties under the Bonds or the Financing Documents.

In case any action or proceeding is brought against the Issuer or the Trustee in respect of which indemnity may be sought hereunder, the party seeking indemnity promptly shall give notice of that action or proceeding to the Borrower, and the Borrower upon receipt of that notice shall

have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of a party to give that notice shall not relieve the Borrower from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Borrower. At the Borrower's expense, an indemnified party may employ separate counsel and participate in the defense. The Borrower shall not be liable for any settlement made without its consent.

The indemnification set forth above is intended to and shall include the indemnification of all affected commissioners, officials, directors, officers and employees of the Issuer and the Trustee, and any predecessor Trustee, respectively. That indemnification is intended to and shall be enforceable by the Issuer and the Trustee, respectively, to the full extent permitted by law.

Section 5.4. Tax Covenants. The Borrower, for the benefit of the Issuer and each Holder, represents that it has taken and caused to be taken, and covenants that it will take and cause to be taken, all actions that may be required of it, alone or in conjunction with the Issuer, to maintain the Federal Tax Status of the Bonds. The Borrower represents that it has not taken or permitted to be taken on its behalf, and covenants that it will not take or permit to be taken on its behalf (other than action required by HUD under the Controlling HUD and GNMA Requirements or the Mortgage Loan Documents), any actions that would adversely affect such Federal Tax Status. The Borrower agrees that it will not make any changes in the Project which will result in a violation of the limitation of the maturity of the Bonds under Section 147(b) of the Code. The covenants of the Borrower herein with respect to preservation of such Federal Tax Status of the Bonds are made expressly subject to all Controlling HUD and GNMA Requirements of the Mortgage Loan Documents.

If the Borrower becomes aware of any situation, event or condition which would adversely affect the Federal Tax Status of the Bonds, the Borrower shall promptly give written notice thereof to the Issuer, the Mortgage Lender and the Trustee.

The Issuer covenants that it will take, or require to be taken, all actions that may be required of the Issuer to maintain the Federal Tax Status of the Bonds. It will not take or authorize to be taken any actions that would adversely affect such Federal Tax Status under the Code.

The Borrower and the Issuer have entered into the Tax Agreement and the Regulatory Agreement for purposes of assuring that the Federal Tax Status of the Bonds will be maintained.

Section 5.5. Affirmative Covenants.

(a) **Maintenance of Project.** The Borrower shall maintain and preserve the Project in good working order and condition, ordinary wear and tear excepted, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to the Project. All damage to apartment units shall be repaired promptly and apartment units shall be maintained so as to be available at all times for habitation.

(b) **Keeping of Records and Books of Account.** The Borrower shall keep adequate records and books of account in which complete entries will be made in accordance with the requirements of HUD or indicating deviations therefrom, reflecting all financial transactions.

(c) Payment of Taxes, Etc. The Borrower shall promptly pay and discharge: all taxes, assessments, fees, and other Governmental charges or levies or imposed upon it or upon any of its properties, income or profits, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a lien upon its properties; any indebtedness heretofore or hereafter incurred by it when due, and discharge, perform and observe covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any lien existing at any time upon any of its properties; provided, however, that the Borrower shall not be required to pay any of the foregoing if (a) the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings, (b) the Borrower shall have set aside on its books adequate reserves with respect thereto and (c) the title of the Borrower to, and its right to use, its properties is not materially and adversely affected thereby. The Borrower hereby agrees that, in the event it fails to pay or cause to be paid taxes, assessments, fees and other Governmental charges or levies or the premium on any required insurance, the Trustee may make such payment, but is not obligated to do so, and the Borrower shall reimburse the Trustee therefor with interest on the amount so advanced at the Interest Rate for Advances.

(d) Insurance. The Borrower shall maintain or cause to be maintained at all times insurance of such types and in such amounts as may be required by the Mortgage Loan Documents and the Financing Documents. The Trustee and Issuer each agrees that insurance and condemnation proceeds shall be used to rebuild or restore the Project provided that (i) if such proceeds are not reasonably sufficient to so rebuild or repair, sufficient additional funds are provided from other sources to rebuild or restore the Project and (ii) Trustee and Issuer shall have the right to reasonably approve plans and specifications for any major rebuilding and the right to reasonably approve disbursement of such proceeds under a construction escrow or similar arrangement, subject to the prior rights of any senior lenders.

(e) Performance of Contracts, Etc. Except to the extent contested in good faith, the Borrower shall perform according to and shall comply with all of its contractual obligations and all requirements of law if nonperformance thereof would materially and adversely affect the business or credit of the Borrower on an individual basis or would materially impair the ability of the Borrower to perform this Agreement, the Regulatory Agreement or the Note or any other agreement or instrument herein or therein contemplated.

(f) Cooperation in Perfecting Security Interests, Etc. The Borrower shall promptly perform such acts as may be necessary or advisable to perfect and maintain any lien provided for in this Agreement or in any agreement or document contemplated herein or therein, or otherwise to carry out the intent of this Agreement. The Borrower shall, and shall promptly execute, deliver and perform or cause to be done, executed, delivered and performed all such documents, instruments, agreements, things and acts, including, without limitation, financing statements, continuation statements and mortgages as may be necessary or advisable to perfect or maintain a lien on any and all assets or rights owned by the Borrower, or any interest of the Borrower therein, and the Trustee and its officers, employees and authorized agents, or any of them, are hereby irrevocably appointed the attorneys-in-fact of the Borrower to do all acts and things which the Trustee may

deem necessary or advisable to preserve, perfect and continue perfected any lien in favor of the Trustee. The Trustee shall not be responsible for the initial filing of financial statements.

(g) Environmental Matters. The Borrower will take and continue to take prompt action to remedy all environmental pollution and contamination, hazardous waste disposal and other environmental cleanup problems, if any, whether or not such cleanup problems have resulted from the order or request of a municipal, state, federal, administrative or judicial authority, or otherwise. The foregoing covenant shall not constitute or create a waiver of any rights the Borrower may have to pursue any legal rights or remedies against any third party for any environmental claims.

(h) Non-discrimination. The Borrower will not and will require each contractor, subcontractor and commercial tenant of the Project to covenant that it will not discriminate by reason of race, creed, color, handicap, national origin or sex in the employment of any Person employed by it in connection with the Project or working in or on the Project. The Borrower will require each manager of the Project to covenant that in the leasing of the Project it will not discriminate by reason of race, creed, color, handicap, national origin or sex.

Section 5.6. Negative Covenants. So long as no Event of Default or Default hereunder shall have occurred and be continuing, the Borrower shall be permitted to incur any indebtedness for any Project Cost or other obligation or payment due under this Agreement, the Indenture or the Regulatory Agreement.

Section 5.7. Nature of Business. The Borrower will not change the general character of its business as conducted at the date hereof, or engage in any type of business not reasonably related to its business as normally conducted.

Section 5.8. Continuing Disclosure. The Borrower hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Agreement or the Indenture, failure of the Borrower to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder or under the Indenture or a default with respect to the Bonds or the Mortgage Loan Documents. The Borrower will provide to the Trustee and the Issuer copies of the annual financial statements of the Project and notices of material events provided pursuant to the Continuing Disclosure Agreement.

ARTICLE VI PREPAYMENT AND TERMINATION

Section 6.1. Optional Prepayment. Provided no Event of Default shall have occurred and be continuing, at any time and from time to time, the Borrower may deliver money to the Trustee in addition to Loan Payments or Additional Payments required to be made as a prepayment, in whole or in part, of the Loan and direct the Trustee to use the money so delivered for the purpose of purchasing Bonds, in accordance with the Indenture. Pending application for those purposes, any money so delivered shall be held by the Trustee in a special account in the Bond Fund and delivery of such money shall not operate to abate or postpone Loan Payments or Additional Payments otherwise becoming due or to alter or suspend any other obligations of the Borrower under this Agreement.

Section 6.2. Borrower's Obligations Upon Tender of Bonds. If any Tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Collateral Fund, the Negative Arbitrage Account of the Bond Fund, and the Project Fund as provided in Section 3.05(e) of the Indenture for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, an amount equal to the amount by which the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to Section 3.05(e) of the Indenture.

Section 6.3. Option to Terminate. The Borrower shall have the option to cancel or terminate this Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, and (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments and Additional Payments due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed, or, with respect to Additional Payments to become due, provisions satisfactory to the Trustee and the Issuer are made for paying such amounts as they come due. Such option shall be exercised by the Authorized Borrower Representative, on behalf of the Borrower, giving the Issuer and the Trustee five days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this Section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

ARTICLE VII EVENTS OF DEFAULT AND REMEDIES

Section 7.1. Events of Default. Each of the following shall be an Event of Default hereunder:

- (a) The Borrower shall fail to pay any Loan Payment on or prior to the date on which that Loan Payment is due and payable to the extent amounts on deposit in the Bond Fund, including amounts transferred from the Collateral Fund and the Project Fund are insufficient to pay the Bond Service Charges due on the next Bond Payment Date;
- (b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in this Agreement or any other Financing Document and the continuation of such failure for a period of 30 days after written notice thereof shall have been given to the Borrower and the Investor Limited Partner by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within 180 days after the aforementioned notice;
- (c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws, as now or hereafter in effect, which is not dismissed within 90 days; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency

or reorganization entered against it or have the proceeding remain undismissed and unstayed for 90 days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of 90 days;

(d) Any representation or warranty made by the Borrower herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given; and

(e) There shall occur an "Event of Default" (as defined in the Indenture) by the Borrower or an event of default shall have occurred beyond applicable notice and cure periods under the Regulatory Agreement.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (b) hereof, the Borrower shall not be deemed in default during the continuance of such inability. However, the Borrower shall promptly give notice to the Trustee and the Issuer of the existence of an event of Force Majeure and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

The term Force Majeure shall mean, without limitation, the following:

(i) acts of God; strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the Commonwealth or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(ii) any cause, circumstance or event not reasonably within the control of the Borrower.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Section 7.2. Remedies on Default. Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(a) If acceleration of the principal amount of the Bonds has been declared pursuant to Section 6.03 of the Indenture, the Trustee shall declare all Loan Payments to be due and payable together

with any other amounts payable by the Borrower under this Agreement and the Note whereupon the same shall become immediately due and payable;

(b) The Trustee may exercise any or all or any combination of the remedies specified in this Agreement or any other Financing Document;

(c) The Issuer or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project; or

(d) The Issuer or the Trustee may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under this Agreement and the Regulatory Agreement and the Note or to enforce the performance and observance of any other obligation or agreement of the Borrower under those instruments.

Notwithstanding the foregoing, neither the Issuer nor the Trustee shall be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the Issuer or the Trustee at no cost or expense to the Issuer or the Trustee. Any amounts collected as Loan Payments or applicable to Loan Payments and any other amounts which would be applicable to payment of Bond Service Charges collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, shall be paid as provided in Section 4.14 of the Indenture for transfers of remaining amounts in the Bond Fund.

The provisions of this Section are subject to the further limitation that the rescission by the Trustee of its declaration that all of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

Section 7.3. No Remedy Exclusive. No remedy conferred upon or reserved to the Issuer or the Trustee by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, the Regulatory Agreement or the Note, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

Section 7.4. Agreement to Pay Attorneys' Fees and Expenses. If an Event of Default should occur and the Issuer or the Trustee should incur expenses, including reasonable attorneys' fees, in connection with the enforcement of this Agreement, the Regulatory Agreement or the Note or the

collection of sums due thereunder, the Borrower shall reimburse the Issuer and the Trustee, as applicable, for the expenses so incurred upon demand.

Section 7.5. No Waiver. No failure by the Issuer or the Trustee to insist upon the strict performance by the Borrower of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision hereof.

Section 7.6. Notice of Default. The Borrower shall notify the Trustee immediately if it becomes aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

Section 7.7. Limited Partners' Cure Rights. The Issuer hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor Limited Partner shall be deemed to be a cure by the Borrower, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Borrower.

ARTICLE VIII MISCELLANEOUS

Section 8.1. Term of Agreement. This Agreement shall be and remain in full force and effect from the date of delivery of the Bonds to the Holder until such time as all of the Bonds shall have been fully paid (or provision made for such payment) pursuant to the Indenture and all other sums payable by the Borrower under this Agreement and the Note shall have been paid, except for obligations of the Borrower under Sections 3.8, 3.12, 4.4, 5.3, and 5.4 hereof, which shall survive any termination of this Agreement.

Section 8.2. Amounts Remaining in Funds. Subject to any applicable escheat laws, any amounts in the Bond Fund remaining unclaimed by the Holders of Bonds for four years after the due date thereof (whether at stated maturity or otherwise), at the option of the Borrower, shall be deemed to belong to and shall be paid, at the written request of the Borrower, to the Borrower by the Trustee as overpayment of Loan Payments. With respect to that principal of and interest on the Bonds to be paid from money paid to the Borrower pursuant to the preceding sentence, the Holders of the Bonds entitled to such money shall look solely to the Borrower for the payment of such money. Further, any amounts remaining in the Bond Fund, the Project Fund and any other Special Funds or accounts created under this Agreement, the Regulatory Agreement or the Indenture after all of the Outstanding Bonds shall be deemed to have been paid and discharged under the provisions of the Indenture and all other amounts required to be paid under this Agreement, the Note, Regulatory Agreement and the Indenture have been paid, shall, subject to Section 4.14 of the Indenture, be paid to the Borrower to the extent that such money are in excess of the amounts necessary to effect the payment and discharge of the Outstanding Bonds.

Section 8.3. Notices. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or forwarded by overnight courier service, delivery charges prepaid, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request

or other communication given hereunder to the Issuer, the Borrower, the Investor Limited Partner, the Mortgage Lender, or the Trustee shall also be given to the others. The Borrower, the Issuer, the Mortgage Lender, the Investor Limited Partner and the Trustee, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 8.4. Extent of Covenants of the Issuer; No Personal Liability. All covenants, obligations and agreements of the Issuer contained in this Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future commissioner, member, director, officer, agent or employee of the Issuer or the Governing Body in other than his official capacity, and neither the directors of the Governing Body nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Agreement or in the Indenture.

Section 8.5. Limited Liability of the Issuer. All obligations of the Issuer incurred hereunder and under the Indenture shall be limited obligations of the Issuer, payable solely and only from Bond proceeds, revenues and other amounts derived by the Issuer from the Trust Estate. No agreements or provisions contained in this Agreement or any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project or the issuance, sale and delivery of the Bonds shall give rise to any pecuniary liability of the Issuer or a charge against its general credit or shall obligate the Issuer financially in any way except with respect to this Agreement and the application of revenues therefrom that have been pledged to the payment of the Bonds and of the proceeds of the Bonds. No failure of the Issuer to comply with any term, condition, covenant or agreement herein shall subject the Issuer to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from this Agreement or revenues therefrom that have been pledged to the payment of the Bonds or proceeds of the Bonds. Nothing herein shall preclude a proper party in interest from seeking and obtaining to the extent permitted by law specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement herein; provided that no costs, expenses or other monetary relief shall be recoverable from the Issuer except as may be payable from this Agreement or revenues therefrom that have been pledged to the payment of the Bonds or the proceeds of the Bonds. Anything herein to the contrary notwithstanding, the Issuer shall not be obligated to take any action or execute any instruments pursuant to any provision of this Agreement until it shall have been requested to do so by the Borrower or the Trustee and shall have received from the Borrower, the Trustee, or the Holders assurance satisfactory to the Issuer that it will be indemnified, and reimbursed for its reasonable expenses incurred in taking such action or executing such instruments.

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO

CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE COMMONWEALTH OR OF ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

NEITHER THE DIRECTORS OF THE ISSUER NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS BY REASON OF THE ISSUANCE THEREOF. THE BONDS AND OTHER OBLIGATIONS OF THE ISSUER SHALL NOT BE A DEBT OF THE COUNTY, THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) AND NEITHER THE COUNTY, NOR THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE ISSUER) SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL SUCH BONDS OR OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE ISSUER. THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

Section 8.6. Limited Liability of Borrower. Anything in this Agreement to the contrary notwithstanding, the monetary obligations of the Borrower contained in this Agreement (except for fees, payments and indemnification under Sections 3.12, 4.4, 5.3 and 7.4 hereof) shall be limited obligations payable solely from the income and assets of the Project and neither the Borrower nor any partner, manager, member, director, official or officer of the Borrower shall have any personal liability for the satisfaction of any obligation of the Borrower or claim against the Borrower, arising out of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, neither the Mortgage Lender, the Issuer nor the Trustee may assert any claim arising hereunder against the Borrower's interest in the Project, any reserve or deposit made with the Mortgage Lender or with any other entity that is required by HUD in connection with the Mortgage Loan, or in the rents or other income of the Project for the payment of any charge due hereunder except to the extent available from then currently available "Surplus Cash" as that term is defined in the HUD Regulatory Agreement approved for distribution by HUD (but in no event greater than 75% of the total amount of Surplus Cash).

Section 8.7. Binding Effect. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Issuer, the Borrower, the Trustee and their respective permitted successors and assigns provided that this Agreement may not be assigned by the Borrower (except in connection with a sale or transfer of assets pursuant to Section 5.2 hereof) and

may not be assigned by the Issuer except to the Trustee pursuant to the Indenture or as otherwise may be necessary to enforce or secure payment of Bond Service Charges. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

Section 8.8. Amendments and Supplements. Except as otherwise expressly provided in this Agreement or the Indenture, subsequent to the issuance of the Bonds and prior to all conditions provided for in the Indenture for release of the Indenture having been met, this Agreement, the Regulatory Agreement and the Note may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of Article X of the Indenture, as applicable. The Borrower acknowledges and agrees that the Trustee is a third party beneficiary of certain provisions of this Agreement and no amendment hereof that adversely impacts the Trustee shall be effective unless consented to by the Trustee.

Section 8.9. Execution Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 8.10. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 8.11. Governing Law. This Agreement shall be deemed to be a contract made under the laws of the Commonwealth and for all purposes shall be governed by and construed in accordance with the laws of the Commonwealth.

Section 8.12. Mortgage Loan Documents and Regulations Control.

(a) In the event of any conflict and to the extent that there is any inconsistency or ambiguity between the provisions of this Agreement and the provisions of the Controlling HUD and GNMA Requirements or the Mortgage Loan Documents, the Controlling HUD and GNMA Requirements and Mortgage Loan Documents will be deemed to be controlling, and any such ambiguity or inconsistency will be resolved in favor of, and pursuant to the terms of the Controlling HUD and GNMA Requirements and Mortgage Loan Documents, as applicable.

(b) Enforcement of the covenants in this Agreement will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Project, the Mortgage Loan proceeds, any reserves or deposits required by HUD in connection with the Mortgage Loan transaction, or the rents or deposits or other income of the Project other than available “Surplus Cash” as defined in the HUD Regulatory Agreement (but in no event greater than 75% of the total amount of Surplus Cash).

(c) Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Agreement will not serve as a basis for default on the Mortgage Loan, the underlying deed of trust, or any of the other Mortgage Loan Documents.

[Signature Page Follows]

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Agreement to be duly executed in their respective names, all as of the date hereinbefore written.

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA**

By: _____
Chair

ATTEST:

By: _____
Secretary

BLAINE LANDING PHASE II, L.P., a Virginia
limited partnership
By: Blaine Landing Phase II GP, L.L.C., its General
Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

SCHEDULE I
FORM OF REGULATORY AGREEMENT

(See Attached)

EXHIBIT A
FORM OF NOTE

This Note has not been registered under the Securities Act of 1933. Its transferability is restricted by the Trust Indenture and the Loan Agreement referred to herein.

[\$8,000,000]

[December 1], 2022

Blaine Landing Phase II, L.P., a Virginia limited partnership (the "**Borrower**"), for value received, promises to pay in installments to the Economic Development Authority of James City County, Virginia (the "**Issuer**"), the principal amount of

EIGHT MILLION AND 00/100 DOLLARS ([\$8,000,000])

and to pay interest on the unpaid balance of such principal sum from and after the date hereof at the rate or rates set forth in the Bonds (as defined below), until the payment of such principal sum has been made or provided for. The principal amount stated above shall be paid on or before [January 1, 2026]. Interest shall be calculated on the basis of a 360-day year of 12 equal months. Interest on this Note shall be paid in Federal Reserve funds on each Interest Payment Date set forth in the Bonds.

This Note has been executed and delivered by the Borrower to U.S. Bank Trust Company, National Association as trustee (the "**Trustee**") under the Indenture hereinafter referred to pursuant to a certain Loan Agreement (the "**Loan Agreement**") dated as of [December] 1, 2022, between the Issuer and the Borrower. Terms used but not defined herein shall have the meanings ascribed to such terms in the Loan Agreement and the Indenture, as defined below.

Under the Loan Agreement, the Issuer has loaned the Borrower the principal proceeds received from the sale of the Issuer's [\$8,000,000] Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022 dated [December 1], 2022 (the "**Bonds**") to assist in the financing of the Project, and the Borrower has agreed to repay such loan by making payments ("**Loan Payments**") at the times and in the amounts set forth in this Note for application to the payment of Bond Service Charges on the Bonds as and when due. The Bonds have been issued, concurrently with the execution and delivery of this Note, pursuant to, and are secured by, the Trust Indenture (the "**Indenture**"), dated as of [December] 1, 2022, between the Issuer and the Trustee. The Issuer's rights under the Loan Agreement and this Note (other than the Reserved Rights, as defined in the Indenture) have been assigned to the Trustee pursuant to the Indenture and the Endorsement attached hereto.

To provide funds to pay the principal of and interest on the Bonds as and when due as specified herein, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on each Interest Payment Date in an amount equal to the Bond Service Charges on the Bonds payable on such Interest Payment Date. In addition, to provide funds to pay the Bond Service Charges on the Bonds as and when due at any other time, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on any other date on which any Bond Service Charges on the Bonds shall be due and payable, whether at maturity, upon acceleration or otherwise, in an amount equal to those Bond Service Charges.

If payment or provision for payment in accordance with the Indenture is made in respect of the Bond Service Charges on the Bonds from money other than Loan Payments, this Note shall be deemed paid to the extent such payments or provision for payment of Bonds has been made. Consistent with the provisions of the immediately preceding sentence, the Borrower shall have credited against its obligation to make Loan Payments any amounts transferred from the Project Fund or the Collateral Fund to the Bond Fund. Subject to the foregoing, all Loan Payments shall be in the full amount required hereunder.

All Loan Payments shall be made to the Trustee at its Designated Office for the account of the Issuer and deposited in the Bond Fund created by the Indenture. Except as otherwise provided in the Indenture, the Loan Payments shall be used by the Trustee to pay the Bond Service Charges on the Bonds as and when due.

The obligation of the Borrower to make the payments required hereunder shall be absolute and unconditional and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other person.

This Note is subject to prepayment, in whole or in part, without premium or penalty, upon the terms and conditions set forth in Article VI of the Loan Agreement. Any prepayment is subject to satisfaction of any applicable notice, deposit or other requirements set forth in the Agreement or the Indenture.

Whenever an Event of Default under Section 6.01 of the Indenture shall have occurred and, as a result thereof, the principal of and any premium on all Bonds then Outstanding, and interest accrued thereon, shall have been declared to be immediately due and payable pursuant to Section 6.03 of the Indenture, the unpaid principal amount of and any premium and accrued interest on this Note shall also be due and payable in Federal Reserve funds on the date on which the principal of and premium and interest on the Bonds shall have been declared due and payable; provided that the annulment of a declaration of acceleration with respect to the Bonds shall also constitute an annulment of any corresponding declaration with respect to this Note.

The payment obligations of this Note are non-recourse to the Borrower to the extent set forth in Section 8.6 of the Loan Agreement.

This Note shall be construed and enforced according to, and governed by, the laws of the Commonwealth of Virginia, without regard to conflicts of laws principles.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed in its name as of the date first above written.

BLAINE LANDING PHASE II, L.P., a Virginia
limited partnership

[Reserved for Borrower Signature Block]

ENDORSEMENT

Pay to the order of U.S. Bank Trust Company, National Association, as trustee, without recourse, as Trustee under the Indenture referred to in the within mentioned Note, as security for the Bonds issued under the Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Note.

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA**

By: _____
Chair

Dated: [December 1], 2022

EXHIBIT B

FORM OF DISBURSEMENT REQUEST

STATEMENT NO. _____ REQUESTING DISBURSEMENT OF FUNDS FROM
PROJECT FUND PURSUANT TO SECTION 3.6 OF THE LOAN AGREEMENT

Pursuant to Section 3.6 of the Loan Agreement (the "**Loan Agreement**") between the Economic Development Authority of James City County, Virginia (the "**Issuer**") and Blaine Landing Phase II, L.P., a Virginia limited partnership (the "**Borrower**") dated as of [December] 1, 2022, the undersigned Authorized Borrower Representative hereby requests and authorizes U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**"), as depositary of the Project Fund created by the Trust Indenture between the Issuer and the Trustee dated as of [December] 1, 2022 (the "**Indenture**"), to make a disbursement out of the money deposited in the Project Fund.

Disbursement is subject to the following conditions:

- (1) The amount of this disbursement shall be \$_____.
- (2) The expected disbursement date is _____.
- (3) The disbursement is conditioned on receipt by the Trustee of the amount of \$_____ by wire transfer from [the Issuer][the Mortgage Lender] prior to the disbursement requested by this Disbursement Request.
- (4) AGM Financial Services, Inc. (the "**Mortgage Lender**") has directed that disbursement is to be made in accordance with the following wire instructions:

In connection with the foregoing request and authorization, the undersigned Authorized Borrower Representative hereby certifies that:

- (a) Each item for which disbursement is requested hereunder is properly payable out of the Project Fund in accordance with the terms and conditions of the Loan Agreement and none of those items has formed the basis for any disbursement heretofore made from said Project Fund.
- (b) Each such item is or was necessary in connection with the acquisition, construction, installation, equipment or improvement of the Project, as defined in the Indenture.
- (c) Each item for which disbursement is requested hereunder, and the cost for each such item, is as described in the information statement filed by the Issuer in connection with the issuance of the Bonds (as defined in the Indenture), as required by Section 149(e) of the Code; provided that if any such item is not as described in that information statement, attached hereto is an Opinion of

Bond Counsel to the effect that such disbursement will not adversely affect the Federal Tax Status of the Bonds.

(d) There is no current or existing Event of Default pursuant to the terms of the Loan Agreement or the Regulatory Agreement and no event exists which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.

(e) No amount for which disbursement is sought formed the basis for any prior disbursement.

(f) Each item for which disbursement is sought was or is necessary in connection with the Project and qualifies for disbursement pursuant to the provisions of the Loan Agreement.

(g) No representation or warranty of the Borrower contained in the Loan Agreement or the Regulatory Agreement is materially incorrect or inaccurate, and there has been no event of default under the terms of any of those documents and no event shall exist which by notice, passage of time or both would constitute an event of default under any of those documents.

(h) This statement shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto.

(i) No Determination of Taxability (as defined in the Indenture) has occurred with respect to the Bonds.

This statement constitutes the approval of the Borrower of each disbursement hereby requested and authorized.

Date: _____, 20__

By: _____
Authorized Borrower Representative

Approval by the undersigned Mortgage Lender does not constitute any representation or certification that the Bond proceeds disbursed from the Project Fund are being allocated for payment of so called "good costs" for purposes of the tax exemption of the Bonds under the Internal Revenue Code.

APPROVED:

AGM Financial Services, Inc.

By: _____
Its: _____

EXHIBIT C

[\$8,000,000]

Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022

FORM OF COMPLETION CERTIFICATE

Pursuant to Section 3.9 of the Loan Agreement (the "**Loan Agreement**") between the Economic Development Authority of James City County, Virginia (the "**Issuer**") and Blaine Landing Phase II, L.P., a Virginia limited partnership (the "**Borrower**") dated as of [December] 1, 2022, and relating to the captioned Bonds, the undersigned Authorized Borrower Representative hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned or referenced in the Loan Agreement):

- (a) The construction of the Project was substantially completed and available and suitable for use as multifamily housing on _____.
- (b) The acquisition, construction, equipping and improvement of the Project have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations.
- (c) The costs of the Project financed with the Loan were \$_____.
- (d) The applicable Government having jurisdiction over the Project has issued all required certificates of occupancy with respect to each building in the Project.
- (e) At least 95% of the proceeds of the Bonds were expended for qualified Project costs as described in the Tax Agreement.
- (f) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

IN WITNESS WHEREOF, the Authorized Borrower Representative has set his or her hand as of the ____ day of _____.

By: _____
Authorized Borrower Representative

EXHIBIT D
SOURCES AND USES

[To Come]

BOND PURCHASE AGREEMENT

Dated November __, 2022

by and among

STIFEL, NICOLAUS & COMPANY, INCORPORATED,

ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA

and

BLAINE LANDING PHASE II, L.P.

Relating to:

\$8,800,000

ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA

MULTIFAMILY HOUSING REVENUE BONDS

(BLAINE LANDING PHASE II), SERIES 2022

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BOND PURCHASE AGREEMENT

Stifel, Nicolaus & Company, Incorporated (the “*Underwriter*”), on its own behalf and not as your fiduciary, hereby offers to enter into this Bond Purchase Agreement dated November __, 2022 (this “*Purchase Contract*”) with the Economic Development Authority of James City County, Virginia (together with its successors and assigns, the “*Issuer*”) and Blaine Landing Phase II, L.P., a Virginia limited partnership (the “*Borrower*”), for the sale by the Issuer and the purchase by the Underwriter of the Bonds defined below which are being issued by the Issuer for the benefit of the Borrower. The Underwriter is an “underwriter” as defined in Section 2(a)(11) of the Securities Act of 1933, as amended (the “*1933 Act*”). This offer is made subject to the written acceptance hereof by the Issuer and the Borrower and delivery of such acceptance (in the form of one or more counterparts hereof) at or prior to 5:00 p.m., Eastern Time, on the date hereof, and will expire if not so accepted at or prior to such time (or such later time as the Underwriter may agree in writing). Upon such acceptance, this Purchase Contract will be binding upon each of the Issuer, the Borrower and the Underwriter.

Section 1. Definitions and Background.

1.1 Capitalized terms used in this Purchase Contract but not defined herein have the meanings assigned to them in Trust Indenture by and between the Issuer and U.S. Bank Trust Company, National Association, a national banking association (the “*Trustee*”) dated as of December 1, 2022 (the “*Indenture*”).

1.2 This Purchase Contract is for the sale and delivery of the Issuer’s \$8,800,000 Economic Development Authority of James City County, Virginia Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022 (the “*Bonds*”) which are being issued by the Issuer to provide financing for the Project. The Bonds will be issued pursuant to (i) that certain resolution of the Issuer adopted November 15, 2022 (the “*Bond Resolution*”), (ii) the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as amended (the “*Act*”), and (iii) the terms of the Indenture. The Bonds will be payable from sources pledged under the Indenture, including the moneys and securities from time to time held by the Trustee in the funds and accounts established under the terms of the Indenture (collectively, the “*Trust Estate*”). In connection with the issuance of the Bonds, the Issuer will execute and deliver this Purchase Contract; the Indenture; the Loan Agreement by and between the Issuer and the Borrower (the “*Loan Agreement*”) dated as of December 1, 2022; the Tax Certificate and Agreement of the Issuer and the Borrower dated December __, 2022 (the “*Tax Agreement*”); and the Regulatory Agreement and Declaration of Restrictive Covenants (the “*Regulatory Agreement*”) (collectively, the “*Issuer Documents*”) and the Borrower will execute and deliver this Purchase Contract, the Loan Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement, the Tax Agreement, and the Regulatory Agreement (collectively, the “*Borrower Documents*”). The Issuer Documents and the Borrower Documents are referred to herein as the “*Financing Documents*.”

Section 2. Purchase and Sale.

2.1 Subject to the terms and conditions set forth in this Purchase Contract, the Underwriter hereby agrees to purchase from the Issuer and the Issuer hereby agrees to sell to the Underwriter, at the Closing (as hereafter defined), \$8,800,000 aggregate principal amount of its Bonds at a price set forth in Exhibit A attached hereto.

2.2 The Bonds will (i) be issued pursuant to the Indenture and (ii) have the payment related terms (that is, the dated date, maturity date, interest rate and price) set forth in Exhibit A attached hereto, and will otherwise correspond to the description thereof contained in the Official Statement.

2.3 The Issuer, the Borrower and the Underwriter each acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to this Purchase Contract is an arm's-length commercial transaction among the Issuer, the Borrower and the Underwriter, (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as a principal and is not acting as the agent, municipal advisor, financial advisor, or fiduciary of the Issuer or the Borrower, (iii) the Underwriter has not assumed individually or collectively any advisory or fiduciary responsibility in favor of the Issuer or the Borrower with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has advised or provided other services or is currently advising or providing other services to the Issuer or the Borrower on other matters) and the Underwriter has no contractual obligation to the Issuer or the Borrower with respect to the offering contemplated hereby except the obligations expressly set forth in this Purchase Contract, and (iv) the Issuer and the Borrower have consulted their own legal, financial, accounting, tax and other advisors to the extent they deem appropriate in connection with the offering of the Bonds. The primary role of the Underwriter is to purchase the Bonds for resale to investors in an arm's-length commercial transaction between the Issuer and the Underwriter. The Underwriter has financial and other interests that differ from those of the Issuer.

Section 3. Issue Price.

The Underwriter will provide to the Issuer an executed Issue Price Certificate dated the Closing Date (as defined herein) in the form attached as Exhibit E hereto or other form reasonably required by Bond Counsel in order to establish the issue price of the Bonds. The Underwriter reserves the right to change such prices as it deems necessary in connection with the offering of the Bonds. Concessions from the public offering price may be allowed to selected dealers and special purchasers. The Borrower authorizes the Underwriter to complete the supplement to the Official Statement to insert the reoffering price for the Bonds selected by the Underwriter in its complete discretion.

Section 4. Closing.

Subject to the terms and conditions hereof, the delivery of the Bonds and the payment of the purchase price of the Bonds as set forth in Exhibit A hereof (the "*Closing*") will take place at 10:00 a.m. Eastern Time on December __, 2022, or at such other time or on such other date mutually agreed upon by the Issuer, the Borrower and the Underwriter, which date shall be referred to herein as the "*Closing Date*."

Section 5. Official Statement; Disclosure Matters.

5.1 The Issuer and the Borrower each hereby (a) confirms its consent to the use by the Underwriter of the Preliminary Official Statement dated November __, 2022, relating to the Bonds (the "*Preliminary Official Statement*") in the marketing of the Bonds and (b) authorizes the Underwriter to prepare, use and distribute (at the expense of the Borrower) the Official Statement dated November __, 2022, relating to the Bonds (the "*Official Statement*") in final form in connection with the offering and sale of the Bonds.

5.2 The Issuer and the Borrower each agrees to the extent required and permitted by applicable law to cooperate (at the sole cost and expense of the Borrower) with the Underwriter so as to enable the Underwriter to comply with the requirements of Rule 15c2-12 ("*Rule 15c2-12*") under the Securities Exchange Act of 1934, as amended (the "*1934 Act*"), and any other rules of the Securities and Exchange Commission (the "*SEC*") and the Municipal Securities Rulemaking Board (the "*MSRB*"), in connection with the offer and sale of the Bonds.

5.3 The Issuer and the Borrower hereby make the following representations in subsection (a) and (b) respectively:

(a) The Issuer hereby certifies and agrees that the information in the Preliminary Official Statement as of its date and the Official Statement under the captions “THE ISSUER” and ABSENCE OF LITIGATION – The Issuer” has been “deemed final” by the Issuer as of its date, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under part (b)(1) of Rule 15c2-12.

(b) The Borrower hereby certifies and agrees that the Preliminary Official Statement and the Official Statement have been “deemed final” by the Borrower as of their dates, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under part (b)(1) of Rule 15c2-12.

5.4 The Issuer and the Borrower hereby make the following representations in subsection (a) and (b), respectively:

(a) The Issuer hereby represents that the information in the Preliminary Official Statement and the Official Statement under the captions “THE ISSUER” and “ABSENCE OF LITIGATION – The Issuer” is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(b) The Borrower hereby represents that the information in the Preliminary Official Statement and the Official Statement is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

5.5 The Issuer and the Borrower will, at the expense of the Borrower, supply to the Underwriter the Official Statement, in such quantity as may be requested by the Underwriter no later than the earlier of (i) seven (7) business days after the date of this Purchase Contract or (ii) one (1) business day prior to the Closing Date, in order to permit the Underwriter to comply with Rule 15c2-12, and the applicable rules of the MSRB, with respect to distribution of the Official Statement. The Borrower shall provide to the Underwriter the Official Statement, including any amendments thereto, in word-searchable PDF format as described in the MSRB’s Rule G-32 no later than one (1) business day prior to the Closing Date to enable the Underwriter to comply with MSRB Rule G-32.

5.6 During the period commencing on the date of this Purchase Contract and ending on the earlier of (a) 90 days from the End of the Underwriting Period or (b) the time when the Official Statement is available to any person from the MSRB, but in no case less than 25 days following the End of the Underwriting Period (the “*Update Period*”), if any event shall occur which would cause the Official Statement to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, and in the judgment of the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Issuer (to the extent of the provisions referred to in Section 5.4(a) hereof) and the Borrower will, at the expense of the Borrower, prepare or cooperate in the preparation of such supplement or amendment to the Official Statement in a form approved by the Underwriter and furnish or cooperate in the furnishing to the Underwriter (at the sole expense of the Borrower) a reasonable number of copies of an amendment of, or a supplement to the Official Statement

so that, as supplemented or amended, it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. If the Official Statement is so supplemented or amended prior to the Closing, the approval by the Underwriter of a supplement or amendment to the Official Statement shall not preclude the Underwriter from thereafter terminating this Purchase Contract in accordance with the provisions of Section 12(c) hereof. The “*End of the Underwriting Period*” means the later of the delivery of the Bonds by the Issuer to the Underwriter or when the Underwriter no longer retains (directly or as a syndicate member) an unsold balance of the Bonds for sale to the public; provided, that the “*End of the Underwriting Period*” shall be deemed to be the Closing Date, unless the Underwriter otherwise notifies the Issuer and the Borrower in writing prior to such date that there is an unsold balance of the Bonds, in which case the End of the Underwriting Period shall be deemed to be extended for 30 days. The deemed End of the Underwriting Period may be extended for two additional periods of 30 days each upon receipt of an additional written notification from the Underwriter containing the same information as required in the initial written notice.

5.7 If, during the Update Period, the Issuer becomes aware of any event relating to the information concerning the Issuer under the captions “THE ISSUER” and ABSENCE OF LITIGATION – The Issuer” of the Official Statement which would cause such portions of the Official Statement to contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Issuer will promptly notify the Underwriter of such event.

5.8 The Issuer shall promptly advise the Underwriter, during the Update Period, of any action, suit, proceeding, inquiry or investigation against the Issuer, of which the Issuer has actual knowledge, seeking to prohibit, restrain or otherwise affect the use of the Preliminary Official Statement or the Official Statement in connection with the offering, sale or distribution of the Bonds.

5.9 If, during the Update Period, the Borrower becomes aware of any event which would cause the Preliminary Official Statement or the Official Statement to contain any untrue statement of a material fact or to omit to state any material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Borrower will promptly notify the Underwriter and the Issuer of such event.

5.10 The Borrower shall promptly advise the Underwriter, during the Update Period, of any action, suit, proceeding, inquiry or investigation against the Borrower, of which they receive written or actual notice, seeking to prohibit, restrain or otherwise affect the use of the Preliminary Official Statement or the Official Statement in connection with the offering, sale or distribution of the Bonds.

5.11 The Borrower represents and warrants to the Underwriter and the Issuer that neither the Borrower nor any affiliates thereof are in default under any undertakings with respect to continuing disclosure requirements designed to comply with Rule 15c2-12 in connection with any issue of municipal securities.

Section 6. Representations of the Issuer.

6.1 In addition to the representations contained in Section 5 herein, the Issuer hereby makes the following representations to the Underwriter:

(a) The Issuer is a political subdivision of the Commonwealth of Virginia (the “Commonwealth”), and has full power and authority under the Act to adopt the Bond Resolution and to enter into and to perform its obligations under the Issuer Documents; and when executed

and delivered by the respective parties thereto, the Issuer Documents will constitute the legal, valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitation on legal remedies against units of government of the Commonwealth;

(b) By official action of the Issuer prior to or concurrently with the acceptance hereof, the Issuer has approved and authorized the distribution of the Preliminary Official Statement and the Official Statement and authorized and approved the execution and delivery of the Issuer Documents and the consummation by the Issuer of the transactions contemplated thereby;

(c) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending, or threatened against the Issuer seeking to restrain or enjoin the sale or issuance of the Bonds, or in any way contesting or affecting any proceedings of the Issuer taken concerning the sale thereof, the pledge or application of any moneys or security provided for the payment of the Bonds, in any way contesting the validity or enforceability of the Issuer Documents or contesting in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or the existence or powers of the Issuer relating to the sale of the Bonds;

(d) The execution and delivery by the Issuer of the Issuer Documents and compliance with the provisions on the Issuer's part contained therein will neither (i) conflict with or constitute a material breach of or default under any law, administrative regulation, judgment or decree to which the Issuer is subject, (ii) conflict with any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Issuer is a party or is otherwise subject, nor (iii) result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Issuer under the terms of any such law, administrative regulation, judgment, decree, loan agreement, financing agreement, indenture, bond, security, note, resolution, agreement or other instrument, except as provided by the Issuer Documents;

(e) Except as may be required under Blue Sky or other securities laws of any state and for filings to be made with the Internal Revenue Service on Form 8038, to the Issuer's knowledge, there is no consent, approval, authorization or other order of, or filing with, or certification by, any state court, or state or federal governmental agency, or public body of any state required for the execution and delivery of the Issuer Documents or the consummation by the Issuer of the transactions on its part contemplated herein or therein, which has not been duly obtained or made on or prior to the date hereof;

(f) Upon delivery of the Bonds, the Issuer will have good right, full power and lawful authority to pledge and assign the Trust Estate described in the Indenture to the Trustee as provided in the Indenture and the Bond Resolution;

(g) The Issuer has complied in all material respects with the Bond Resolution and the Issuer Documents; and

(h) The Bonds, when delivered in accordance with the Indenture and paid for by the Underwriter on the Closing Date as provided herein, will be validly issued and outstanding special, limited obligations of the Issuer entitled to all the benefits and security of the Indenture.

6.2 The execution and delivery of this Purchase Contract by the Issuer shall constitute a representation by the Issuer to the Underwriter that the representations and agreements contained in this Section are true as of the date hereof; provided, however, that as to information furnished by the Borrower pursuant to this Purchase Contract, the Issuer is relying solely on such information in making the Issuer's representations and agreements, and as to all matters of law the Issuer is relying on the advice of Bond Counsel; and provided further, that no member, officer, agent or employee of the Issuer shall be individually liable for the breach of any representation, or agreement contained herein.

6.3 It is understood that the representations and covenants of the Issuer contained in this Section 6 and elsewhere in this Purchase Contract shall not create any general obligation or liability of the Issuer, and that any obligation or liability of the Issuer hereunder or under the Issuer Documents is payable solely out of the Trust Estate established under the Indenture. It is further understood and agreed that the Issuer makes no representations, except as set forth in paragraph 5.4(a) above, as to the Official Statement, or as to (i) the financial condition, results of operation, business or prospects of the Borrower or the Project, (ii) any statements (financial or otherwise), representations, documents or certification provided or to be provided by the Borrower in connection with the offer or sale of the Bonds, or (iii) the correctness, completeness or accuracy of such statements, representations, documents or certifications.

Section 7. Representations and Warranties of the Borrower.

7.1 In addition to the representations and warranties made in Section 5 herein, the Borrower hereby makes the following representations and warranties to the Underwriter and the Issuer, all of which will continue in effect subsequent to the purchase of the Bonds:

(a) The Borrower is a limited partnership duly organized and existing under and pursuant to the laws of the Commonwealth and is qualified to own the Project and conduct its business in the Commonwealth.

(b) The Borrower has, and as of the Closing Date will have, full legal right, power and authority to (i) execute and deliver the Borrower Documents, (ii) assist in the preparation, distribution and use of the Preliminary Official Statement and the Official Statement, and (iii) otherwise consummate the transactions contemplated by the Borrower Documents.

(c) The Borrower has duly authorized the (i) execution and delivery of the Borrower Documents, (ii) performance by the Borrower of the obligations contained in the Borrower Documents, (iii) preparation of the Preliminary Official Statement and the Official Statement, and (iv) consummation by the Borrower of all of the transactions contemplated by the Borrower Documents.

(d) The Borrower Documents are, and, when executed and delivered by the Borrower and the other parties thereto, will be, the legal, valid and binding obligations of the Borrower, enforceable in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(e) All consents, approvals, orders or authorizations of, notices to, or filings, registrations or declarations with any governmental authority, board, agency, commission or body having jurisdiction which are required on behalf of the Borrower for the execution and delivery by the Borrower of the Borrower Documents or the consummation by the Borrower of the transactions contemplated hereby or thereby, have been obtained or will be obtained prior to Closing.

(f) The execution and delivery by the Borrower of the Borrower Documents and the consummation by the Borrower of the transactions contemplated hereby and thereby are not prohibited by, do not violate any provision of, and will not result in the breach of or default under (i) the organizational documents of the Borrower, (ii) any applicable law, rule, regulation, judgment, decree, order or other requirement to which the Borrower is subject, or (iii) any contract, indenture, agreement, mortgage, lease, note, commitment or other obligation or instrument to which the Borrower is a party or by which the Borrower or its properties are bound.

(g) There is no legal action, suit, proceeding, investigation or inquiry at law or in equity, before or by any court, agency, arbitrator, public board or body or other entity or person, pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any partner or member of the Borrower, in their respective capacities as such, nor, to the knowledge of the Borrower, any basis therefor, (i) which would restrain or enjoin the issuance or delivery of the Bonds, the use of the Preliminary Official Statement or the Official Statement in the marketing of the Bonds or the collection of revenues pledged under or pursuant to the Borrower Documents or (ii) which would in any way contest or affect the organization or existence of the Borrower or the entitlement of any officer of the Borrower to its position or (iii) which would contest or have a material and adverse effect upon (A) the due performance by the Borrower of the transactions contemplated by the Preliminary Official Statement, the Official Statement or the Borrower Documents, (B) the validity or enforceability of the Bonds, the Borrower Documents or any other agreement or instrument to which the Borrower is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby and thereby, (C) the exclusion from gross income for federal income tax purposes of the interest on the Bonds or (D) the financial condition or operations of the Borrower, (iv) which contests in any way the completeness or accuracy of the Preliminary Official Statement or the Official Statement or (v) which questions the power or authority of the Borrower to carry out the transactions on its part contemplated by the Preliminary Official Statement, the Official Statement and the Borrower Documents, or the power of the Borrower to own or operate the Project. The Borrower is not subject to any judgment, decree or order entered in any lawsuit or proceeding brought against it that would have such an effect.

(h) On the Closing Date, the Borrower shall not have granted any interests in or rights or options to sell the Bonds to any other party.

(i) All permits (including building permits), licenses and authorizations necessary for the ownership and operation of its Project in the manner contemplated by the Preliminary Official Statement, the Official Statement and each of the Borrower Documents have been obtained or will be obtained, and said ownership and operation are not in conflict with any zoning or similar ordinance applicable to the Project. The Project conforms to all material environmental regulations.

(j) None of the Borrower, any guarantor of the Borrower or any “related person” to the Borrower within the meaning of Section 147 of the Code has acquired or shall acquire, pursuant to any arrangement, formal or informal, any Bonds.

(k) The Borrower has not taken or omitted to take on or prior to the date hereof any action that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(l) On the Closing Date, each of the representations and warranties of the Borrower contained in the Borrower Documents and all other documents executed by the Borrower in connection with the Bonds shall be true, correct and complete in all material respects.

(m) As of the Closing Date, the Borrower will not be in material default under any document, instrument or commitment to which the Borrower is a party or to which any of its property is subject which default would or could reasonably be expected to adversely affect the ability of the Borrower to carry out its obligations under the Borrower Documents. As of the Closing Date, the Borrower will be in compliance with all of its obligations under the Regulatory Agreement.

(n) The Borrower is in compliance with all of its prior continuing disclosure undertakings entered into pursuant to Rule 15c2-12, if any.

7.2 Each of the representations and warranties set forth in this Section 7 will survive the Closing.

7.3 Any certificate signed by any officer of the Borrower and delivered to the Underwriter in connection with the delivery of the Bonds will be deemed to be a representation and warranty by the Borrower to the Underwriter as to the statements made therein.

Section 8. Covenants of the Issuer.

8.1 The Issuer hereby makes the following covenants with the Underwriter:

(a) Prior to the Closing, the Issuer will not supplement or amend the Official Statement or cause the Official Statement to be supplemented or amended without providing reasonable notice of such proposed supplement or amendment to the Underwriter. Neither the receipt by the Underwriter of notice of a proposed supplement or amendment nor the consent by the Underwriter to such supplement or amendment shall abrogate the Underwriter's rights under Section 12(c) hereof.

(b) Prior to the Closing, the Issuer will not amend, terminate or rescind, and will not agree to any amendment, termination or rescission of the Issuer Documents without the prior written consent of the Underwriter.

(c) Prior to the Closing, except as provided in the Issuer Documents, the Issuer will not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds or interests which will be pledged pursuant to the Indenture, including, without limitation, the Bonds or the Issuer Documents.

(d) The Issuer will not take any action which will in any way cause the proceeds of the Bonds to be applied in a manner other than as provided in the Indenture and described in the Official Statement or which would cause the interest on the Bonds to be includable in the gross income of the holders thereof for federal income tax purposes.

(e) Prior to the Closing, the Issuer will obtain all governmental consents, approvals, orders or authorizations of any governmental authority or agency that would constitute a condition precedent to the performance by it of its obligations under the Issuer Documents and the Bonds.

(f) The Issuer will reasonably cooperate with the Underwriter upon request, without cost to the Issuer, in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriter may designate; provided that the foregoing shall not require the Issuer to expend its own funds, execute a general or special consent to service of process or to qualify as a foreign corporation in connection with such qualification in any foreign jurisdiction.

(g) The Issuer will not adopt any amendment of or supplement to the Official Statement to which, after having been furnished a copy, the Underwriter shall reasonably object in writing and if any event relating to or affecting the Issuer or the Borrower shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement so that it does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, the Issuer shall cause to be forthwith prepared and furnished (at the sole expense of the Borrower) to the Underwriter a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriter) that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 9. Covenants of the Borrower.

9.1 The Borrower hereby makes the following covenants with the Underwriter and the Issuer:

(a) The Borrower will not supplement or amend the Official Statement or cause the Official Statement to be supplemented or amended without providing reasonable notice of such proposed supplement or amendment to the Underwriter and the Issuer. It is understood pursuant to Section 12(c) that, in the event there arises an event or condition which, in the reasonable judgment of the Underwriter, requires the Official Statement to be amended or supplemented or has a material and adverse effect upon the marketability of the Bonds or the ability of the Underwriter to enforce contracts for the sale of the Bonds, the Underwriter shall have the right, pursuant to Section 12(c) hereof, to terminate this Purchase Contract without liability. Neither the receipt by the Underwriter of notice of a proposed supplement or amendment nor the consent by the Underwriter to such supplement or amendment shall abrogate the Underwriter's rights under Section 12(c) hereof.

(b) The Borrower will not adopt any amendment of or supplement to the Official Statement to which, after having been furnished a copy, the Underwriter shall reasonably object in writing and if any event relating to or affecting the Issuer or the Borrower shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in light of the circumstances existing at the time it is delivered to the Underwriter, the Borrower shall cause to be forthwith prepared and furnished (at the sole expense of the Borrower) to the Underwriter a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Issuer and the Underwriter) that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(c) Prior to the Closing, the Borrower will not amend, terminate or rescind, and will not agree to any amendment, termination or rescission of the Borrower Documents without the prior written consent of the Underwriter.

(d) Prior to the Closing, the Borrower will not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds or interests which will be pledged pursuant to the Indenture, including, without limitation, the

Bonds, the Financing Documents or any indebtedness allowed under the loan from the Mortgage Lender.

(e) The Borrower will cooperate with the Issuer to cause the Bonds to be delivered to the address and at the time specified by the Underwriter in conjunction with the Closing.

(f) The Borrower will not take or omit to take any action which will in any way cause the proceeds of the Bonds, or other moneys on deposit in any fund or account in connection with the Bonds, to be applied in a manner other than as provided in the Indenture and described in the Preliminary Official Statement or the Official Statement and will not take or omit to take any action which would cause the interest on the Bonds to be includable in the gross income of the holders thereof for federal income tax purposes.

(g) The Borrower will cooperate with the Underwriter in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriter may designate.

(h) The Borrower agrees to cause the necessary amount to be paid to the Trustee and/or the escrow agent on the Closing Date to pay costs of issuance.

(i) The Borrower agrees to provide the Underwriter, at the Borrower's expense, a reasonable number of additional copies of the Financing Documents as the Underwriter shall request.

Section 10. Conditions of Closing.

10.1 The obligations of the Underwriter to consummate at the Closing the transactions contemplated hereby are subject to receipt by the Underwriter of the items described in Section 10.2 hereof and to the satisfaction of the following conditions:

(a) The Underwriter will not have discovered any material error, misstatement or omission in the representations and warranties made in this Purchase Contract, which representations and warranties will be deemed to have been made again at and as of the time of the Closing and will then be true in all material respects.

(b) The Issuer and the Borrower will have performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by such respective parties at or prior to Closing.

(c) The Bonds, the Financing Documents and the Official Statement shall each have been executed and delivered by each of the parties thereto, shall be in full force and effect on and as of the Closing Date and shall not have been amended, modified or supplemented prior to the Closing except as may have been agreed to in writing by the Underwriter and no event of default shall exist under any such documents.

(d) The Underwriter will have received orders for all of the Bonds (or such amount of the Bonds as is acceptable to the Underwriter) and (a) such orders have not been withdrawn at the time of the Closing and (b) the market price or marketability, at the initial offering price set forth in the Official Statement, of the Bonds shall not have been adversely affected, in the reasonable judgment of the Underwriter.

(e) The Borrower shall have entered into the Continuing Disclosure Agreement containing covenants meeting the requirements of Rule 15c2-12 under the 1934 Act.

(f) The Issuer shall have received the executed Issue Price Certificate of the Underwriter, substantially in the form attached to this Purchase Contract as Exhibit E.

10.2 In addition to the conditions set forth in Section 10.1, the obligations of the Underwriter to consummate at the Closing the transactions contemplated hereby are subject to receipt by the Underwriter of the following items:

(a) An approving opinion of Bond Counsel, dated the Closing Date, relating to the validity of the Bonds and the tax-exempt status of the Bonds, substantially in the form attached to the Official Statement as Appendix F, and a letter of such counsel, addressed to the Underwriter and the Issuer, to the effect that such opinion may be relied upon, together with a supplemental opinion of Bond Counsel, satisfactory in form and substance to the Underwriter and the Issuer, dated the Closing Date, substantially in the form attached hereto as Exhibit B.

(b) An opinion of counsel to the Borrower, dated the Closing Date, satisfactory in form and substance to the Underwriter, the Trustee, Bond Counsel and the Issuer and in substantially the form attached hereto as Exhibit C.

(c) An opinion of Tiber Hudson LLC, counsel to the Underwriter, satisfactory in form and substance to the Underwriter.

(d) A certificate of the Issuer, dated the Closing Date and signed by an authorized official or officer of the Issuer, to the effect that (i) each of the Issuer's representations contained herein and in all other Issuer Documents, which representations will be deemed to have been made again at and as of the time of Closing, are true and correct in all material respects; (ii) the Issuer has performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by it at or prior to the Closing; and (iii) the information contained in the Preliminary Official Statement and the Official Statement under the captions "THE ISSUER" and ABSENCE OF LITIGATION – The Issuer" is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(e) Evidence that a public hearing has been duly held and the issuance of the Bonds has been duly approved as required by the Code.

(f) A certificate of the Issuer, dated the Closing Date and signed by an authorized officer of the Issuer, in form and substance satisfactory to the Issuer, the Underwriter and Bond Counsel, respecting certain tax matters as may be reasonably required by Bond Counsel to enable it to give its opinion.

(g) A certificate of the Borrower, dated the Closing Date and signed by its authorized representative, to the effect that:

(i) each of the Borrower's representations and warranties contained herein and in all Borrower Documents, which representations and warranties will be deemed to have been made again at and as of the time of Closing, are true and correct in all material respects;

(ii) the Borrower has performed and complied with all agreements and conditions required by this Purchase Contract to be performed or complied with by it at or prior to the Closing;

(iii) since the date of the Official Statement and except as set forth therein, there has not been any material adverse change in the Borrower's operations, financial or otherwise;

(iv) the information contained in the Preliminary Official Statement and the Official Statement is true and correct and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading;

(v) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any of its affiliates, nor, to the best knowledge of the Borrower, is there any basis therefor, wherein an unfavorable decision, ruling or finding would, in any way, adversely affect the transactions contemplated by the Loan Agreement or the operation and management of the Project, or that might result in any material adverse change in the business, operations, properties, assets, liabilities or condition (financial or other) of the Borrower or that affects the information in the Preliminary Official Statement and the Official Statement; and

(vi) such other matters as the Underwriter may reasonably request.

(h) A certificate of the Borrower dated the Closing Date and signed by its authorized representative, in form and substance satisfactory to the Underwriter and Bond Counsel, respecting certain tax matters as may be reasonably required by Bond Counsel to enable it to give its opinion.

(i) A certificate of the Trustee dated the Closing Date and signed by an authorized officer of the Trustee, in form and substance satisfactory to the Underwriter.

(j) The Borrower's 15c2-12 Certificate, substantially in the form attached hereto as Exhibit D, duly executed by the Borrower.

(k) Certified copies of the organizational documents of the Borrower and copies of the resolutions or actions of its members (if applicable) authorizing the execution and delivery of the Borrower Documents.

(l) The Financing Documents (or certified copies thereof) duly executed and delivered by the respective parties thereto, with such amendments, modifications or supplements as may have been agreed to by the Issuer, Bond Counsel and the Underwriter.

(m) Written evidence satisfactory to the Underwriter that Moody's Investors Service, Inc. (the "Rating Agency") has issued a rating of "Aaa/VMIG 1" for the Bonds and such rating shall be in effect on the Closing Date.

(n) Such additional legal opinions, certificates, instruments and other documents as the Underwriter, the Issuer or Bond Counsel may reasonably deem necessary to evidence the truth and accuracy as of the Closing Date of the respective representations and warranties of the Issuer

and the Borrower herein contained and of the Official Statement, and to evidence compliance by the Issuer and the Borrower with this Purchase Contract and all applicable legal requirements, and the due performance and satisfaction by the Issuer and the Borrower at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Issuer and the Borrower.

10.3 If any of the conditions set forth in Section 10.1 or 10.2 hereof have not been met on the Closing Date, the Underwriter may, at its sole option, terminate this Purchase Contract or proceed to Closing upon waiving any rights under this Purchase Contract with respect to any such condition. If this Purchase Contract is terminated pursuant to this Section 10, no party will have any rights or obligations to any other, except as provided in Section 13 hereof.

Section 11. Actions and Events at the Closing.

The following events will take place at the Closing:

(a) The Issuer will cause the Trustee to deliver the Bonds to the Underwriter. The Bonds so delivered will be in the form required by the Indenture, duly authenticated by the Trustee, and will be fully registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York.

(b) The Issuer and the Borrower, as applicable, will deliver or cause to be delivered to the Underwriter at the offices of Bond Counsel, or at such other place or places as the Issuer, the Borrower and the Underwriter may mutually agree upon, the materials described in Section 10.1 and Section 10.2 hereof.

(c) The Underwriter will deliver to the Trustee, for the account of the Issuer, a wire, payable in immediately available funds, in an amount equal to the purchase price of the Bonds as set forth in Exhibit A hereto.

Section 12. Termination of Agreement.

The Underwriter may terminate this Purchase Contract, without liability therefor, by notifying the Issuer and the Borrower at any time prior to the Closing, if:

(a) Legislation is enacted or introduced in the Congress or recommended to the Congress for passage by the President of the United States, or favorably reported for passage to either house of the Congress of the United States by a committee of such house to which such legislation has been referred for consideration, or a decision is rendered by a court established under Article III of the Constitution of the United States or by the Tax Court of the United States, or an order, ruling, regulation (final, temporary or proposed), press release, statement or other form of notice or official statement is issued or made: (i) by or on behalf of the President, the Treasury Department of the United States or the Internal Revenue Service with the purpose or effect, directly or indirectly, of imposing federal income taxation upon such interest as would be received by the owners of the Bonds, or (ii) by or on behalf of the SEC, or any other governmental entity having jurisdiction of the subject matter, to the effect that obligations of the general character of the Bonds or any arrangements underlying the Bonds, are not exempt from registration under the 1933 Act, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended;

(b) The declaration of a general banking moratorium by federal, New York or State authorities, or general suspension of trading in securities on the New York Stock Exchange any other national securities exchange, or the establishment by the New York Stock Exchange, by the SEC, by any federal or state agency or by the decision of any court, of any limitation on prices for such trading, or any outbreak or escalation of hostilities or occurrence of any other national or international calamity or crisis, or escalation of such calamity or crisis, the effect of which on the financial markets of the United States shall be such as to make it impracticable for the Underwriter to proceed with the purchase and offering of the Bonds;

(c) Any event or condition which, in the reasonable judgment of the Underwriter, (i) renders untrue any statement of a material fact in the Official Statement, and the Issuer and the Borrower do not agree to supplement or amend the Official Statement to correct the deficiency, or (ii) causes the Official Statement to omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, and the Issuer and the Borrower do not agree to supplement or amend the Official Statement to correct the deficiency, or (iii) has a material adverse effect upon the marketability of the Bonds, or (iv) would materially and adversely affect the ability of the Underwriter to enforce contracts for the sale of the Bonds;

(d) The imposition by the New York Stock Exchange or other national securities exchange, or any governmental entity, of any restrictions not now in force with respect to any of the Bonds or obligations of the general character of the Bonds or securities generally, or the increase of any such restrictions now in force, including those relating to the extension of credit by, or the charge to the net capital requirements of the Underwriter;

(e) An order, decree or injunction of any court of competent jurisdiction, or order, filing, regulation or official statement by the SEC, or any other governmental entity having jurisdiction of the subject matter, issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds or the issuance, offering or sale of the Bonds or any arrangements underlying the Bonds, as contemplated hereby or by the Preliminary Official Statement or the Official Statement, is or would be in violation of the federal securities laws as then in effect;

(f) The rating on the Bonds shall have been downgraded or withdrawn by the Rating Agency; or

(g) A material disruption in commercial banking, securities settlement, payment, or clearance services shall have occurred.

Section 13. Fees and Expenses.

13.1 The Borrower shall pay to the Underwriter a fee in the amount of \$_____ plus \$_____ for certain fees and expenses (the "Underwriter's Fee"), payable in immediately available funds on the Closing Date from which the Underwriter will pay certain expenses. The Underwriter's Fee shall not include the fee of the Underwriter's counsel. The Borrower acknowledges that it has had an opportunity, in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred in connection with the issuance of the Bonds. The Borrower has agreed to pay the Underwriter's Fee set forth in this Section 13.1, and inclusive in the expense component of the Underwriter's Fee are actual expenses incurred or paid for by the Underwriter on behalf of the Borrower in connection with the marketing, issuance, and delivery of the Bonds, including, but not limited to,

advertising expenses, the costs of any preliminary and final blue sky memoranda, CUSIP fees, and transportation, lodging, and meals for the Borrower's employees and representatives, if any.

13.2 The Borrower shall pay the costs of issuance of the Bonds, including all expenses incident to the performance of the Underwriter's and the Issuer's obligations hereunder, including, but not limited to, (i) the cost of the preparation, printing or other reproduction of this Purchase Contract, the Preliminary Official Statement and the Official Statement, as either may be supplemented or amended, the Indenture and the other Financing Documents in reasonable quantities for distribution; (ii) the cost of engraving, reproducing and signing the definitive Bonds; (iii) the reasonable fees and disbursements of all applicable legal counsel, including Bond Counsel, counsel to the Issuer, counsel to the Trustee (if any), and counsel to the Underwriter; (iv) the initial fees and costs of paying the Trustee and all paying agents, transfer agents and registrars; (v) the fees and expenses of the Issuer; (vi) CUSIP fees; (vii) the cost of qualifying the Bonds for sale in various states chosen by the Underwriter and the cost of preparing or printing any Preliminary Blue Sky Survey to be used in connection with such sale; (viii) the fees and expenses of the experts retained by the Borrower with respect to the acquisition, rehabilitation and financing of the Project; (ix) the fees of the Rating Agency in connection with the rating of the Bonds; (x) normal travel costs, including reasonable transportation and lodging; (xi) ordinary and reasonable meals hosted by the Underwriter that are directly related to the offering contemplated by this Purchase Contract; (xii) all other applicable fees of professionals hired in conjunction with the issuance of the Bonds. Notwithstanding anything to the contrary, in the event the transaction contemplated hereby does not close, the Borrower shall pay all fees and expenses incurred in connection with the transaction.

13.3 In the event that the Issuer, the Borrower or the Underwriter shall have paid obligations of the other as set forth in this Section, appropriate adjustments will promptly be made.

13.4 In addition to the provisions set forth in Section 14 hereto, the Borrower shall indemnify the Issuer and the Underwriter with respect to the foregoing costs and expenses in the event that the purchase provided for herein is not consummated.

Section 14. Indemnification.

14.1 The Borrower will indemnify and hold harmless the Issuer and the Underwriter, and each of their officers, directors, employees, agents, officials, members, commissioners, board members and each person who "controls" (as such term is used in Section 15 of the 1933 Act and Section 20 of the 1934 Act) the Issuer and the Underwriter (each referred to individually as an "*Indemnified Party*" and collectively as the "*Indemnified Parties*") against any losses, claims, expenses (including, without limitation, to the extent permitted by law, reasonable attorneys' fees and expenses actually incurred), damages or liabilities, causes of action (whether in contract, tort or otherwise), suits, claims, demands and judgments of any kind, character and nature (collectively referred to herein as the "*Liabilities*"), joint or several, to which the Indemnified Parties may be threatened or become subject, caused by or directly or indirectly arising from or in any way relating to (i) the Bonds, the Project, the loan of the proceeds of the Bonds, this Purchase Contract or any document related to the Bonds, the Project or the loan of the proceeds of the Bonds or any transaction or agreement, written or oral, pertaining to the foregoing, (ii) any untrue statement or alleged untrue statement of any material fact contained in the Preliminary Official Statement or the Official Statement, or any supplement or amendment thereto, or (iii) any omission or alleged omission to state in the Preliminary Official Statement or the Official Statement a material fact necessary to be stated therein in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading. This indemnification provision shall not be construed as a limitation on any other liability which the Borrower may otherwise have to any indemnified person, provided that in no event shall the Borrower be obligated for double indemnification, in that the Borrower shall not be required to indemnify an Indemnified Party more than once with respect to a specific indemnification obligation arising

as the result of a specific event. Notwithstanding the foregoing, the Borrower shall not be required to indemnify the Indemnified Parties for the gross negligence or willful misconduct of the Indemnified Parties.

14.2 The indemnity agreements in paragraph 14.1 of this Section 14 shall be in addition to any liability which the Borrower may otherwise have hereunder or under the other Borrower Documents, and shall extend on the same terms and conditions to each member, principal, official, officer, commissioner, board member, attorney or employee of the Borrower and to each person, if any, who “controls” (as such term is used in Section 15 of the 1933 Act and Section 20 of the 1934 Act) the Borrower.

14.3 Promptly after receipt by an Indemnified Party under paragraph 14.1 of this Section of notice of the commencement of any action against such Indemnified Party in respect of which indemnity or reimbursement may be sought against the Borrower under any such paragraph, such Indemnified Party will notify the Borrower in writing of the commencement thereof; provided that any delay or failure to give such notification shall be of no effect except to the extent that the Borrower is prejudiced thereby.

14.4 In case any action, claim or proceeding, as to which the Borrower is to provide indemnification hereunder, shall be brought against the Indemnified Party and the Indemnified Party notifies the Borrower of the commencement thereof, the Borrower may, or if so requested by the Indemnified Party shall, participate therein or assume the defense thereof, with counsel reasonably satisfactory to the Indemnified Party; provided that, except as provided below, the Borrower shall not be liable for the expenses of more than one separate counsel representing the Indemnified Parties in the action, claim or proceeding.

14.5 If the Borrower shall not have employed counsel to have charge of the defense of the action, claim or proceeding, or if any Indemnified Party shall have concluded reasonably that there may be a defense available to it or to any other Indemnified Party which is different from or in addition to those available to the Borrower or to any other Indemnified Party (hereinafter referred to as a “separate defense”), (i) the Borrower shall not have the right to direct the defense of the action, claim or proceeding on behalf of the Indemnified Party, and (ii) reasonable legal and other expenses incurred by the Indemnified Party (including without limitation, to the extent permitted by law, reasonable attorney’s fees and expenses actually incurred) shall be borne by the Borrower; provided, that the Borrower shall not be liable for the expenses of more than one additional separate counsel for each Indemnified Party with respect to such separate defenses. For the purpose of this paragraph, an Indemnified Party shall be deemed to have concluded reasonably that a separate defense is available to it or any other Indemnified Party if (a) such Indemnified Party shall have requested an unqualified written opinion from Independent Counsel to the effect that a separate defense exists, and such Independent Counsel shall have delivered such opinion to the Indemnified Party within ten (10) days after such request or (b) the Borrower agrees that a separate defense is so available. For purposes of this paragraph, Independent Counsel shall mean any attorney, or firm or association of attorneys, duly admitted to practice law before the supreme court of any state and not a full-time employee of any Indemnified Party. Nothing contained in this paragraph 14.5 will preclude any Indemnified Party, at its own expense, from retaining additional counsel to represent such party in any action with respect to which indemnity may be sought from the Borrower hereunder.

14.6 The Borrower agrees to reimburse any Indemnified Party for any reasonable expense (including reasonable fees and expenses of counsel) incurred as a result of producing documents, presenting testimony or evidence, or preparing to present testimony or evidence (based upon time expended by an Indemnified Party at its then current time charges), in connection with any court or administrative proceeding (including any investigation which may be preliminary thereto) arising out of or relating to any public distribution of the Bonds. The Borrower will not be required to reimburse any Indemnified Party if such court or administrative hearing arises out of the gross negligence of, willful misconduct or breach of, this Purchase Contract by an Indemnified Party.

14.7 In order to provide for just and equitable contribution in circumstances in which the indemnity provided for in paragraph 14.1 or 14.2 of this Section 14 is for any reason held to be unavailable, the Borrower and the Indemnified Party shall contribute proportionately to the aggregate Liabilities to which the Borrower and the Indemnified Party may be subject, so that the Indemnified Party is responsible for that portion represented by the percentage that the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds bears to the aggregate offering price of the Bonds, with the Borrower responsible for the balance; provided, however, that in no case shall the Indemnified Party be responsible for any amount in excess of the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds; and provided, further, that the foregoing limitation on an Indemnified Party's liability or responsibility shall not be applicable if the indemnity provided for in paragraph 14.1 or 14.2 is unavailable or inapplicable due to the gross negligence or willful misconduct of any Indemnified Party. No person guilty of fraudulent misrepresentation (within Section 10(b) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such misrepresentation.

14.8 The Indemnified Parties, other than the Underwriter and the Issuer, shall be considered to be third-party beneficiaries of this Purchase Contract for purposes of this Section 14. The provisions of this Section 14 will be in addition to all liability which the Borrower may otherwise have and shall survive any termination and cancellation of this Purchase Contract, the offering and sale of the Bonds and the payment or provisions for payment of the Bonds.

14.9 Notwithstanding anything to the contrary in this Purchase Contract, the Issuer may employ its own counsel (whether one or more separate counsel) in any manner it deems appropriate and the Borrower shall indemnify the Issuer for fees and expenses of such counsel.

Section 15. Limitation of Liability.

Notwithstanding any provision herein to the contrary, any member, officer, director, partner, agent, commissioner, board members or employee of the Issuer, the Underwriter or the Borrower, including any person executing this Purchase Contract, shall not bear any liability as a result of any failure of the Issuer, the Underwriter or the Borrower to perform the obligations of each, respectively, set forth in this Purchase Contract.

Section 16. Miscellaneous.

16.1 All notices, demands and formal actions hereunder will be in writing and mailed, telecopied or delivered to the following address or such other address as either of the parties shall specify:

If to the Underwriter:	Stifel, Nicolaus & Company, Incorporated 639 Loyola Avenue, Suite 200 New Orleans, LA 70113 Attention: John Sabatier

If to the Issuer:	Economic Development Authority of James City County, Virginia 101 Mounts Bay Road, Building D Williamsburg, VA 23185 Attention: _____

If to the Borrower: Blaine Landing Phase II, L.P.
c/o S.L. Nusbaum Realty Co.
1700 Wells Fargo Center
440 Monticello Avenue
Norfolk, VA 23510
Attention: Miles B. Leon

With a copy to: Willcox and Savage
440 Monticello Avenue, #2200
Norfolk, VA 23510
Attention: Gregory D. Lydon

16.2 This Purchase Contract will inure to the benefit of and be binding upon the parties hereto and their successors and assigns and, except as provided in Section 14 hereof will not confer any rights upon any other person. The terms “successor” and “assigns” will not include any purchaser of any of the Bonds from the Underwriter merely because of such purchase.

16.3 This Purchase Contract may not be assigned by any of the parties hereto prior to the Closing.

16.4 If any provision of this Purchase Contract is held or deemed to be or is, in fact, inoperative, invalid or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provision of any constitution, statute, rule of public policy, or any other reason, such circumstances will not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions of this Purchase Contract invalid, inoperative or unenforceable to any extent whatever.

16.5 This Purchase Contract will be construed in accordance with and governed by the internal laws of the Commonwealth, without regard to conflict of law principles of the Commonwealth.

16.6 This Purchase Contract may be executed in several counterparts (including counterparts exchanged by email in PDF format), each of which will be regarded as an original and all of which will constitute one and the same document.

Section 17. Survival of Certain Representations and Obligations.

The respective agreements, covenants, representations, warranties and other statements of the Issuer and the Borrower and each of their respective officers set forth in or made pursuant to this Purchase Contract shall survive delivery of and payment for the Bonds and shall remain in full force and effect, regardless of any investigation, or statements as to the results thereof, made by or on behalf of the Underwriter.

If the foregoing is in accordance with your understanding, please sign and return to us two counterparts hereof and, upon the acceptance hereof by the Issuer and the Borrower, this Purchase Contract and such acceptance shall constitute the binding agreement among us as to the matters set forth above.

Very truly yours,

**STIFEL, NICOLAUS & COMPANY,
INCORPORATED**

By: _____
John Sabatier
Managing Director

[Signatures continue on following page]

[Issuer's signature page to Purchase Contract]

**ECONOMIC DEVELOPMENT AUTHORITY OF
JAMES CITY COUNTY, VIRGINIA**

By: _____
Chair

[Signatures continue on following page]

[Borrower's signature page to Purchase Contract]

BLAINE LANDING PHASE II, L.P.
a Virginia limited partnership

By: Blaine Landing Phase II GP, L.L.C.,
its General Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

EXHIBIT A

TERM OF BONDS

**MULTIFAMILY HOUSING REVENUE BONDS
(BLAINE LANDING PHASE II), SERIES 2022**

<u>Dated Date</u>	<u>Initial Mandatory Tender Date</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price</u>
December __, 2022	February 1, 2025	February 1, 2026	\$8,800,000	___%	___%

EXHIBIT B

PROPOSED FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL

December __, 2022

Stifel, Nicolaus & Company, Incorporated
New Orleans, Louisiana

Economic Development Authority of James City County, Virginia
Williamsburg, Virginia

\$8,800,000

**ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA
MULTIFAMILY HOUSING REVENUE BONDS
(BLAINE LANDING PHASE II), SERIES 2022**

Ladies and Gentlemen:

We have acted as counsel to Blaine Landing Phase II, L.P., a Virginia limited partnership (the “Borrower”), in connection with the issuance of the above-captioned bonds (the “Bonds”) by the Economic Development Authority of James City County, Virginia (the “Issuer”).

Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture or the Bond Purchase Agreement.

In our capacity as such counsel, in rendering the opinions set forth below, we have examined, among other things, originals or copies, certified or otherwise identified to our satisfaction, of the following documents: (i) the Official Statement, dated November __, 2022, of the Issuer relating to the Bonds (the “Official Statement”); (ii) the Regulatory Agreement and Declaration of Restrictive Covenants, among the Issuer, U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) and the Borrower, dated as of December 1, 2022; (iii) the Loan Agreement, dated as of December 1, 2022, between the Issuer and the Borrower; (iv) the Bond Purchase Agreement, dated November __, 2022, among the Issuer, the Underwriter named therein and the Borrower (the “Bond Purchase Agreement”); (v) the Continuing Disclosure Agreement, dated as of December 1, 2022, between the Borrower and the Dissemination Agent named therein; (vi) the Remarketing Agreement, dated as of December 1, 2022, between the Borrower and the Remarketing Agent named therein; (vii) the promissory note, dated the Closing Date, executed by the Borrower; (viii) the Tax Certificate and Agreement, dated the Closing Date, executed and delivered by the Issuer and the Borrower; and (ix) such other documents, certificates and instruments as we have deemed necessary for the purposes of reaching the opinion expressed herein. We have also relied as to matters of fact upon a certificate of the Borrower and examined certain other certificates and documents.

Based upon and subject to the foregoing and those assumptions and qualifications expressly stated herein, we are of the opinion that, as of the date hereof:

(i) The Borrower is (a) a limited partnership validly existing under the laws of the Commonwealth of Virginia (the “Commonwealth”), (b) is in good standing and duly qualified to transact business in the Commonwealth, and (c) has with full power and authority to execute and deliver the documents listed above numbered (ii) through (viii) (the “Financing Documents”) and the Official Statement and to perform its obligations under each respective agreement.

(ii) The Financing Documents have each been duly authorized, executed and delivered by the Borrower and constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as the enforcement thereof may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization and similar laws (including fraudulent conveyance laws) affecting the enforcement of creditors' rights and remedies generally in effect from time to time, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(iii) The execution and delivery of the Financing Documents and the performance by the Borrower of the terms of the respective agreements do not conflict with or violate any other document, instrument, decree, indenture or agreement by which the Borrower is bound and of which we have knowledge.

(iv) No approval, authorization or other action by, or filing with, the Commonwealth or any agency thereof, is required in connection with the execution and delivery by the Borrower of the Bond Purchase Agreement.

(v) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before any court or public body pending or, to the best of our knowledge, threatened, to challenge the right, power or authority of the Borrower to acquire, own and operate the Project or to perform its obligations under the Bond Purchase Agreement or the other Financing Documents.

(vi) To our knowledge, the statements and information contained in the Official Statement under the headings "The Project," "Private Participants," "Absence of Litigation – The Borrower" and "Undertaking to Provide Continuing Disclosure" with respect to the last sentence thereof, does not contain any untrue statement of material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading as of the date hereof. Except as described in the foregoing sentence, we have not undertaken to verify, and accordingly, we are not passing upon and do not assume responsibility for, and have not independently verified the accuracy or completeness of, the statements contained in the Official Statement; and further, we specifically express no opinion as to any matter whatsoever, relating to the accuracy or completeness of any financial accounting or projection information furnished to any party, the accuracy or completeness of any representation made by our clients, the financial status of our clients, the ability of our clients to meet their obligations under any of the above referenced agreements or any related document. Except as expressly stated herein, we express no opinion regarding the accuracy or completeness of any of the other information contained in any other section of the Official Statement.

In forming our opinions, we have relied upon the factual representations made in the Financing Documents by the parties thereto, and have assumed that such facts and factual representations as described therein are wholly accurate, correct and complete. Although we have not attempted to verify independently such representations, nothing has come to our attention which has led us to believe such representations are false or misleading.

The opinions expressed in this letter are subject to the following qualifications:

1. The opinions contained in this letter are subject to any changes in applicable laws from and after the date hereof. Our opinion applies only to questions governed by the laws of the Commonwealth and applicable Federal laws.

2. The opinions contained in this letter are subject to the following additional qualifications: We have assumed (i) the authenticity, accuracy and completeness of documents submitted to us as originals

and the conformity to originals of copies of documents; (ii) the genuineness of all signatures on all documents submitted to us (except the genuineness of the signatures of the Borrower and its General Partner); (iii) the due execution and delivery of the Financing Documents and other documents referenced in the Official Statement by the parties thereto, other than the Borrower; (iv) that certificates of public officials are accurate and have been properly given; (v) that all actions on the part of any party to any agreement referred to herein, other than the Borrower, requisite for due authorization, execution and delivery of the Financing Documents and the performance and observation of all of the obligations thereunder, have been duly and effectively taken; and (vi) that the executed Financing Documents, submitted to us for our review, have not been and will not be altered or amended in any respect. We render no opinion with respect to the matters assumed. In addition, we render no opinion as to zoning matters or any federal income tax matters. Moreover, we have not examined and we express no opinion with respect to the applicability of, or liability under, any federal, state or local law, ordinance, or regulation governing or pertaining to environmental matters, hazardous wastes, toxic substances, asbestos, radon, lead paint or the like.

3. We have assumed that each of the entities, other than the Borrower, that is a party to any of the Financing Documents had the authority, legal right, capacity and power under all applicable laws and regulations to execute and deliver the Financing Documents and to enter into, enforce and perform all of its obligations under them. Furthermore, we have assumed (i) that such Financing Documents are valid and binding obligations of those entities and are enforceable against those entities in accordance with their terms and that the parties to the Financing Documents are and will be in material compliance with the covenants set forth therein; (ii) that there has been no waiver of any of the provisions of the Financing Documents by actions, by conduct of the parties, or otherwise, and the Financing Documents are in full force and effect; and (iii) none of the Financing Documents are subject to rescission or reformation for fraud, duress, mistake or any other factor affecting the execution thereof. We have also assumed that the actions of the parties to the Financing Documents in connection with the performance and enforcement of the Financing Documents will be taken in good faith.

4. We have not made or undertaken to make any investigation of the condition of or state of title to any real or personal property or of the filing or recordation of any of any of the Financing Documents or any other documents or any financing statements related thereto that are intended to be filed or recorded, and we express no opinion with respect to the creation, perfection or priority of the liens intended to be created by any Financing Documents or any other document.

This opinion is given as of the date hereof and is limited to laws now in effect and to facts and circumstances presently brought to our attention. We assume no obligation to update or supplement this opinion to reflect any facts or circumstances which may hereafter come to our attention or any changes in laws which may hereafter occur. The opinions expressed in this letter are limited to the matters set forth in this letter, and no other opinions should be inferred beyond the matters expressly stated.

We express no opinion as to any matter whatsoever, relating to the accuracy or completeness of any financial accounting or projection information furnished to any party, the accuracy or completeness of any representation made by our clients, the financial status of our clients, the ability of our clients to meet their obligations under any of the above-referenced agreements or any other related document.

Very truly yours,

EXHIBIT C

FORM OF OPINION OF COUNSEL TO THE BORROWER

December __, 2022

Economic Development Authority of James City County, Virginia
Williamsburg, Virginia

Stifel, Nicolaus & Company, Incorporated
New Orleans, Louisiana

\$8,800,000

**ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA
MULTIFAMILY HOUSING REVENUE BONDS
(BLAINE LANDING PHASE II), SERIES 2022**

Ladies and Gentlemen:

We have acted as counsel to Blaine Landing Phase II, L.P. (the “Borrower”), in connection with the issuance of the above-captioned bonds (the “Bonds”) by the Economic Development Authority of James City County, Virginia (the “Issuer”).

Capitalized terms used but not defined herein have the meanings assigned to them in the Indenture or the Bond Purchase Agreement.

In our capacity as such counsel, in rendering the opinions set forth below, we have examined, among other things, originals or copies, certified or otherwise identified to our satisfaction, of the following documents: (i) the Preliminary Official Statement, dated November __, 2022, of the Issuer relating to the Bonds (the “Preliminary Official Statement”); (ii) the Official Statement, dated November __, 2022, of the Issuer relating to the Bonds (the “Official Statement”); (iii) the Regulatory Agreement and Declaration of Restrictive Covenants, among the Issuer, U.S. Bank Trust Company, National Association, as trustee (the “Trustee”) and the Borrower, dated as of December 1, 2022; (iv) the Loan Agreement, dated as of December 1, 2022, between the Issuer and the Borrower; (v) the Bond Purchase Agreement, dated November __, 2022, among the Issuer, the Underwriter named therein and the Borrower (the “Bond Purchase Agreement”); (vi) the Continuing Disclosure Agreement, dated as of December 1, 2022, between the Borrower and the Dissemination Agent named therein; (vii) the Remarketing Agreement, dated as of December 1, 2022, between the Borrower and the Remarketing Agent named therein; (viii) the promissory note, dated the Closing Date, executed by the Borrower; (ix) the Tax Certificate and Agreement, dated the Closing Date, executed by the Borrower and the Issuer; (x) the Disbursement Agreement, dated as of December 1, 2022, between the Borrower and AGM Financial Services, Inc.; and (xi) such other documents, certificates and instruments as we have deemed necessary for the purposes of reaching the opinion expressed herein. We have also relied as to matters of fact upon a certificate of the Borrower and examined certain other certificates and documents.

In such examination, we have assumed the genuineness of all signatures (other than those relating to the Borrower), the authenticity of all documents submitted to us as originals, and the conformity to the original document of all documents submitted to us as photostatic or certified copies. We have assumed due authorization, execution and delivery of all documents referenced herein by the parties thereto other

than the Borrower and that each of such parties has full power, authority and legal right to execute and deliver each such instrument.

Based upon and subject to the foregoing, we are of the opinion that, as of the date hereof:

(i) The Borrower is (a) a limited partnership validly existing under the laws of the State of Virginia (the “State”), (b) is in good standing and duly qualified to transact business in the State, and (c) has with full power and authority to execute and deliver the documents listed above numbered (ii) through (ix) (the “Financing Documents”) and the Official Statement and to perform its obligations under each respective agreement.

(ii) The Financing Documents have each been duly authorized, executed and delivered by the Borrower and constitute legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as the enforcement thereof may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization and similar laws (including fraudulent conveyance laws) affecting the enforcement of creditors’ rights and remedies generally in effect from time to time, and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(iii) The execution and delivery of the Financing Documents and the performance by the Borrower of the terms of the respective agreements do not conflict with or violate any other document, instrument, decree, indenture or agreement by which the Borrower is bound.

(iv) No approval, authorization or other action by, or filing with, the State or any agency thereof, is required in connection with the execution and delivery by the Borrower of the Bond Purchase Agreement.

(v) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before any court or public body pending or, to the best of our knowledge, threatened, to challenge the right, power or authority of the Borrower to acquire, own and operate the Project or to perform its obligations under the Bond Purchase Agreement or the other Financing Documents.

(vi) The information in the Preliminary Official Statement and the Official Statement does not contain an untrue statement of fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading as of the date hereof.

We express no opinion as to any matter whatsoever, relating to the accuracy or completeness of any financial accounting or projection information furnished to any party, the accuracy or completeness of any representation made by our clients, the financial status of our clients, the ability of our clients to meet their obligations under any of the above-referenced agreements or any other related document.

Very truly yours,

EXHIBIT D

FORM OF BORROWER'S RULE 15c2-12 CERTIFICATE

\$8,800,000

**ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA
MULTIFAMILY HOUSING REVENUE BONDS
(BLAINE LANDING PHASE II), SERIES 2022**

The undersigned hereby certifies and represents to Stifel, Nicolaus & Company, Incorporated (the "Underwriter") that the undersigned is authorized to execute and deliver this certificate on behalf of Blaine Landing Phase II, L.P., a Virginia limited partnership (the "Borrower"), and hereby further certifies to the Underwriter as follows:

(a) This certificate is delivered to enable the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") in connection with the issuance and sale of the above captioned securities (the "Bonds").

(b) In connection with the issuance and sale of the Bonds, there has been prepared a Preliminary Official Statement, dated November __, 2022, relating to the Bonds (the "Preliminary Official Statement") setting forth information concerning the Bonds and the Borrower.

(c) As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), accreted values, yield to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters and the identity of the Underwriter(s), all with respect to the issuance and sale of the Bonds.

(d) The Preliminary Official Statement is, as of the date thereof, deemed final within the meaning of the Rule, except for Permitted Omissions.

(e) The section of the Preliminary Official Statement entitled "UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE" describes the agreement the Borrower expects to make for the benefit of the Bondholders in the Continuing Disclosure Agreement dated as of December 1, 2022, executed by the Borrower and U.S. Bank Trust Company, National Association, as dissemination agent, by which the Borrower will undertake to provide continuing disclosure in accordance with the Rule.

Dated: November __, 2022

[Remainder of page intentionally left blank]

[Signature page to Rule 15c2-12 Certificate]

IN WITNESS WHEREOF, I have hereunto set my hand as of the date set forth above.

BLAINE LANDING PHASE II, L.P.

a Virginia limited partnership

By: Blaine Landing Phase II GP, L.L.C.,
its General Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

EXHIBIT E

FORM OF ISSUE PRICE CERTIFICATE

\$8,800,000

**ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA
MULTIFAMILY HOUSING REVENUE BONDS
(BLAINE LANDING PHASE II), SERIES 2022**

The undersigned, on behalf of Stifel, Nicolaus & Company, Incorporated (the “Underwriter”), on behalf of itself, hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”).

1. Sale of the Bonds. As of the date of this certificate, for each Maturity of the Bonds, the first price at which at least 10% of such Maturity of the Bonds was sold to the Public is the respective price listed in Exhibit A attached to the Bond Purchase Agreement dated November __, 2022 among the Underwriter, Blaine Landing Phase II, L.P., a Virginia limited partnership (the “Borrower”), and the Economic Development Authority of James City County, Virginia (the “Issuer”).

2. Defined Terms.

(a) “*Issuer*” means the Economic Development Authority of James City County, Virginia, a political subdivision of the Commonwealth of Virginia.

(b) “*Maturity*” means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(c) “*Public*” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than the Underwriter or a related party to the Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(d) “*Underwriter*” means (i) Stifel, Nicolaus & Company, Incorporated, (ii) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (iii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (ii) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Underwriter’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer and the Borrower with respect to certain of the representations set forth in the Tax Agreement and with respect to compliance with the federal income tax rules affecting the Bonds, and by McGuireWoods LLP, Tysons, Virginia, Bond Counsel, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038, and

other federal income tax advice that it may give to the Issuer and the Borrower from time to time relating to the Bonds.

Dated: December __, 2022

[Underwriter's signature page to Issue Price Certificate]

Dated as of the date hereof.

**STIFEL, NICOLAUS & COMPANY,
INCORPORATED**

By: _____
John Sabatier
Managing Director

[Signature continued on next page]

[Underwriter's signature page to Issue Price Certificate]

**STIFEL, NICOLAUS & COMPANY,
INCORPORATED**

By: _____
Z. Jason Barnett
Managing Director

PRELIMINARY OFFICIAL STATEMENT DATED NOVEMBER __, 2022

NEW ISSUE – Book-Entry Only

RATING: Moody's "[Aaa/VMIG 1]"

SEE "RATING" herein.

In the opinion of McGuireWoods LLP, under laws existing on the date of issuance and assuming continuous compliance with certain covenants and agreements contained in the documents more fully described herein, (a) interest on the Bonds is excludable from the gross income of the holder(s) of the Bonds for purposes of federal income taxation pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), except as provided in Section 147(a) of the Code with respect to any period during which the Bonds are held by a person who is a "substantial user" of any facility financed or refinanced by the Bonds or by a "related person," as such terms are used in Section 147(a) of the Code and the regulations adopted thereunder, and except as set forth herein under the heading "TAX MATTERS," and (b) interest on the Bonds is exempt from income taxation in the Commonwealth of Virginia. For purposes of federal income taxation, interest on the Bonds is not treated as a specific item of tax preference for purposes of calculating the federal alternative minimum tax. See further discussion under the heading "TAX MATTERS" herein.

\$8,800,000*

**Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022**

Dated: Date of Delivery

Initial Interest Rate: ____%

Initial Offering Price: 100%*

Maturity Date: February 1, 2026*

Initial Mandatory Tender Date: February 1, 2025*

CUSIP: _____

The Economic Development Authority of James City County, Virginia (the "Issuer") is issuing its Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022 (the "Bonds") pursuant to a Trust Indenture dated as of December 1, 2022 (the "Indenture"), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "Trustee"). The Bonds shall bear interest on the outstanding principal amount thereof at the Initial Interest Rate set forth above (the "Initial Interest Rate") from their date to but not including the Initial Mandatory Tender Date set forth above (the "Initial Mandatory Tender Date"), payable on each February 1 and August 1 commencing August 1, 2023*. See "THE BONDS" herein.

The Bonds are being issued to finance a loan (the "Loan") to Blaine Landing Phase II, L.P., a Virginia limited partnership (the "Borrower") to enable the Borrower to pay all or part of the cost of acquiring, constructing, and equipping of a multifamily affordable housing development located in Williamsburg, Virginia (the "Project"). The Loan will be made to the Borrower pursuant to a Loan Agreement, dated as of December 1, 2022 (the "Loan Agreement"), between the Issuer and the Borrower, under which the Borrower has agreed to provide, as described herein, payments to the Issuer in amounts sufficient, together with interest earnings thereon (without the need for reinvestment), to pay the principal of and interest on the Bonds when due. The Loan will be evidenced by a Promissory Note in the principal amount of \$8,800,000* (the "Note") from the Borrower to the Issuer and endorsed to the Trustee.

Pursuant to the Loan Agreement, the Borrower will cause the Mortgage Lender to, over time, deposit Eligible Funds (as defined herein) of up to \$8,800,000* into the Collateral Fund established under the Indenture, allowing the Trustee to disburse a like amount of Bond proceeds from the Project Fund to the Borrower to pay costs of the Project pursuant to the terms of the Indenture and the Loan Agreement. It is anticipated that the principal of and interest on the Bonds will be paid from amounts on deposit (plus interest earnings thereon) in the Bond Fund, the Collateral Fund, and the Project Fund (together, the "Special Funds").

The Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the Initial Mandatory Tender Date. All Bondholders must tender their Bonds for purchase on the Initial Mandatory Tender Date. The Bonds may be remarketed and a new interest rate for the Bonds may be determined on the Initial Mandatory Tender Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Initial Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Initial Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing.

The Bonds are subject to optional and mandatory redemption prior to maturity as set forth herein.

At all times the Bonds will be secured by amounts on deposit under the Indenture, which amounts shall constitute Eligible Funds (as defined herein) and shall be invested in Eligible Investments, and such amounts will be sufficient (along with investment earnings thereon), without the need for reinvestment, to pay all of the interest on the Bonds when due and to pay the principal of the Bonds on the earlier of any Mandatory Tender Date or any Redemption Date, as further described herein. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS" herein.

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE COMMONWEALTH OR OF ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE

TAXING POWER OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

The Bonds are offered for delivery when, as and if issued and received by Stifel, Nicolaus & Company, Incorporated (the “Underwriter”) and subject to the approval of legality by McGuireWoods LLP, Tysons Corner, Virginia, and certain other conditions. Certain legal matters will be passed upon for the Underwriter by its counsel, Tiber Hudson LLC, Washington, D.C., and for the Borrower by its counsel, Willcox and Savage, Norfolk, Virginia and its tax credit counsel, Klein Hornig LLP, Washington, D.C. It is expected that the Bonds will be available in book-entry form through the facilities of DTC in New York, New York on or about December __, 2022.

This cover page contains limited information for ease of reference only. It is not a summary of the Bonds or the security therefor. The entire Official Statement, including the Appendices, must be read to obtain information essential to make an informed investment decision.

STIFEL

Date: November __, 2022

No broker, dealer, salesman or other person has been authorized by the Issuer to give any information or to make any representations other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale prior to the registration or qualification under the securities laws of any such jurisdiction. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made under the Indenture shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer since the date hereof.

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for full and complete statements of their provisions. This Official Statement is not to be construed as a contract or agreement between the Issuer and the purchasers or owners of any of the Bonds. All statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The cover page hereof and the appendices attached hereto are part of this Official Statement. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the Bonds shall under any circumstances create any implication that there has been no change in the affairs of the Issuer since the date hereof.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICES OF THE BONDS AT LEVELS ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

The Underwriter has reviewed the information in this Official Statement pursuant to its responsibilities to investors under federal securities laws, but the Underwriter does not guarantee the accuracy or completeness of such information.

No registration statement relating to the Bonds has been filed with the Securities and Exchange Commission (the "Commission") or with any state securities agency. The Bonds have not been approved or disapproved by the Commission or any state securities agency, nor has the Commission or any state securities agency passed upon the accuracy or adequacy of this Official Statement. Any representation to the contrary is a criminal offense.

CUSIP data herein are provided by CUSIP Global Services, managed by FactSet Research Systems Inc., on behalf of the American Bankers Association. CUSIP numbers have been assigned by an independent company not affiliated with the Issuer and are included solely for the convenience of the holders of the Bonds. The Issuer is not responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Bonds or as indicated above. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds as a result of various subsequent actions.

U.S. Bank Trust Company, National Association, as Trustee, has not reviewed, provided or undertaken to determine the accuracy of any of the information contained in this Official Statement and makes no representation or warranty, express or implied, as to any matters contained in this Official Statement, including, but not limited to, (i) the accuracy or completeness of such information, (ii) the validity of the Bonds, or (iii) the tax-exempt status of the Bonds.

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OFFICIAL STATEMENT

\$8,800,000*

**Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022**

INTRODUCTION

This Official Statement (this “Official Statement”) has been prepared in connection with the issuance of the above-captioned Bonds (the “Bonds”) by the Economic Development Authority of James City County, Virginia (the “Issuer”) a political subdivision of the Commonwealth, duly organized and validly existing under the laws of the Commonwealth of Virginia (the “Commonwealth”). The Issuer has authorized the issuance of the Bonds by its duly adopted resolution dated November 15, 2022 (the “Bond Resolution”) and the Bonds are issued pursuant to a Trust Indenture dated as of December 1, 2022 (the “Indenture”), by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). Certain capitalized terms that are used in this Official Statement and not otherwise defined shall have the definitions ascribed to them in “APPENDIX A – DEFINITIONS OF CERTAIN TERMS” hereto.

The Bonds are to be issued pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as now in effect and as from time to time hereafter amended or supplemented (the “Act”), for the purpose of providing funds to make a loan (the “Loan”) to Blaine Landing Phase II, L.P., a Virginia limited partnership (the “Borrower”) to enable the Borrower to pay a portion of the cost of acquiring, constructing= and equipping of a multifamily affordable housing development located in Williamsburg, Virginia (the “Project”). See “PRIVATE PARTICIPANTS” and “THE PROJECT” herein.

The Loan will be made to the Borrower under a Loan Agreement dated as of December 1, 2022 (the “Loan Agreement”), by and between the Issuer and the Borrower. Pursuant to the Loan Agreement, the Borrower has agreed to make payments to the Issuer in amounts sufficient, together with interest earnings thereon, to pay the principal of and interest on the Bonds when due (the “Bond Service Charges”) to the extent that amounts otherwise available for such payment are insufficient therefor. The Loan will be evidenced by a promissory note in the principal amount of \$8,800,000* (the “Note”) from the Borrower to the Issuer and endorsed to the Trustee.

Simultaneously with the issuance of the Bonds it is expected that the Borrower will close on a mortgage loan (the “Mortgage Loan”) with AGM Financial Services, Inc., a Maryland corporation (the “Mortgage Lender”), and will cause to be deposited certain Lender Funds (the “Lender Funds”) into the Collateral Fund held by the Trustee under the Indenture allowing the Trustee to disburse a like amount of Bond proceeds from the Project Fund to the Borrower to pay costs of the Project pursuant to the terms of the Indenture and the Loan Agreement. See “THE PROJECT — Plan of Financing” herein.

Amounts on deposit in the Collateral Fund, the Bond Fund and the Project Fund (collectively, the “Special Funds”) will be invested in Eligible Investments. It is anticipated that the aggregate Eligible Funds and Eligible Investments on deposit in the Project Fund and the Collateral Fund will, at all times, equal the principal amount of Bonds Outstanding. It is anticipated that the Bond Service Charges will be paid from amounts on deposit in the Special Funds, along with investment earnings thereon (without the need for reinvestment). See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” herein.

The Bonds shall bear interest on the outstanding principal amount thereof at a rate equal to the interest rate set forth on the cover page hereof (the “Initial Interest Rate”) from their date, to but not including, February 1, 2025* (the “Initial Mandatory Tender Date”), payable on each February 1 and August 1, commencing August 1, 2023* (each an “Interest Payment Date”) and on each Mandatory Tender Date and each Redemption Date.

* Preliminary; subject to change.

The Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the Initial Mandatory Tender Date. All Bondholders must tender their Bonds for purchase on the Initial Mandatory Tender Date. A new interest rate for the Bonds may be determined on the Mandatory Tender Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Initial Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Initial Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing.

The Bonds are subject to optional and mandatory redemption prior to maturity as set forth herein under “THE BONDS.”

Brief descriptions of the Issuer, the Borrower, the Mortgage Lender, the Mortgage Loan, the Project, the Bonds, the security for the Bonds, the Indenture, the Loan Agreement and the Regulatory Agreement are included in this Official Statement. The summaries herein do not purport to be complete and are qualified in their entirety by reference to such documents, agreements and programs as may be referred to herein, and the summaries herein of the Bonds are further qualified in their entirety by reference to the form of the Bonds included in the Indenture and the provisions with respect thereto included in the aforesaid documents.

THE ISSUER [UNDER BOND COUNSEL’S REVIEW]

The following information has been provided by the Issuer for use herein. While the information is believed to be reliable, none of the Trustee, the Borrower, the Underwriter, the Mortgage Lender nor any of their respective counsel, members, officers or employees make any representations as to the accuracy or sufficiency of such information.

The Issuer is a political subdivision of the Commonwealth of Virginia authorized and empowered under the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the “Act”) to issue its revenue bonds from time to time and to use the proceeds thereof for the purpose of, among other purposes, the financing and refinancing of facilities used for multifamily residences in a locality which has not activated a housing authority, and to make loans to promote industry and develop trade by inducing nonprofit enterprises to locate and remain in the Commonwealth of Virginia.

The Bonds are being issued under and pursuant to the Act and the Indenture. THE BONDS ARE PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS DERIVED BY THE ISSUER FROM THE LOAN AGREEMENT AND FROM ANY OTHER SECURITY HELD BY THE TRUSTEE THEREFOR. THE BONDS ARE NOT GENERAL OBLIGATIONS OF THE ISSUER.

THE BONDS

Terms of Bonds Generally

The Bonds shall be issued in Authorized Denominations and shall mature on February 1, 2026* (the “Maturity Date”). The Bonds are dated their date of delivery and shall bear interest at the Initial Interest Rate from their date of delivery, to but not including the Initial Mandatory Tender Date, payable on each Interest Payment Date, commencing August 1, 2023*, and on each Mandatory Tender Date and each Redemption Date.

Interest on the Bonds shall be computed on the basis of a 360-day year of 12 months of 30 days each.

The principal of and interest on any of the Bonds shall be payable in lawful money of the United States of America. Except as described below under the subcaption “Book-Entry-Only System,” (a) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the Designated Office of the Trustee or at the office, designated by the Trustee, of any paying agent and (b) interest on any Bond shall be paid on

* Preliminary; subject to change.

each Interest Payment Date by check or draft which the Trustee shall cause to be mailed on that date to the Person in whose name the Bond (or one or more Predecessor Bonds) is registered at the close of business of the Regular Record Date applicable to that Interest Payment Date on the Register at the address appearing therein.

Special Obligations

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE COMMONWEALTH OR OF ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

Redemption of the Bonds

Optional Redemption of Bonds. The Bonds are subject to optional redemption prior to their maturity, at direction of the Authorized Borrower Representative, either in whole or in part on any Business Day on or after the later to occur of (a) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (b) the Optional Redemption Date, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

Mandatory Redemption of Bonds. The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, if any, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has not elected to request the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Bond Fund at 11:00 a.m. Eastern time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

Purchase in Lieu of Redemption. At the election of the Borrower upon a redemption in whole of the Bonds, by written notice to the Trustee and the Remarketing Agent given not less than five (5) Business Days in advance of such redemption date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date and the call for redemption shall be cancelled. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and any prepayment fee, if due, and shall be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall remain outstanding and shall be registered to or upon the direction of the Borrower.

Partial Redemption. In the case of a partial redemption of Bonds when Bonds of denominations greater than \$5,000 are then Outstanding, each \$5,000 unit of face value of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of face value represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the Holder of that Bond shall surrender the Bond to the Trustee (a) for payment of the redemption price of the

\$5,000 unit or units of face value called for redemption (including without limitation, the interest accrued to the date fixed for redemption and any premium), and (b) for issuance, without charge to the Holder thereof, of a new Bond or Bonds of the same series, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

If less than all of an Outstanding Bond of one maturity in a Book Entry System is to be called for redemption, the Trustee shall give notice to the Depository or the nominee of the Depository that is the Holder of such Bond, and the selection of the Beneficial Ownership Interests in that Bond to be redeemed shall be at the sole discretion of the Depository and its participants.

Notice of Redemption

Unless waived by any Holder of Bonds to be redeemed, official notice of redemption will be given by the Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail, postage prepaid, return receipt requested, to the Holder of each Bond to be redeemed, at the address of such Holder shown on the Register at the opening of business on the fifth day prior to such mailing, not less than 30 days nor more than 60 days prior to the date fixed for redemption. A second notice of redemption will be given, as soon as practicable, by registered or certified mail to the Holder of each Bond which has been so called for redemption (in whole or in part) but has not been presented and surrendered to the Trustee within 60 days following the date fixed for redemption of that Bond.

Mandatory Tender

Mandatory Tender for Purchase. All Outstanding Bonds shall be subject to mandatory tender by the Holders for purchase in whole and not in part on each Mandatory Tender Date. The purchase price for each such Bond shall be payable in lawful money of the United States of America by check or draft, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date, and shall be paid in full on the applicable Mandatory Tender Date.

Mandatory Tender Dates. The Mandatory Tender Dates shall consist of (i) the Initial Mandatory Tender Date and (ii) any subsequent dates for mandatory tender of the Bonds established by the Borrower with the consent of the Remarketing Agent in connection with a remarketing of the Bonds pursuant to the Indenture.

Holding of Tendered Bonds. While tendered Bonds are in the custody of the Trustee pending purchase pursuant to the Indenture, the tendering Holders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Bonds through the day preceding the applicable Mandatory Tender Date is to be paid as if such Bonds had not been tendered for purchase.

Effect of Prior Redemption. Notwithstanding anything in the Indenture to the contrary, any Bond tendered under the Indenture will not be purchased if such Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

Purchase of Tendered Bonds. The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Local Time on the Mandatory Tender Date in the following priority; (i) amounts representing proceeds of remarketed Bonds deposited in the Remarketing Proceeds Account, to pay the principal amount, plus accrued interest, of Bonds tendered for purchase, (ii) amounts on deposit in the Collateral Fund, to pay the principal amount of Bonds tendered for purchase, (iii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund to pay the accrued interest; if any, on Bonds tendered for purchase, (iv) amounts on deposit in the Project Fund to pay the accrued interest, if any, on the Bonds tendered for purchase and (v) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

Undelivered Bonds. Bonds shall be deemed to have been tendered for purposes of the Indenture whether or not the Holders shall have delivered such Undelivered Bonds to the Trustee, and subject to the right of the Holders of such Undelivered Bonds to receive the purchase price of such Bonds and interest accrued thereon to the Mandatory

Tender Date, such Undelivered Bonds shall be null and void. If such Undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Bonds in replacement thereof pursuant to the remarketing of such Undelivered Bonds.

Notice of Mandatory Tender

Notice to Holders. Not fewer than 30 days preceding a Mandatory Tender Date, the Trustee will give written notice of mandatory tender to the Holders of the Bonds then Outstanding (with a copy to the Borrower, the Investor Limited Partner and the Remarketing Agent) by first class mail, postage prepaid, at their respective addresses appearing on the Register stating:

(i) the Mandatory Tender Date and that (a) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date, (b) all Outstanding Bonds must be tendered for purchase no later than 12:00 noon Local Time on the Mandatory Tender Date and (c) Holders will not have the right to elect to retain their Bonds;

(ii) the address of the Designated Office of the Trustee at which Holders should deliver their Bonds for purchase and the date of the required delivery;

(iii) that all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date; and

(iv) any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

Second Notice. In the event that any Bond required to be delivered to the Trustee for payment of the purchase price of such Bond shall not have been delivered to the Trustee on or before the 30th day following a Mandatory Tender Date, the Trustee shall mail a second notice to the Holder of the Bond at its address as shown on the Register setting forth the requirements set forth in the Indenture for delivery of the Bond to the Trustee and stating that delivery of the Bond to the Trustee (or compliance with the provisions of the Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price or redemption price applicable to the Bond.

Failure to Give Notice. Neither failure to give or receive any notice described in this section, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this section.

Book-Entry Only System

The following information on the Book-Entry System applicable to all Bonds has been supplied by DTC and neither the Issuer, the Borrower nor the Underwriter make any representation, warranties or guarantees with respect to its accuracy or completeness.

The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each issue of the Bonds, each in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and

municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has an S&P Global Ratings' rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities

held for the accounts of customers in bearer form or registered in “street name,” and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner shall give notice to elect to have its Bonds purchased or tendered, through its Participant, to the Trustee, and shall effect delivery of such Bonds by causing the Direct Participant to transfer the Participant’s interest in the Bonds, on DTC’s records, to the Trustee. The requirement for physical delivery of Bonds in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Bonds are transferred by Direct Participants on DTC’s records and followed by a book-entry credit of tendered Bonds to the Trustee DTC account.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Issuer. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC’s book-entry system has been obtained from sources that Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

SECURITY AND SOURCES OF PAYMENT FOR THE BONDS

General

The Bonds will be secured by all right, title and interest of the Issuer in the Trust Estate, including, but not limited to (i) the Revenues, including, without limitation, all Loan Payments, Eligible Funds and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan, (ii) the Special Funds, including all accounts in such Special Funds and all money deposited therein and the investment earnings on such money, (iii) all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which money in the Special Funds are invested, and (except for money required to be rebated to the United States of America under the Code) the proceeds derived therefrom, and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind pledged, assigned or transferred, as and for additional security under the Indenture by the Issuer or by anyone on its behalf, or with its written consent, to the Trustee, which is authorized by the Indenture to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture, (iv) the Note, except for the Reserved Rights, and (v) the Loan Agreement, except for the Reserved Rights (the foregoing collectively referred to as the “Trust Estate”).

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE COMMONWEALTH OR OF ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE COMMONWEALTH, ANY MUNICIPALITY OR ANY SUCH POLITICAL SUBDIVISION, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE SECURITY AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE

COMMONWEALTH, ANY MUNICIPALITY OR ANY POLITICAL SUBDIVISION IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

The Bonds and the interest thereon are limited obligations of the Borrower, payable solely from the trust estate pledged therefor under the Indenture. None of the Borrower's partners, nor any of their members, officers, directors or affiliates shall in any event be liable for the payment of the principal, interest or premium if any, on the Bonds, nor for the performance of any pledge, obligation or agreement whatsoever with respect thereto.

Repayment of Loan

The Loan Agreement and the Note obligate the Borrower to cause to be paid to the Trustee amounts which shall be sufficient to pay Bond Service Charges coming due on each Bond Payment Date, however, it is expected that the Eligible Funds required to be deposited in the Collateral Fund and amounts on deposit in the Special Funds will be sufficient to pay such Bond Service Charges and such amounts will be a credit against the Borrower's payment obligations under the Loan Agreement and the Note.

Additional Bonds

No additional Bonds on parity with the Bonds may be issued pursuant to the Indenture.

PRIVATE PARTICIPANTS

The following information concerning the private participants has been provided by representatives of the private participants and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.

The Borrower

The Borrower is Blaine Landing Phase II, L.P., a Virginia limited partnership, a single-asset entity formed for the specific purpose of acquiring, owning and operating the Project. The general partner of the Borrower is Blaine Landing Phase II GP, L.L.C., a Virginia limited liability company (the "General Partner"), which will have a 0.01% ownership interest in the Borrower TB Blaine Landing Phase II Affordable Housing, LLC, a Virginia limited liability company (the "Investor Limited Partner"), will own a 99.99% interest in the Borrower.

The Investor Limited Partner

Simultaneously with the issuance of the Bonds, the Borrower expects the General Partner and the Investor Limited Partner to enter into an amended and restated agreement of limited partnership of the Borrower pursuant to which the Investor Limited Partner will acquire a 99.99% ownership interest in the Borrower. Pursuant to the offer, the equity funding arrangements for the funding of the tax credit equity are expected to be in the total amount set forth under "THE PROJECT — Plan of Financing" herein paid in stages during and after rehabilitation of the Project. These funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the estimates set forth herein and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

Limited Assets and Obligation of Borrower, General Partner and Investor Limited Partner

The Borrower and the General Partner have no substantial assets other than the Project and do not intend to acquire any other substantial assets or to engage in any substantial business activities other than those related to the ownership of the Project. However, the General Partner, the Investor Limited Partner, and their affiliates are engaged in and will continue to engage in the acquisition, development, ownership and management of similar types of housing

projects. They may be financially interested in, as officers, partners or otherwise, and devote substantial time to, business and activities that may be inconsistent or competitive with the interests of the Project.

The obligations and liabilities of the Borrower under the Loan Agreement and the Note are of a non-recourse nature and are limited to the Project and moneys derived from the operation of the Project. Neither the Borrower nor its partners have any personal liability for payments on the Note to be applied to pay the principal of and interest on the Bonds. Furthermore, no representation is made that the Borrower has substantial funds available for the Project. Accordingly, neither the Borrower's financial statements nor those of its partners are included in this Official Statement.

The Developer

The developer is S.L. Nusbaum Realty Co., a Virginia corporation (the "Developer"). The Developer was started in 1906 and has more than 60 years of experience in affordable housing and multifamily development. The Developer has developed 10,219 units in 3 states.

The Architect

The architect for the Project is TS3 Architects, P.C. (the "Architect"). The Architect is not an affiliate of the Developer. The Architect has been a licensed architect for 28 years and has been the principal architect for approximately 32 multifamily developments with an excess of 5,100 units throughout Virginia, Maryland, North Carolina, South Carolina, Florida and New York.

The General Contractor

The general contractor for the Project will be Harkins Builders, Inc. (the "General Contractor"). The General Contractor is not an affiliate of the Developer. The General Contractor and its affiliated construction companies have been constructing and rehabilitating multifamily rental housing developments for over 57 years and have constructed or renovated more than 80,000 units.

The Property Manager

The Project will be managed by S.L. Nusbaum Realty Co. or its affiliates (collectively, the "Property Manager"). The Property Manager is an affiliate of the Developer. The Property Manager has been involved in the management of apartment complexes since 1963. The Property Manager currently manages more than 240 apartment complexes comprising a total of approximately 33,600 units throughout the United States. The Property Manager was formed in 1906 and currently has a staff of 252 corporate personnel and 915 site employees.

The Mortgage Lender

AGM Financial Services, Inc., a Maryland corporation (the "Mortgage Lender"), will, upon satisfaction of certain conditions precedent, make the Mortgage Loan to the Borrower. The Mortgage Lender is a mortgage banking firm specializing in FHA-insured construction and permanent mortgage loans, Fannie Mae forward commitments and permanent mortgage loans, and both Fannie Mae and FHA bond credit enhancements for multifamily and seniors housing projects across the United States. The Mortgage Lender has been approved by HUD as an eligible issuer and servicer of loans guaranteed by GNMA. To be approved by GNMA to issue GNMA guaranteed certificates with respect to long-term mortgages on multifamily projects, the Mortgage Lender is required to have a net worth (based on audited financial statements) equal to at least \$500,000 plus 0.2% of any securities outstanding in excess of \$35 million.

THE PROJECT

The following information concerning the Project has been provided by representatives of the Borrower and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.

The Project, known as Blaine Landing Phase II, is located in Williamsburg, Virginia, on an approximately 6.257-acre site. The Project contains sixty (60) apartment units located in two (2) buildings. Construction of the Project is anticipated to commence in December 2022* and be completed approximately 18* months later. [BORROWER: DESCRIBE LEASEHOLD INTEREST]

The building construction consists of two (2) buildings, including sixty (60) residential units with access to community space. Common area improvements will include: an office, community room with coffee bar, fitness center, business center with office equipment for tenant use. Site amenities include: playground areas for various ages of children and families, landscaped courtyards between buildings, grilling and dining area, a dog park and walking paths and a multi-use field/game area to encourage outdoor physical activity. There are 125 parking spaces for resident use only.

The unit mix and approximate square footage for the units of the Project will be as follows:

Unit Type	Average Square Feet	Number of Units
1 bedroom 1 bath	707	12
2 bedroom 2 bath	953	36
3 bedroom 2 bath	1169	<u>12</u>
TOTAL		60

Plan of Financing

The estimated sources and uses of funds for the Project are projected to be approximately as follows:

Sources of Funds*	
Bond Proceeds	\$8,800,000
Mortgage Loan	6,149,400
Federal Tax Credit Equity	8,040,541
GP Loan	1,750,000
Deferred Developer Fee	<u>905,414</u>
Total	<u>\$25,645,355</u>
Uses of Funds*	
Construction Costs	\$13,805,412
Architect/Engineer/Third Party	1,252,148
Costs of Issuance	292,795
Developer Fee	1,495,000
Payment of Bond Principal	<u>8,800,000</u>
Total	<u>\$25,645,355</u>

All costs of issuance of the Bonds, including the underwriter's fee, will be paid by the Borrower.

The Mortgage Loan. The Project will utilize a mortgage loan (the "Mortgage Loan") insured by the Federal Housing Administration ("FHA") under Section 221(d)(4) of the National Housing Act of 1934, as amended, and

* Preliminary; subject to change.

applicable regulations promulgated thereunder. The Mortgage Loan is expected to close simultaneously with the issuance of the Bonds.

The Mortgage Loan is expected to be in the original principal amount of \$6,149,400* and is expected to bear interest at the estimated rate of 5.25%* per annum. The Mortgage Loan proceeds will be disbursed by the Mortgage Lender to the Borrower based upon approved advances. Such advances will be evidenced by the Mortgage Note, secured by the Mortgage on the Project, and the Mortgage Lender will issue, with respect to the Mortgage Note, fully amortized mortgage-backed securities (“GNMA Securities”) guaranteed as to timely payment of principal and interest by the Government National Mortgage Association (“GNMA”). The Mortgage Loan will be amortized over approximately [38.5][40]* years.

The Low Income Housing Tax Credit Proceeds. Prior to the issuance of the Bonds, the Borrower sold to the Investor Limited Partner a 99.99% ownership interest in the Borrower. Pursuant to the sale, the funding of the Federal Low Income Housing Tax Credit equity will total approximately \$8,040,541*, with an initial capital contribution of \$2,010,223*. The funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the projections set forth above and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

The GP Loan. The Project will also utilize a GP loan in the principal amount of \$1,750,000* (the “GP Loan”). The obligation to repay the GP Loan will be set forth in a promissory note (the “GP Loan Note”) from the Borrower to Blaine Landing Phase II GP, L.L.C. (the “GP Lender”) and will be repayable out of cash flow and other non-Project sources on the terms and conditions set forth therein. The GP Loan Note will have a term equal to that of the Mortgage Loan and will bear interest at a rate of [] % per annum, with annual principal and interest not otherwise paid, due at maturity.

Deferred Developer Fee. The Project will also utilize a deferred developer fee in the amount of \$905,414* as a source of funding. The deferred developer fee will be repaid through surplus cash flow received from the operation of the Project.

The sources and uses of funds to be applied under the Indenture are projected to be approximately as follows:

Sources of Funds*:

Bond Proceeds	\$8,800,000
Bond Premium	
Eligible Funds	
Total	

Uses of Funds*:

Project Fund (Includes Premium)	\$8,800,000
Negative Arbitrage Account	
Total	

Project Regulation

The Borrower intends to construct and operate the Project as a qualified residential rental project in accordance with the provisions of Section 142(d) of the Code. Concurrently with the closing of the Mortgage Loan, the Borrower, the Issuer and the Trustee will enter into the Regulatory Agreement. Under the Regulatory Agreement, the Borrower will agree that, at all times during the Qualified Project Period, the Borrower will rent at least 40% of the units in the Project to persons whose adjusted family income (determined in accordance with the provisions of the Code) is less than 60% of the median area income (adjusted for family size). The Qualified Project Period commences on the later of the Closing Date or the first day on which at least 10% of the units are occupied and continues until the

* Preliminary; subject to change.

latest of (a) the date which is fifteen (15) years after the later of the Closing Date or the date on which at least ten percent (10%) of the units in the Project are first occupied, (b) the first date on which no tax-exempt private activity bonds with respect to the Project are outstanding, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the National Housing Act terminates. The failure of the Borrower to comply with the Regulatory Agreement could cause interest on the Bonds to be included in gross income for federal income tax purposes. See APPENDIX D — SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT.

The Project will also be encumbered by an Extended Use Agreement required by Section 42 of the Code relating to tax credits, which will (a) restrict the income levels of 100% of the units in the Project to amounts not greater than a project wide average of 60% of the area median income adjusted for family size, and (b) restrict the rents which may be charged to the tenants for occupancy of units in the Project to not more than 30% of the relevant area median income, adjusted for family size. The project may utilize income averaging to maintain occupancy among tenants with an averaged income not to exceed 60% of area median income, as permitted by IRS Section 42 and the projects Extended Use Regulatory Agreement.

Additional restrictions are imposed on the Project pursuant to the HUD Regulatory Agreement entered into by the Borrower in connection with the Mortgage Loan.

CERTAIN BONDHOLDERS' RISKS

The following is a summary of certain risks associated with a purchase of the Bonds. There are other possible risks not discussed below. The Bonds are payable from the payments to be made by the Borrower under the Loan Agreement and the Note, and from amounts on deposit in the Special Funds and the interest earnings thereon. The Borrower's obligation to make payments pursuant to the Loan Agreement and the Note are nonrecourse obligations with respect to which the Borrower and its partners have no personal liability (except as otherwise provided in the Note) and as to which the Borrower and its partners have not pledged any of their respective assets.

General

Payment of the Bond Service Charges, and the Borrower's obligations with respect to the Bond Service Charges, will be primarily secured by and payable from Bond proceeds held in the Project Fund and moneys deposited into the Collateral Fund and the Bond Fund, including the Negative Arbitrage Account held in the Bond Fund. Although the Borrower will execute the Note to evidence its obligation to repay the Loan, it is not expected that any revenues from the Project or other amounts, except moneys in the Special Funds, will be available to satisfy that obligation. The Indenture requires the Trustee to verify, before any disbursement of funds from the Project Fund, that the sum of the funds on deposit in the Project Fund and the Collateral Fund is at least equal to the then outstanding principal amount of the Bonds. It is expected that funds on deposit in the Collateral Fund and Negative Arbitrage Account of the Bond Fund will be sufficient to pay the debt service on the Bonds.

Early Redemption of the Bonds

Any person who purchases a Bond should consider the fact that the Bonds are subject to redemption, upon the occurrence of certain events. See "THE BONDS – Redemption of the Bonds" herein.

Limited Security for Bonds

The Bonds are not secured by the Mortgage Loan. Investors should look exclusively to amounts on deposit in the Special Funds under the Indenture and investment earnings on each as the source of payment of debt service on the Bonds.

Future Determination of Taxability of the Bonds

Failure of the Borrower to have complied with and to continue to comply with certain covenants contained in the Loan Agreement and the Regulatory Agreement could result in interest on the Bonds being taxable retroactive

to the date of original issuance of the Bonds. The Bonds are not subject to redemption upon a determination of taxability and are not subject to payment of additional interest in such an event, and neither the Issuer nor the Borrower will be liable under the Bonds, the Indenture or the Loan Agreement for any such payment of additional interest on the Bonds.

Issuer Limited Liability

The Bonds will not be insured or guaranteed by any governmental entity or by the Issuer or any member or program participant of the foregoing. The Bondholders will have no recourse to the Issuer in the event of an Event of Default on the Bonds. The Trust Estate for the Bonds will be the only source of payment on the Bonds.

Enforceability of Remedies upon an Event of Default

The remedies available to the Trustee and the owners of the Bonds upon an Event of Default under the Indenture, the Loan Agreement, the Regulatory Agreement or any other document described herein are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under such documents may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

Secondary Markets and Prices

No representation is made concerning the existence of any secondary market for the Bonds. The Underwriter will not be obligated to repurchase any of the Bonds, nor can any assurance be given that any secondary market will develop following the completion of the offering of the Bonds. Further, there can be no assurance that the initial offering prices for the Bonds will continue for any period of time. Furthermore, the Bonds should be purchased for their projected returns only and not for any resale potential, which may or may not exist.

Eligible Investments

Proceeds of the Bonds deposited into the Project Fund and Eligible Funds received by the Trustee for deposit into the Collateral Fund are required to be invested in Eligible Investments. See “APPENDIX A – DEFINITIONS OF CERTAIN TERMS” hereto for the definition of Eligible Investments. There can be no assurance that there will not be a loss resulting from any investment held for the credit of the Project Fund or the Collateral Fund, and any failure to receive a return of the amounts so invested could affect the ability to pay the principal of and interest on the Bonds.

Rating Based on Eligible Investments

The rating on the Bonds is based on the amounts in the Project Fund and the Collateral Fund being invested in Eligible Investments. If one or more of such investments fail to meet the rating standards for Eligible Investments after their acquisition and prior to maturity, such a change may result in a downgrade or withdrawal of the rating on the Bonds.

Subordination to Mortgage Loan Documents

The Indenture, the Loan Agreement, the Note, and the Regulatory Agreement contain provisions regarding subordination of such documents to the Mortgage Loan Documents. No assurance can be given that such provisions will not impair the excludability of interest on the Bonds from gross income for federal income tax purposes.

Future Legislation; IRS Examination

The Project, its operation and the treatment of interest on the Bonds are subject to various laws, rules and regulations adopted by the local, Commonwealth and federal governments and their agencies. There can be no assurance that relevant local, Commonwealth or federal laws, rules and regulations may not be amended or modified or interpreted in the future in a manner that could adversely affect the Bonds, the trust estate created under the Indenture, the Project, or the financial condition of or ability of the Borrower to comply with its obligations under the various transaction documents.

In recent years, the Internal Revenue Service (“IRS”) has increased the frequency and scope of its examination and other enforcement activity regarding tax exempt bonds. Currently, the primary penalty available to the IRS under the Code is a determination that interest on bonds is subject to federal income taxation. Such event could occur for a variety of reasons, including, without limitation, failure to comply with certain requirements imposed by the Code relating to investment restrictions, periodic payments of arbitrage profits to the United States of America, the timely and proper use of Bond proceeds and the facilities financed therewith and certain other matters. See “TAX MATTERS” herein. No assurance can be given that the IRS will not examine the Issuer, the Borrower, the Project or the Bonds. If the Bonds are examined, it may have an adverse impact on their price and marketability.

Potential Impact of Pandemics

The spread of the strain of coronavirus and resulting disease commonly known as COVID-19 is altering the behavior of businesses and people in a manner that is having negative effects on global, state and local economies. There can be no assurances that the spread of a pandemic, including a strain of coronavirus and resulting disease known as COVID-19, will not materially impact both local and national economies and, accordingly, have a materially adverse impact on the Project’s operating and financial viability. The effects of a pandemic could include, among other things, an increase in the time necessary to complete the construction and/or rehabilitation of the Project, suspension or delay of site inspections and other on-site meetings, interruption in the engagement of material participants in the Project, increase in the time necessary to conduct lease-up at the Project, and increased delinquencies and/or vacancies, all of which could impact the Borrower’s ability to make payments on the loans and result in an acceleration thereof.

Legislative Response to COVID-19

Federal, state and local bodies are contemplating and enacting legislative actions, regulations and/or other administrative directives and guidance to mitigate the impacts of COVID-19 on the general population and the economy. On March 12, 2020, the President of the United States declared a national emergency, and since that time, the United States Congress has approved several COVID-19 related bills, including the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), signed into law on March 27, 2020, and the Consolidated Appropriations Act, 2021, enacted by the United States Congress on December 21, 2020, and signed into law December 27, 2020 (the “COVID Relief Act”).

The CARES Act provides that borrowers of multifamily/affordable housing mortgage loans (other than temporary loans, i.e., construction loans), which loans are (a) insured, guaranteed, supplemented or assisted in any way by the federal government (including any HUD program or related program) or administered by any federal agency or (b) purchased or securitized by Fannie Mae or Freddie Mac and which are current as of February 1, 2020, may request a 30-day payment forbearance, and up to two additional 30-day forbearances. During the period of any such forbearance, the borrower may not evict any tenant solely for nonpayment of rent. Such relief follows actions previously taken by the Federal Housing Finance Agency (“FHFA”), which announced that Fannie Mae and Freddie Mac would offer mortgage loan forbearance to multifamily property owners on the condition that they suspend all evictions for renters who cannot pay their rent because of COVID-19. FHFA has announced that Fannie Mae and Freddie Mac will continue providing the protections described above in this paragraph until otherwise directed by FHFA.

Summary

The foregoing is intended only as a summary of certain risk factors attendant to an investment in the Bonds. In order for potential investors to identify risk factors and make an informed investment decision, potential investors should be thoroughly familiar with this entire Official Statement and the Appendices hereto.

TAX MATTERS

Opinion of Bond Counsel – Federal Income Tax Status of Interest on the Bonds

Except as qualified below, in the opinion of McGuireWoods LLP, Bond Counsel, assuming continuous compliance with the covenants in the Tax Certificate and Agreement to be delivered by the Borrower and the Issuer in connection with the delivery of the Bonds (the “Tax Certificate”), and based on existing statutes, court decisions, regulations and rulings, and subject to the qualifications described in the remaining paragraphs under this heading, interest on the Bonds (a) is excludable from the gross income of the holders of the Bonds for purposes of federal income taxation pursuant to the Code under existing statutes, regulations and decisions, except as provided in Section 147(a) of the Code with respect to any period during which the Bonds are held by a person who is a “substantial user” of the Project or by a “related person,” as such terms are used in Section 147(a) of the Code and the regulations adopted thereunder, and (b) is not a specific item of tax preference for purposes of the federal alternative minimum tax. In the event of noncompliance with certain covenants contained in the Tax Certificate, interest on the Bonds would be subject to income taxation by the United States of America from the date of issue. The proposed form of the opinion of Bond Counsel appears as Appendix F hereto.

Reliance and Assumptions; Effect of Certain Changes

As to questions of fact material to its opinion, Bond Counsel is relying upon and assuming the accuracy of certifications and representations of the Issuer and the Borrower, which Bond Counsel has not independently verified.

In addition, Bond Counsel is assuming continuing compliance with the Covenants (as hereinafter defined) by the Issuer and the Borrower. The Code and the regulations promulgated thereunder contain a number of requirements that must be satisfied after the issuance of the Bonds in order for interest on the Bonds to be and remain excludable from gross income for purposes of federal income taxation. These requirements include, by way of example and not limitation, restrictions on the use, expenditure and investment of the proceeds of the Bonds and the use of the property financed by the Bonds, limitations on the source of the payment of and the security for the Bonds, and the obligation to rebate certain excess earnings on the gross proceeds of the Bonds to the Treasury of the United States (the “Treasury”). The Indenture, the Loan Agreement and the Tax Certificate contain covenants (the “Covenants”) under which the Issuer and the Borrower have agreed to comply. A failure to comply with the Covenants could cause interest on the Bonds to become includable in gross income for federal income tax purposes retroactively to their date of issue. In the event of noncompliance with the Covenants, the available enforcement remedies may be limited by applicable provisions of law and, therefore, may not be adequate to prevent interest on the Bonds from becoming includable in gross income for federal income tax purposes. Compliance by the Issuer with its respective Covenants does not require the Issuer to make any financial contribution for which it does not receive funds from the Borrower.

Bond Counsel has no responsibility to monitor compliance with the Covenants after the date of issue of the Bonds.

Certain requirements and procedures contained, incorporated or referred to in the Indenture, the Loan Agreement, and the Tax Certificate, including the Covenants, may be changed and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth therein. Bond Counsel expresses no opinion concerning any effect on the excludability of interest on the Bonds from gross income for federal income tax purposes of any such subsequent change or action that may be made, taken or omitted upon the advice or approval of counsel other than Bond Counsel.

Certain Collateral Federal Tax Consequences

The following is a brief discussion of certain collateral federal income tax matters with respect to the Bonds. It does not purport to address all aspects of federal taxation that may be relevant to a particular owner thereof. Prospective purchasers of the Bonds, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the federal tax consequences of owning or disposing of the Bonds.

Prospective purchasers of the Bonds should be aware that the ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, certain insurance companies, certain corporations (including S corporations and foreign corporations), certain foreign corporations subject to the “branch profits tax,” individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations and taxpayers attempting to qualify for the earned income tax credit.

In addition, prospective purchasers should be aware that the interest paid on, and the proceeds of the sale of, tax-exempt obligations, including the Bonds, are in many cases required to be reported to the IRS in a manner similar to interest paid on taxable obligations. Additionally, backup withholding may apply to any such payments to any owner of a Bond who fails to provide an accurate Form W-9 Request for Taxpayer Identification Number and Certification, or a substantially identical form, or to any owner of a Bond who is notified by the IRS of a failure to report all interest and dividends required to be shown on federal income tax returns. The reporting and withholding requirements do not in and of themselves affect the excludability of interest on the Bonds from gross income for federal tax purposes or any other federal tax consequence of purchasing, holding or selling tax-exempt obligations.

Effects of Future Enforcement, Regulatory and Legislative Actions

The IRS has established a program to audit tax-exempt obligations to determine whether the interest thereon is includable in gross income for federal income tax purposes. If the IRS does audit the Bonds, the IRS will, under its current procedures, treat the Issuer as the taxpayer. As such, the beneficial owners of the Bonds will have only limited rights, if any, to participate in the audit or any administrative or judicial review or appeal thereof. Any action of the IRS, including but not limited to the selection of the Bonds for audit, or the course or result of such audit, or an audit of other obligations presenting similar tax issues, may affect the marketability or market value of the Bonds.

Legislation affecting tax-exempt obligations is regularly considered by the United States Congress and various state legislatures.

The Treasury and the IRS are continuously drafting regulations to interpret and apply the provisions of the Code and court proceedings may be filed the outcome of which could modify the federal or state tax treatment of tax-exempt obligations. There can be no assurance that legislation proposed or enacted after the date of issue of the Bonds, regulatory interpretation of the Code or actions by a court involving either the Bonds or other tax-exempt obligations will not have an adverse effect on the Bonds’ federal or state tax status, marketability or market price of the Bonds or on the economic value of the tax-exempt status of the interest on the Bonds.

Prospective purchasers of the Bonds should consult their own tax advisors regarding the potential consequences of any such pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

Opinion of Bond Counsel – Virginia Income Tax Consequences

In the opinion of Bond Counsel, by the terms of the Act, interest on the Bonds shall be exempt from income taxation in the State. Prospective purchasers should consult their own tax advisors regarding the tax status of interest on the Bonds in a particular state or local jurisdiction other than the State. The proposed form of the opinion of Bond Counsel appears as Appendix F hereto.

UNDERWRITING

Stifel, Nicolaus & Company, Incorporated (the “Underwriter”), is offering the Bonds at the price set forth on the cover hereof. The initial offering price may be changed from time to time and concessions from the offering price may be allowed to dealers, banks and others. The Underwriter also agrees to advance \$_____ (the “Underwriter’s Advance”) for initial deposits established under the Indenture. The Underwriter has agreed to purchase the Bonds at a price equal to the principal amount thereof. For its services as such, the Underwriter is to be paid a fee equal to \$_____ plus \$_____ for certain fees and expenses (not inclusive of the fees of its counsel), and will be reimbursed for the Underwriter’s Advance. From its fees, the Underwriter will pay certain of its expenses relating to the offering.

The Underwriter does not guarantee a secondary market for the Bonds and is not obligated to make any such market in the Bonds. No assurance can be made that such a market will develop or continue. Consequently, investors may not be able to resell Bonds should they need or wish to do so for emergency or other purposes.

In addition to serving as Underwriter, Stifel, Nicolaus & Company, Incorporated has been designated to serve as the Remarketing Agent for the Bonds and will receive a fee for serving in such capacity.

RATING

Moody’s Investors Service, Inc., a Delaware corporation (the “Rating Agency”), has assigned to the Bonds the rating set forth on the cover page hereof. An explanation of the significance of such rating may be obtained from the Rating Agency. The rating of the Bonds reflects only the views of the Rating Agency at the time such rating was given, and neither the Issuer nor the Borrower nor the Underwriter makes any representation as to the appropriateness of the rating. There is no assurance that such rating will continue for any given period of time or that it will not be revised downward or withdrawn entirely by the Rating Agency, if in its judgment, circumstances so warrant. Any such downward revision or withdrawal of the rating may have an adverse effect on the market price of the Bonds.

UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE

Prior to the issuance of the Bonds, the Borrower will execute and deliver a Continuing Disclosure Agreement pursuant to which the Borrower will agree to provide ongoing disclosure pursuant to the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”). Financial statements and other operating data will be provided at least annually to the Municipal Securities Rulemaking Board (the “MSRB”) and notices of certain events will be issued pursuant to the Rule. Information will be filed with the MSRB through its Electronic Municipal Market Access (EMMA) system, unless otherwise directed by the MSRB. A form of the Continuing Disclosure Agreement is attached hereto as APPENDIX E.

A failure by the Borrower to comply with the Continuing Disclosure Agreement will not constitute an Event of Default under the Indenture. Nevertheless, such a failure must be reported in accordance with the Rule and must be considered by a broker or dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds and their market price and the ability of the Issuer to issue and sell bonds in the future.

The Borrower has not previously been subject to the continuing disclosure requirements of the Rule.

CERTAIN LEGAL MATTERS

Certain legal matters relating to the authorization and validity of the Bonds will be subject to an approving opinion of McGuireWoods LLP, Tysons Corner, Virginia, as Bond Counsel. Certain legal matters will be passed upon for the Borrower by Willcox and Savage, Norfolk, Virginia and Klein Hornig LLP, Washington, D.C., and for the Underwriter by Tiber Hudson LLC, Washington, D.C. Payment of the fees of certain counsel to the transaction is contingent upon the issuance and delivery of the Bonds as described herein.

ABSENCE OF LITIGATION

The Issuer

On the date of issuance of the Bonds, the Issuer will deliver certificates to the effect that, to the knowledge of the Issuer, no litigation is pending or threatened against the Issuer (i) to restrain or enjoin the issuance of the Bonds, or contesting or questioning the validity of the Bonds or the proceedings and authority under which the Bonds have been authorized and are to be issued, or the pledge or application of any money or security provided for the payment of the Bonds or (ii) which questions the validity of the Indenture, the Loan Agreement, the Regulatory Agreement or the Bonds.

The Borrower

On the date of issuance of the Bonds, the Borrower will deliver a certificate that there is no pending or, to the knowledge of the Borrower, any threatened litigation against the Borrower adversely affecting the power or authority of the Borrower to enter into the Financing Documents or that would materially adversely affect the Borrower's obligations under the Financing Documents.

ADDITIONAL INFORMATION

The summaries and explanation of, or references to, the Act, the Indenture and the Bonds included in this Official Statement do not purport to be comprehensive or definitive. Such summaries, references and descriptions are qualified in their entirety by reference to each such document, copies of which are on file with the Trustee.

The information contained in this Official Statement is subject to change without notice and no implication shall be derived therefrom or from the sale of the Bonds that there has been no change in the affairs of the Issuer from the date hereof.

This Official Statement is submitted in connection with the offering of the Bonds and may not be reproduced or used, as a whole or in part, for any other purpose. Any statements in the Official Statement involving matters of opinion or estimate, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Issuer and the owners of any of the Bonds.

[Remainder of page intentionally left blank]

This Official Statement has been duly authorized, executed and delivered by the Issuer and the Borrower.

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA**

By: _____
Chair

[Signatures continue on next page]

[Borrower signature page to the Official Statement]

BLAINE LANDING PHASE II, L.P.,
a Virginia limited partnership

By: Blaine Landing Phase II GP, L.L.C.,
its General Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

APPENDIX A

DEFINITIONS OF CERTAIN TERMS

Certain capitalized terms used in this Official Statement are defined below. The following is subject to all the terms and provisions of the Indenture, to which reference is hereby made and copies of which are available from the Issuer or the Trustee.

“Act” means the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as now in effect and as from time to time hereafter amended or supplemented.

“Act of Bankruptcy” means written notice to the Trustee that the Borrower has become insolvent or has failed to pay its debts generally as such debts become due or has admitted in writing its inability to pay any of its indebtedness or has consented to or has petitioned or applied to any court or other legal authority for the appointment of a receiver, liquidator, trustee or similar official for itself or for all or any substantial part of its properties or assets or that any such trustee, receiver, liquidator or similar official has been appointed or that a petition in bankruptcy, insolvency, reorganization or liquidation proceedings (or similar proceedings) have been instituted by or against the Borrower; provided that, if in the case of an involuntary proceeding, such proceeding is not dismissed within 90 days after commencement thereof.

“Additional Payments” means the amounts required to be paid by the Borrower pursuant to the Loan Agreement.

“Administrative Expenses” means the Ordinary Trustee Fees and Expenses, the Dissemination Agent Fee and the Ordinary Issuer Fees.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Authorized Borrower Representative” means any person who, at any time and from time to time, is designated as the Borrower’s authorized representative by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized General Partner of the Borrower, which certificate may designate an alternate or alternates. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the Issuer) a written certificate revoking such person’s authority to act in such capacity.

“Authorized Denomination” means \$5,000, or any integral multiple of \$1,000 in excess thereof.

“Authorized Official” means the Chair or Vice Chair of the Issuer and any other officer or employee of the Issuer designated by certificate of any of the foregoing as authorized by the Issuer to perform a specified act, sign a specified document or otherwise take action with respect to the Bonds. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Official is an Authorized Official until such time as such provider files with it a written certificate identifying a different person or persons to act in such capacity.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as in effect now and in the future, or any successor statute.

“Beneficial Owner” means with respect to the Bonds, the Person owning the Beneficial Ownership Interest therein, as evidenced to the satisfaction of the Trustee.

“Beneficial Ownership Interest” means the right to receive payments and notices with respect to the Bonds held in a Book-Entry System.

“Bond Counsel” means McGuireWoods LLP, or other counsel nationally recognized as having an expertise in connection with the exclusion of interest on obligations of states and local governmental units from the gross income of holders thereof for federal income tax purposes.

“Bond Fund” means the Bond Fund created in the Indenture.

“Bond Payment Date” means each Interest Payment Date and any other date Bond Service Charges on the Bonds are due, whether at maturity, upon redemption, Mandatory Tender or acceleration or otherwise.

“Bond Purchase Agreement” means the Bond Purchase Agreement, dated November __, 2022, among the Underwriter, the Issuer and the Borrower.

“Bond Resolution” means the certain resolution relating to the issuance and sale of the Bonds, adopted by the Governing Body on November 15, 2022.

“Bond Service Charges” means, for any period or payable at any time, the principal of and interest on the Bonds for that period or payable at that time whether due at maturity or upon redemption, Mandatory Tender, acceleration or otherwise.

“Bonds” means the Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022 of the Issuer authorized in the Bond Resolution and the Indenture in an amount not to exceed \$8,800,000*.

“Book-Entry Form” or “Book-Entry System” means, with respect to the Bonds, a form or system, as applicable, under which (a) physical Bond certificates in fully registered form are issued only to a Depository or its nominee, with the physical Bond certificates “immobilized” in the custody of the Depository and (b) the ownership of book entry interests in Bonds and Bond Service Charges thereon may be transferred only through a book entry made by others than the Issuer or the Trustee. The records maintained by others than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book entry interests in those Bonds and Bond Service Charges thereon.

“Borrower” means Blaine Landing Phase II, L.P., a Virginia limited partnership.

“Borrower Documents” means the Financing Documents and the Mortgage Loan Documents to which the Borrower is a party.

“Business Day” means a day other than a Saturday or a Sunday, on which (a) banking institutions in the City of New York or in the city in which the principal office of the Trustee, the Tender Agent or the Remarketing Agent is located are not authorized or obligated by law or executive order to be closed, or (b) The New York Stock Exchange is not closed, and on which the United States Government makes payments of principal and interest on its Treasury obligations.

“Cash Flow Projection” means a cash flow projection prepared by an independent firm of certified public accountants, a financial advisory firm, a law firm or other independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by the Borrower and acceptable to the Rating Agency, establishing, to the satisfaction of the Rating Agency, the sufficiency of (a) the amount on deposit in the Special Funds, (b) projected investment income to accrue on amounts on deposit in the Special Funds during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Service Charges and the Administrative Expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in the Indenture, (iii) the release of Eligible Funds from the Negative Arbitrage Account of the Bond Fund, as provided in the Indenture, (iv) the purchase, sale or exchange of Eligible Investments as provided in the Indenture and (v) the sale or other disposition by the

Trustee of Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to the Initial Mandatory Tender Date.

“Chairman” means the person serving as Chair of the Issuer.

“Closing Date” means December __, 2022.

“Code” means the Internal Revenue Code of 1986, as amended, in full force and effect on the date of the Indenture.

“Collateral Fund” means the Collateral Fund created in the Indenture.

“Commonwealth” means the Commonwealth of Virginia.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of December 1, 2022 between the Borrower and the Dissemination Agent, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Controlling Holders” means in the case of consent or direction to be given under the Indenture, the Holders of the majority in aggregate principal amount of the Outstanding Bonds.

“Controlling HUD and GNMA Requirements” means the National Housing Act and any applicable HUD or GNMA regulations, and related HUD or GNMA administrative requirements and prohibitions.

“Costs of Issuance” means the “issuance costs” with respect to the Bonds within the meaning of Section 147(g) of the Code.

“Costs of Issuance Fund” means the Costs of Issuance Fund created in the Indenture.

“County” means the County of James City, Virginia.

“Depository” means, with respect to the Bonds, DTC, until a successor Depository shall have become such pursuant to the applicable provisions of the Indenture, and thereafter, Depository shall mean the successor Depository. Any Depository shall be a securities depository that is a clearing agency under a federal law operating and maintaining, with its participants or otherwise, a Book-Entry System to record ownership of Book-Entry interests in Bonds or Bond Service Charges thereon, and to effect transfers of Book-Entry interests in Bonds.

“Designated Office” of the Trustee or the Remarketing Agent means, respectively, the office of the Trustee or the Remarketing Agent at the respective Notice Address set forth in the Indenture or at such other address as may be specified in writing by the Trustee or the Remarketing Agent, as applicable.

“Determination of Taxability” means the receipt by the Trustee of (1) a copy of written notice from the Commissioner or any District Director of the Internal Revenue Service or a determination by any court of competent jurisdiction, or (2) an Opinion of Bond Counsel, in either case to the effect that interest on the Bonds is not excludable for regular federal income tax purpose under Section 103(a) of the Code from gross income of any Holders of the Bonds (other than a Holder who is a substantial user of the Project or a related person as defined in the Code).

“Dissemination Agent” means U.S. Bank Trust Company, National Association, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

“Dissemination Agent Fee” means the fee payable to the Dissemination Agent as compensation for its services and expenses in performing its obligations under the Continuing Disclosure Agreement; provided, however, the amount of the Dissemination Agent Fee payable under the Indenture is limited to money withdrawn from the Expense Fund and the Borrower will be responsible to pay the remaining amount of the Dissemination Agent Fee pursuant to the Loan Agreement.

“DTC” means The Depository Trust Company (a limited purpose trust company), New York, New York, and its successors or assigns.

“DTC Participant” means any participant contracting with DTC under its Book-Entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

“Eligible Funds” means, as of any date of determination, any of:

(a) the proceeds of the Bonds (including any additional amount paid by the Underwriter to the Trustee as the purchase price of the Bonds);

(b) money received by the Trustee from Lender Funds and proceeds of the GP Loan;

(c) remarketing proceeds of the Bonds (including any additional amount paid by the Remarketing Agent to the Trustee as the remarketing price of the Bonds) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer, any Affiliate of either the Borrower or the Issuer);

(d) any other amounts, including the proceeds of refunding bonds, for which the Trustee has received an Opinion of Counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an “insider” within the meaning of the Bankruptcy Code) to the effect that (A) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (B) payments of such amounts to Holders would not be avoidable as preferential payments under Section 547 or 550 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;

(e) the proceeds of draws by the Trustee on any letter of credit provided to the Trustee for the benefit of the Borrower;

(f) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, provided that no Act of Bankruptcy has occurred during such period; and

(g) investment income derived from the investment of the moneys described in (a) through (f).

“Eligible Investments” means, subject to the provisions of the Indenture, and to the extent permitted under the laws of the Commonwealth of Virginia, any of the following obligations which mature (or are redeemable at the option of the Trustee without penalty) at such time or times as to enable timely disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of the Indenture:

(a) Government Obligations; and

(b) Shares or units in any money market mutual fund rated “Aaa-mf” by Moody’s (or the equivalent Highest Rating Category given by the Rating Agency for that general category of security) including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor registered under the Investment Company Act of 1940, as amended, whose investment portfolio consist solely of direct obligations of the government of the United States of America.

“Event of Default” means any of the events described as an Event of Default in the Indenture or the Loan Agreement.

“Expense Fund” means the Expense Fund created in the Indenture.

“Extension Payment” means the amount due, if any, in connection with the change or extension of the Mandatory Tender Date pursuant to the Indenture and which shall be determined by a Cash Flow Projection approved in writing by the Rating Agency.

“Extraordinary Issuer Fees and Expenses” means the expenses and disbursements payable to the Issuer under the Indenture or the other Financing Documents for Extraordinary Services and Extraordinary Expenses, including extraordinary fees, costs and expenses incurred by Bond Counsel and counsel to the Issuer which are to be paid by the Borrower pursuant to the Loan Agreement.

“Extraordinary Services” and “Extraordinary Expenses” mean all services rendered and all reasonable expenses properly incurred by the Trustee or the Issuer under the Indenture or the other Financing Documents, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include, but are not limited to, services rendered or expenses incurred by the Trustee or the Issuer in connection with, or in contemplation of, an Event of Default.

“Federal Tax Status” means, as to the Bonds, the status of the interest on the Bonds as excludible from gross income for federal income tax purposes of the Holders of the Bonds (except on Bonds while held by a substantial user or related person, each as defined in the Code).

“FHA” means the Federal Housing Administration of HUD or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD, the Federal Housing Commissioner and their representatives or agents. “FHA Commitment” means the Commitment for Insurance of Advances issued by FHA with respect to FHA Insurance on the Mortgage Loan, as the same may be amended.

“FHA Insurance” means the insurance of the Mortgage Note by FHA pursuant to Section 221(d)(4) of the National Housing Act.

“Financing Documents” means the Indenture, the Bonds, the Loan Agreement, the Note, the Tax Agreement, the Regulatory Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement, the Funding Agreement, and any other instrument or document executed in connection with the Bonds, together with all modifications, extensions, renewals and replacements thereof, but excluding the GNMA Documents and the Mortgage Loan Documents.

“Force Majeure” means any of the causes, circumstances or events described as constituting Force Majeure in the Loan Agreement.

“Funding Agreement” means the [Disbursement Agreement, dated as of _____, 2022, among the Borrower, the Mortgage Lender, the Trustee and HUD].

“GNMA” means the Government National Mortgage Association, and organizational unit within HUD, or any successor entity and any authorized representatives or agents thereof, including the Secretary of HUD and his representatives or agents.

“GNMA Certificate” means a mortgage backed security issue by the Mortgage Lender, guaranteed as to timely payment of principal and interest by GNMA pursuant to the National Housing Act and the regulations thereunder, and issued with respect to and backed by the Mortgage Loan.

“GNMA Documents” means any GNMA Certificate, the commitment issued by GNMA to the Mortgage Lender to guarantee the GNMA Certificate and all other documents, certifications and assurances executed and delivered by the Mortgage Lender, GNMA or the Borrower in connection with the GNMA Certificate.

“Governing Body” means the board of directors of the Issuer or any governing body that succeeds to the functions of the directors of the Issuer.

“Government” shall mean the government of the United States of America, the government of any other nation, any political subdivision of the United States of America or any other nation (including, without limitation, any state, territory, federal district, municipality or possession) and any department, agency or instrumentality thereof; and “Governmental” shall mean of, by, or pertaining to any Government.

“Government Obligations” means (i) noncallable, non-redeemable direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (ii) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (i) or (ii) issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity at less than par at the option of anyone other than the holder thereof.

“GP Lender” means Blaine Landing Phase II GP, L.L.C., a Virginia limited liability company.

“GP Loan” means the loan in the principal amount of \$1,750,000* to be made by the GP Lender to the Borrower.

“Highest Rating Category” means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below “Aaa” or “Aaa/VMIG 1” if rated by Moody’s or “A-1+” or “AA+” if rated by S&P.

“Holder” or “Holder of a Bond” means the Person in whose name a Bond is registered on the Register.

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

“HUD Regulatory Agreement” means the Regulatory Agreement for Multifamily Projects between the Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“Indenture” means the Trust Indenture, dated as of December 1, 2022, between the Issuer and the Trustee, as amended or supplemented from time to time.

“Independent” when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, member, partner, or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a member, partner, director, trustee, officer, or employee who is a director, trustee, officer or employee of any partner of the Borrower or any Affiliate of the Borrower.

“Initial Interest Rate” means ____%.

“Initial Mandatory Tender Date” means February 1, 2025*.

“Initial Remarketing Date” means the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date as provided in the Indenture are satisfied.

“Interest Payment Date” means (a) February 1 and August 1 of each year beginning August 1, 2023*, (b) each Redemption Date, and (c) each Mandatory Tender Date. In the case of payment of defaulted interest, “Interest Payment Date” also means the date of such payment established pursuant to the Indenture.

* Preliminary; subject to change.

“Interest Rate” means the Initial Interest Rate to but not including the Initial Mandatory Tender Date, and thereafter the applicable Remarketing Rate.

“Investor Limited Partner” means is TB Blaine Landing Phase II Affordable Housing, LLC, a Virginia limited liability company, and its respective successors and assigns.

“Issuer” means the Economic Development Authority of James City County, Virginia, a political subdivision of the Commonwealth, duly organized and validly existing under the laws of the Commonwealth, and its successors and assigns.

“Issuer Documents” means the Financing Documents to which the Issuer is a party.

“Issuer Fees and Expenses” means, collectively, the Ordinary Issuer Fees and the Extraordinary Issuer Fees and Expenses.

“Lender Funds” means warehouse funds or other funds of the Lender to be advanced by the Lender to the Trustee and/or proceeds, if any, received from the issuance by the Lender of GNMA Certificates, which, in the aggregate, do not exceed the amount set forth in the Indenture.

“Loan” means the loan by the Issuer to the Borrower of the proceeds received from the sale of the Bonds.

“Loan Agreement” means the Loan Agreement dated as of even date with the Indenture, between the Issuer and the Borrower and assigned by the Issuer, except for Reserved Rights, to the Trustee, as amended or supplemented from time to time.

“Loan Payments” means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and the Loan Agreement.

“Local Time” means Eastern Time (daylight or standard, as applicable) in the County of James City, Virginia.

“Mandatory Tender” means a tender of Bonds required by the Indenture.

“Mandatory Tender Date” means the latest of (a) the Initial Mandatory Tender Date and (b) if the Bonds Outstanding on such date or on any subsequent Mandatory Tender Date are remarketed pursuant to the Indenture for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“Maturity Date” means February 1, 2026*.

“Mortgage Lender” means AGM Financial Services, Inc., a Maryland corporation, and its successors and assigns.

“Mortgage Loan” means the mortgage loan made by the Mortgage Lender to the Borrower pursuant to the Mortgage Loan Documents.

“Mortgage Loan Documents” means the mortgage, the mortgage note, and all other documents required by the Mortgage Lender and/or FHA in connection with the Mortgage Loan.

“National Housing Act” means the National Housing Act of 1937, as amended, and the applicable regulations thereunder.

* Preliminary; subject to change.

“Negative Arbitrage Account” means the Negative Arbitrage Account of the Bond Fund created in the Indenture.

“Note” means the promissory note of the Borrower, dated as of even date with the Bonds initially issued, in the form attached to the Loan Agreement as an exhibit and in the principal amount of up to \$8,800,000*, evidencing the obligation of the Borrower to make Loan Payments.

“Opinion of Bond Counsel” means an opinion of Bond Counsel.

“Opinion of Counsel” means an opinion from an attorney or firm of attorneys, acceptable to the Trustee, with experience in the matters to be covered in the opinion.

“Optional Redemption Date” means February 1, 2025*.

“Ordinary Issuer Fees” means [an issuance fee in the amount of \$_____, payable on the Closing Date], payable from money withdrawn from the Expense Fund and the Borrower will be responsible for paying the remaining amount of the Ordinary Issuer Fees and Expenses pursuant to the Loan Agreement.

“Ordinary Services” and “Ordinary Expenses” mean those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to the Indenture.

“Ordinary Trustee Fees and Expenses” means amounts due to the Trustee for the Ordinary Services and the Ordinary Expenses of the Trustee incurred in connection with its duties under the Indenture, consisting of (i) a set-up and acceptance fee in the amount of \$_____ payable at closing and (ii) an annual fee payable each year beginning on December 1, 2023 in an amount equal to \$_____ per year; provided, however, the amount of Ordinary Trustee Fees and Expenses payable from funds held under the Indenture is limited to money withdrawn from the Expense Fund and the Borrower will be responsible for paying the remaining amount of the Ordinary Trustee Fees and Expenses pursuant to the Loan Agreement. In addition, all amounts due to the Trustee for Extraordinary Services and all Extraordinary Expenses of the Trustee will be paid as provided in the Indenture or directly by the Borrower pursuant to the Loan Agreement.

“Organizational Documents” means the Amended and Restated Agreement of Limited Partnership of the Borrower dated December ___, 2022, as the same may be amended.

“Outstanding Bonds,” “Bonds outstanding” or “outstanding” as applied to Bonds mean, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under the Indenture, except:

- (a) Bonds cancelled upon surrender, exchange or transfer, or cancelled because of payment on or prior to that date;
- (b) Bonds, or the portion thereof, for the payment or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee on or prior to that date for that purpose (whether upon or prior to the maturity of those Bonds);
- (c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of the Indenture; and
- (d) Bonds in lieu of which others have been authenticated under the Indenture.

“Person” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

“Plans and Specifications” means the plans and specifications describing the Project as now prepared and as they may be changed as in the Loan Agreement.

“Predecessor Bond” of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this definition, any Bond authenticated and delivered under the Indenture in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in the Indenture, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

“Project” means the acquisition, construction and equipping of an affordable housing development known as Blaine Landing Phase II, consisting of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, located at 7581 Richmond Road, Williamsburg, Virginia.

“Project Costs” means the costs of the Project specified in the Loan Agreement.

“Project Fund” means the Project Fund created in the Indenture.

“Rating Agency” means Moody’s, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency’s successors or assigns, and initially means Moody’s so long as Moody’s is rating the Bonds.

“Rating Category” means one of the rating categories of the Rating Agency for the specific type and duration of the applicable Eligible Investment.

“Rebate Fund” means the Rebate Fund created in the Indenture.

“Redemption Date” means any date in the Indenture on which Bonds are to be redeemed, including (a) the Maturity Date, (b) the date of acceleration of the Bonds and (c) pursuant the Indenture.

“Register” means the books kept and maintained by the Trustee for registration and transfer of Bonds pursuant to the Indenture.

“Regular Record Date” means, with respect to any Bond, the fifth Business Day preceding each Interest Payment Date.

“Regulatory Agreement” means the Regulatory Agreement and Declaration of Restrictive Covenants dated as of December 1, 2022, among the Issuer, the Borrower, and the Trustee, as in effect on the Closing Date and as it may thereafter be amended and supplemented from time to time in accordance with its terms.

“Remarketing Agent” means Stifel, Nicolaus & Company, Incorporated, or any successor as Remarketing Agent designated in accordance with the Indenture.

“Remarketing Agreement” means the Remarketing Agreement dated as of December 1, 2022, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

“Remarketing Date” means the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to the Indenture for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

“Remarketing Period” means the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to the Indenture or the final Maturity Date of the Bonds, as applicable.

“Remarketing Proceeds Account” means the Remarketing Proceeds Account of the Bond Fund created in the Indenture.

“Remarketing Rate” means the interest rate or rates established pursuant to the Indenture and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the final Maturity Date of the Bonds, as applicable.

“Reserved Rights” of the Issuer means (a) the right of the Issuer to amounts payable to it pursuant to the Loan Agreement, (b) all rights which the Issuer or its members, directors, officers, officials, agents or employees may have under the Indenture and the Financing Documents to indemnification by the Borrower and by any other persons and to payments for expenses incurred by the Issuer itself, or its members, directors, officers, officials, agents or employees; (c) the right of the Issuer to receive notices, reports or other information, make determinations and grant approvals under the Indenture and under the other Financing Documents; (d) all rights of the Issuer to enforce the representations, warranties, covenants and agreements of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or of the Issuer, and set forth in any of the Financing Documents or in any other certificate or agreement executed by the Borrower; (e) all rights of the Issuer in connection with any amendment to or modification of the Financing Documents; and (f) all enforcement remedies with respect to the foregoing.

“Revenues” means (a) the Loan Payments, (b) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (c) any money and investments in the Special Funds, and (d) all income and profit from the investment of the foregoing money. The term “Revenues” does not include any money or investments in the Rebate Fund.

“S&P” means S&P Global Ratings, and its successors and assigns, or if it shall for any reason no longer perform the functions of a securities rating agency, then any other nationally recognized rating agency designated by the Borrower and acceptable to the Trustee and the Remarketing Agent.

“Secretary” means the person serving as the Secretary of the Issuer, or, in his or her absence, the acting or assistant secretary of the Issuer.

“Special Funds” means, collectively, the Bond Fund, the Project Fund and the Collateral Fund, and any accounts therein, all as created in the Indenture.

“Special Record Date” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest or principal on that Bond.

“Supplemental Indenture” means any indenture supplemental to the Indenture entered into between the Issuer and the Trustee in accordance with the Indenture.

“Surplus Cash” has the meaning specified in the HUD Regulatory Agreement.

“Tax Agreement” means the Tax Certificate and Agreement, dated the Closing Date, executed and delivered by the Issuer and the Borrower.

“Tendered Bond” means any Bond which has been tendered for purchase pursuant to a Mandatory Tender.

“Trust Estate” means the property rights, money, securities and other amounts pledged and assigned to the Trustee under the Indenture pursuant to the Granting Clauses of the Indenture.

“Trustee” means U.S. Bank Trust Company, National Association, until a successor Trustee shall have become such pursuant to the applicable provisions of the Indenture, and thereafter, “Trustee” shall mean the successor Trustee.

“Undelivered Bond” means any Bond that is required under the Indenture to be delivered to the Remarketing Agent or the Trustee for purchase on a Mandatory Tender Date but that has not been received on the date such Bond is required to be so delivered.

“Underwriter” means Stifel, Nicolaus & Company, Incorporated.

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APPENDIX B

SUMMARY OF CERTAIN PROVISIONS OF THE TRUST INDENTURE

The following is a brief summary of certain provisions of the Indenture. The following summary does not purport to be complete or definitive and is subject to all the terms and provisions of the Indenture, to which reference is hereby made and copies of which are available from the Issuer or the Trustee.

Creation of Funds

There are established by the Indenture with the Trustee the following funds and accounts to be held in trust and maintained by the Trustee under the Indenture:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account (but only at such times as money is to be deposited or held in such Accounts as provided in the Indenture);
- (b) the Project Fund;
- (c) the Costs of Issuance Fund;
- (d) the Collateral Fund;
- (e) the Rebate Fund; and
- (f) the Expense Fund.

Each fund and account therein shall be maintained by the Trustee as a separate and distinct trust fund or account to be held, managed, invested, disbursed and administered as provided in the Indenture. All money deposited in the funds and accounts created under the Indenture shall be used solely for the purposes set forth in the Indenture. The Trustee shall keep and maintain accurate records pertaining to each fund and account, and all disbursements therefrom, in accordance with its general practices and procedures in effect from time to time. The Trustee may also terminate funds and accounts that are no longer needed.

The Trustee shall, at the written direction of an Authorized Borrower Representative, and may, in its discretion, establish such additional accounts within any fund, and subaccounts within any of the accounts, as the Issuer or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that fund and its accounts, or for the purpose of complying with the requirements of the Code, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of the Indenture with respect to a deposit or use of money in the Special Funds or the Rebate Fund, or result in commingling of funds not permitted under the Indenture.

Bond Fund

On the Closing Date, there shall be deposited in the Negative Arbitrage Account of the Bond Fund the amount set forth in the Indenture. Any Extension Payment received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to the Indenture shall also be deposited in the Negative Arbitrage Account.

So long as there are any Outstanding Bonds, to the extent the Borrower has not received a credit against Loan Payments, all Loan Payments under the Loan Agreement shall be paid on or before each Interest Payment Date directly to the Trustee, and deposited in the Bond Fund, in at least the amount necessary to pay the interest and the principal due on the Bonds on such Bond Payment Date.

The Bond Fund (and accounts therein for which provision is made in the Indenture) and the money therein shall be used solely and exclusively for the payment of Bond Service Charges as they become due.

Bond Service Charges shall be payable, as they become due (a) in the first instance from the money on deposit in the Bond Fund (other than the Negative Arbitrage Account therein), (b) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (c) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund and (d) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund.

Upon receipt by the Trustee of a Cash Flow Projection, the Trustee is authorized by the Indenture to release from the Negative Arbitrage Account the amount set forth in the Cash Flow Projection to or at the written direction of the Borrower.

Project Fund

Upon the deposit of Eligible Funds in the Collateral Fund as provided in the Indenture, the Trustee shall disburse a corresponding amount of Bond proceeds on deposit in the Project Fund to, or at the written direction of, the Mortgage Lender, for use by the Borrower to pay Project Costs in accordance with the Loan Agreement. The Trustee shall disburse funds from the Project Fund in accordance with the Loan Agreement on the same Business Day that it receives the Eligible Funds but only if (i) the Trustee receives the fully-signed and completed disbursement request by at least 2:00 PM Local Time on the Business Day immediately prior to such Business Day and (ii) the Trustee receives the Eligible Funds with respect to such disbursement request prior to 10:30 AM Local Time on such Business Day. If the Trustee receives Eligible Funds after 10:30 AM Local Time, the disbursement shall be made on the next succeeding Business Day. Notwithstanding any provisions to the contrary, upon satisfaction of the conditions set forth in the Loan Agreement, the Trustee shall be unconditionally and irrevocably obligated to disburse funds from the Project Fund to or at the written direction of the Mortgage Lender. The Trustee shall not disburse money from the Project Fund unless and until Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited in the Collateral Fund. In accordance with the Loan Agreement, and prior to making any disbursement, the Trustee shall determine that the aggregate account balance in (a) the Collateral Fund and (b) the Project Fund (less the amount to be disbursed in accordance with the Disbursement Request) is at least equal to the then-Outstanding principal amount of the Bonds; provided, however, to the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is authorized by the Indenture to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project Fund, in the amount specified in the request for disbursement, to the Collateral Fund and (ii) transfer a like amount of Eligible Funds on deposit in the Collateral Fund to the Project Fund, in exchange for an allocation of a like amount of Eligible Investments held therein. Upon receipt of Eligible Funds from the Mortgage Lender, if the Trustee is not prepared to immediately make the foregoing disbursement from the Project Fund to the Mortgage Lender, the Trustee shall return such Eligible Funds to the Mortgage Lender.

Money in the Project Fund shall be disbursed in accordance with the provisions of the Loan Agreement and this section. To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund and the Collateral Fund, the Trustee shall transfer from the Project Fund to the Bond Fund sufficient money to make the necessary interest and principal payments, if any, on each Interest Payment Date without further written direction.

On any Redemption Date, the Trustee will transfer any amounts then on deposit in the Project Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

Upon the occurrence and continuance of an Event of Default under the Indenture as a result of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant to the Indenture, any money remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

Collateral Fund

The Trustee shall deposit in the Collateral Fund all Eligible Funds received by the Trustee for deposit into the Collateral Fund. The Loan Agreement requires the Borrower to cause the Mortgage Lender to deposit Eligible Funds with the Trustee for deposit into the Collateral Fund in a principal amount equal to, and as a prerequisite to the disbursement of, the amount of Bond proceeds on deposit in the Project Fund to be disbursed by the Trustee to pay Project Costs.

Each deposit into the Collateral Fund shall constitute an irrevocable deposit solely for the benefit of the Holders, subject to the provisions of the Indenture.

The Trustee shall transfer money in the Collateral Fund as follows: (i) on the Mandatory Tender Date, to the Bond Fund, the amount necessary to pay the purchase price of the Bonds, to the extent amounts on deposit in the Remarketing Proceeds Account and the Negative Arbitrage Account of the Bond Fund are insufficient therefor; and (ii) on any Redemption Date or the Maturity Date of the Bonds, to the Bond Fund the amount, together with amounts on deposit in the Bond Fund, necessary to pay the principal and interest due on the Bonds on such date.

On any Redemption Date, the Trustee will transfer funds held in the Collateral Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

Amounts on deposit in the Collateral Fund in excess of the amount required to pay Bond Service Charges after payment in full of the Bonds may be transferred to the Project Fund and used to pay Project Costs as provided in the Loan Agreement.

The Bonds shall not be, and shall not be deemed to be, paid or prepaid by reason of any deposit into the Collateral Fund unless and until the amount on deposit in the Collateral Fund is transferred to the Bond Fund and applied to the payment of the principal of any of the Bonds, the principal component of the redemption price of any of the Bonds or the principal component of the tender price of any of the Bonds, all as provided in the Indenture.

Investment of Special Funds and Rebate Fund

Except as otherwise set forth in this Section, moneys in the Special Funds and the Rebate Fund shall be invested and reinvested by the Trustee in Eligible Investments at the written direction of the Authorized Borrower Representative. At no time shall the Authorized Borrower Representative direct that any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code. Investments of moneys in the Special Funds shall mature or be redeemable without penalty at such time as may be necessary to make payments from the Special Funds, including on each Interest Payment Date. Any of those investments may be purchased from or sold to the Trustee, the Registrar, an authenticating agent or a paying agent, or any bank, trust company or savings and loan association affiliated with any of the foregoing. The Trustee shall sell or redeem investments credited to the Special Funds to produce sufficient moneys applicable under the Indenture to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. An investment made from moneys credited to the Special Funds shall constitute part of that respective Fund. All investment earnings from amounts on deposit in the Project Fund shall be credited to the Negative Arbitrage Account of the Bond Fund. All investment earnings from amounts on deposit in the Collateral Fund shall be credited to the Negative Arbitrage Account of the Bond Fund. All gains resulting from the sale of, or income from, any investment made from moneys credited to the Special Funds shall be credited to and become part of the Special Fund from which the investment was made. Notwithstanding the foregoing, any moneys held under the Indenture without the written direction of the Authorized Borrower Representative shall be invested in Eligible Investments. If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par in connection with an optional redemption prior to the Initial Mandatory Tender Date, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any. Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything herein to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and the deposit of Eligible Funds to the Negative Arbitrage Account

pursuant to the Indenture shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

Defaults; Events of Default

The occurrence of any of the following events is defined as and declared to be and to constitute an Event of Default under the Indenture:

- (a) Payment of any interest on any Bond shall not be made when and as that interest shall become due and payable;
- (b) Payment of the principal of any Bond shall not be made when and as that principal shall become due and payable, whether at stated maturity, upon acceleration or otherwise;
- (c) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in the Indenture or in the Bonds, which failure shall have continued for a period of 30 days after written notice, by registered or certified mail, to the Issuer, the Borrower, and the Investor Limited Partner specifying the failure and requiring that it be remedied, which notice shall be given by the Trustee at the written request of the Holders of not less than 50% in aggregate principal amount of Bonds then Outstanding; and
- (d) The occurrence and continuance of an Event of Default as defined in the Loan Agreement.

The term “default” or “failure” as used in the Indenture means (i) a default or failure by the Issuer in the observance or performance of any of the covenants, agreements or obligations on its part to be observed or performed contained in the Indenture or in the Bonds, or (ii) a default or failure by the Borrower under the Loan Agreement, exclusive of any period of grace or notice required to constitute a default or failure an Event of Default, as provided above or in the Loan Agreement.

The Trustee and the Issuer agree that notwithstanding the provisions of the Indenture, no default under the terms of the Indenture shall constitute or be construed as resulting in a default under the Mortgage Loan Documents unless such event also constitutes a default thereunder.

Acceleration

Upon the occurrence of an Event of Default described in clauses (a) or (b) under “Defaults; Events of Default” above, the Trustee may declare, and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds then Outstanding the Trustee shall declare, by a notice in writing delivered to the Borrower and the Investor Limited Partner, the principal of all Bonds then Outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. Upon the occurrence of any Event of Default other than those described in clauses (a) or (b) under “Defaults; Events of Default” above, the Trustee may, with the written consent of all Holders of Bonds then Outstanding, declare by a notice in writing delivered to the Borrower and the Investor Limited Partner, the principal of all Bonds then Outstanding (if not then due and payable), and the interest thereon, to be due and payable immediately. Upon such declaration, that principal and interest shall become and be due and payable immediately. Interest on the Bonds shall accrue to the date determined by the Trustee for the tender of payment to the Holders pursuant to that declaration; provided, that interest on any unpaid principal of Bonds Outstanding shall continue to accrue from the date determined by the Trustee for the tender of payment to the Holders of those Bonds.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement under the Indenture (after an opportunity for hearing by the Issuer and the Borrower):

- (a) all sums payable under the Indenture (except the principal of and interest on Bonds which have not reached their stated maturity dates but which are due and payable solely by reason of that declaration

of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds in respect of which the default shall have occurred, shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee, and

(b) all existing Events of Default shall have been cured, then and in every case, the Trustee shall waive the Event of Default and its consequences and shall rescind and annul that declaration. No waiver or rescission and annulment shall extend to or affect any subsequent Event of Default or shall impair any rights consequent thereon.

Other Remedies; Rights of Holders

With or without taking action under the section “Acceleration” above, upon the occurrence and continuance of an Event of Default, the Trustee may pursue any available remedy, including without limitation actions at law or equity to enforce the payment of Bond Service Charges or the observance and performance of any other covenant, agreement or obligation under the Indenture, the Loan Agreement, the Regulatory Agreement or the Note or any other instrument providing security, directly or indirectly, for the Bonds.

If, upon the occurrence and continuance of an Event of Default, the Trustee is requested so to do in writing by the Holders of at least 50% in aggregate principal amount of Bonds Outstanding, the Trustee (subject to the provisions of the Indenture), shall exercise any rights and powers conferred by the Indenture.

No remedy conferred upon or reserved to the Trustee (or to the Holders) by the Indenture is intended to be exclusive of any other remedy. Subject to the provisions of the Indenture, each remedy shall be cumulative and shall be in addition to every other remedy given under the Indenture or otherwise to the Trustee or to the Holders now or hereafter existing.

No delay in exercising or omission to exercise any remedy, right or power accruing upon any default or Event of Default shall impair that remedy, right or power or shall be construed to be a waiver of any default or Event of Default or acquiescence therein. Every remedy, right and power may be exercised from time to time and as often as may be deemed to be expedient.

No waiver of any default or Event of Default under the Indenture, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any remedy, right or power consequent thereon.

As the assignee of all right, title and interest of the Issuer in and to the Loan Agreement (except for the Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Loan Agreement. In exercising any remedy, right or power under the Loan Agreement or under the Indenture, the Trustee shall take any action which would best serve the interests of the Holders in the judgment of the Trustee, applying the standards described in the Indenture, subject to the provisions of the first paragraph of this section.

Rights of Holders to Direct Proceedings

Anything to the contrary in the Indenture notwithstanding, the Holders of a majority in aggregate principal amount of Bonds then Outstanding shall have the right at any time to direct, by an instrument or document in writing executed and delivered to the Trustee, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture or any other proceedings under the Indenture; provided, that (a) any direction shall not be other than in accordance with the provisions of law and of the Indenture, (b) the Trustee shall be indemnified as provided in the Indenture, and (c) the Trustee may take any other action which it deems to be proper and which is not inconsistent with the direction.

Application of Money

After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of money and to all Ordinary Trustee Fees and Expenses and fees of the Trustee for Extraordinary Services

and Extraordinary Expenses (including without limitation, reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under the Indenture), all money received by the Trustee, shall be applied as follows, subject to the provisions of the Indenture:

(a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of such money shall be deposited in the Bond Fund and shall be applied:

First – To the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

Second – To the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to the Indenture, all of such money shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable pursuant to the Indenture, and if that declaration thereafter shall have been rescinded and annulled under the provisions of the Indenture, subject to the provisions of the preceding paragraph, in the event that the principal of all of the Bonds shall become due and payable later, the money shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of the Indenture.

(d) Whenever money is to be applied pursuant to the provisions of this section, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of money available for application and the likelihood of additional money becoming available for application in the future. Whenever the Trustee shall direct the application of such money, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the money is available therefor. The Trustee shall give notice of the deposit with it of any money and of the fixing of that date, all consistent with the requirements of the Indenture for the establishment of, and for giving notice with respect to, a Special Record Date for the payment of overdue interest. The Trustee shall not be required to make payment of principal of a Bond to the Holder thereof, until the Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if it is paid fully.

Remedies Vested in Trustee

All rights of action (including without limitation, the right to file proof of claims) under the Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto. Any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining any Holders as plaintiffs or defendants. Any recovery of judgment shall be for the benefit of the Holders of the Outstanding Bonds, subject to the provisions of the Indenture.

Rights and Remedies of Holders

A Holder shall not have any right to institute any suit, action or proceeding for the enforcement of the Indenture, for the execution of any trust of the Indenture, or for the exercise of any other remedy under the Indenture, unless:

(a) there has occurred and is continuing an Event of Default of which the Trustee has been notified, as provided in the Indenture, or of which it is deemed to have notice under that paragraph,

(b) the Holders of at least 50% in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee and shall have afforded the Trustee reasonable opportunity to proceed to exercise the remedies, rights and powers granted in the Indenture or to institute the suit, action or proceeding in its own name, and shall have offered indemnity to the Trustee as provided in the Indenture, and

(c) the Trustee thereafter shall have failed or refused to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name.

At the option of the Trustee, that notification (or notice), request, opportunity and offer of indemnity are conditions precedent in every case, to the institution of any suit, action or proceeding described above.

No one or more Holders of the Bonds shall have any right to affect, disturb or prejudice in any manner whatsoever the security or benefit of the Indenture by its or their action, or to enforce, except in the manner provided in the Indenture, any remedy, right or power under the Indenture. Any suit, action or proceedings shall be instituted, had and maintained in the manner provided in the Indenture for the benefit of the Holders of all Bonds then Outstanding. Nothing in the Indenture shall affect or impair, however, the right of any Holder to enforce the payment of the Bond Service Charges on any Bond owned by that Holder at and after the maturity thereof, at the place, from the sources and in the manner expressed in that Bond.

Termination of Proceedings

In case the Trustee shall have proceeded to enforce any remedy, right or power under the Indenture in any suit, action or proceedings, and the suit, action or proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, the Issuer and the Holders shall be restored to their former positions and rights under the Indenture, respectively, and all rights, remedies and powers of the Trustee shall continue as if no suit, action or proceedings had been taken.

Waivers of Events of Default

Except as provided below, at any time, in its discretion, the Trustee may waive any Event of Default under the Indenture and its consequences and may rescind and annul any declaration of maturity of principal of or interest on, the Bonds. The Trustee shall do so upon the written request of the Holders of:

(a) at least a majority in aggregate principal amount of all Bonds then Outstanding in respect of which an Event of Default in the payment of Bond Service Charges exists, or

(b) at least 50% in aggregate principal amount of all Bonds then Outstanding, in the case of any other Event of Default.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) under the heading "Defaults; Events of Default" above, or any declaration of acceleration in connection therewith rescinded or annulled, unless at the time of that waiver or rescission and annulment, payments of the amounts described under the heading "Acceleration" above for waiver and rescission and annulment in connection with acceleration of maturity have been made or provision has been made therefor. In the case of the waiver or rescission and annulment, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued,

abandoned or determined adversely to it, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights under the Indenture, respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

Supplemental Indentures Not Requiring Consent of Holders

Without the consent of, or notice to, any of the Holders, the Issuer and the Trustee may enter into indentures supplemental to the Indenture which shall not, in the opinion of the Issuer and Bond Counsel, be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

- (a) To cure any ambiguity, inconsistency or formal defect or omission in the Indenture;
- (b) To grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that lawfully may be granted to or conferred upon the Holders or the Trustee;
- (c) To assign additional revenues under the Indenture;
- (d) To accept additional security and instruments and documents of further assurance with respect to the Project;
- (e) To add to the covenants, agreements and obligations of the Issuer under the Indenture, other covenants, agreements and obligations to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in the Indenture;
- (f) To evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under the Indenture, the Loan Agreement and the Bonds;
- (g) To facilitate (i) the transfer of Bonds issued by the Issuer under the Indenture and held in Book Entry Form from one Depository to another and the succession of Depositories, or (ii) the withdrawal of Bonds issued by the Issuer under the Indenture and delivered to a Depository for use in a Book Entry System and the issuance of replacement Bonds in fully registered form and in the form of physical certificates to others than a Depository;
- (h) To permit the Trustee to comply with any obligations imposed upon it by law;
- (i) To specify further the duties and responsibilities of the Trustee;
- (j) To achieve compliance of the Indenture with any applicable federal securities or tax law;
- (k) To make amendments to the provisions hereof relating to arbitrage matters under Section 148 of the Code, if, in the Opinion of Bond Counsel, those amendments would not adversely affect the Federal Tax Status of the Bonds which amendments may, among other things, change the responsibility for making the relevant calculations, provided that in no event shall such amendment delegate to the Trustee, without its consent, in its sole discretion the obligation to make or perform the calculations required under Section 148 of the Code; and
- (l) To permit any other amendment which, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Holders.

The provisions of subsections (h) and (j) above shall not be deemed to constitute a waiver by the Trustee, the Issuer or any Holder of any right which it may have in the absence of those provisions to contest the application of any change in law to the Indenture or the Bonds.

Supplemental Indentures Requiring Consent of Holders

Exclusive of Supplemental Indentures to which reference is made above and subject to the terms, provisions and limitations contained in this section, and not otherwise, with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding, evidenced as provided in the Indenture, and with the consent of the Borrower if required by the Indenture, the Issuer and the Trustee may execute and deliver Supplemental Indentures adding any provisions to, changing in any manner or eliminating any of the provisions of the Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing in the Indenture shall permit, however, or be construed as permitting:

(a) without the consent of the Holder of each Bond so affected, (i) an extension of the maturity of the principal of or the interest on any Bond or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or

(b) without the consent of the Holders of all Bonds then Outstanding, (i) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (ii) a reduction in the aggregate principal amount of the Bonds required for consent to a Supplemental Indenture.

If the Issuer shall request that the Trustee execute and deliver any Supplemental Indenture for any of the purposes of this section, upon (i) being satisfactorily indemnified with respect to its expenses in connection therewith, and (ii) if required by the Indenture, receipt of the Borrower's consent to the proposed execution and delivery of the Supplemental Indenture, the Trustee shall cause notice of the proposed execution and delivery of the Supplemental Indenture to be mailed by first-class mail, postage prepaid, to all Holders of Bonds then Outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding that mailing.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee's failure to mail, or the failure of any Holder to receive, the notice required by this section. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as provided in this section. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Designated Office of the Trustee for inspection by all Holders.

If the Trustee shall receive, within a period prescribed by the Borrower, of not less than 60 days, but not exceeding one year, following the mailing of the notice, an instrument or document or instruments or documents, in form to which the Trustee does not reasonably object, purporting to be executed by the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding (which instrument or document or instruments or documents shall refer to the proposed Supplemental Indenture in the form described in the notice and specifically shall consent to the Supplemental Indenture in substantially that form), the Trustee shall, but shall not otherwise, execute and deliver the Supplemental Indenture in substantially the form to which reference is made in the notice as being on file with the Trustee, without liability or responsibility to any Holder, regardless of whether that Holder shall have consented thereto.

Any consent shall be binding upon the Holder of the Bond giving the consent and, anything herein to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange therefor (regardless of whether the subsequent Holder has notice of the consent to the Supplemental Indenture). A consent may be revoked in writing, however, by the Holder who gave the consent or by a subsequent Holder of the Bond by a revocation of such consent received by the Trustee prior to the execution and delivery by the Trustee of the Supplemental Indenture. At any time after the Holders of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Holders of the required percentage of Bonds have filed those consents. That written statement shall be conclusive evidence that the consents have been so filed.

If the Holders of the required percentage in aggregate principal amount of Bonds Outstanding shall have consented to the Supplemental Indenture, as provided in this section, no Holder shall have any right (a) to object to (i) the execution or delivery of the Supplemental Indenture, (ii) any of the terms and provisions contained therein, or (iii) the operation thereof, (b) to question the propriety of the execution and delivery thereof, or (c) to enjoin or restrain the Trustee or the Issuer from that execution or delivery or from taking any action pursuant to the provisions thereof.

Consent of Borrower

Anything contained in the Indenture to the contrary notwithstanding, a Supplemental Indenture executed and delivered in accordance with the Indenture which affects in any material respect any rights or obligations of the Borrower shall not become effective unless and until the Borrower and the Investor Limited Partner shall have consented in writing to the execution and delivery of that Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture and a copy of the proposed Supplemental Indenture to be mailed to the Borrower and the Investor Limited Partner, as provided in the Indenture, (a) at least 30 days (unless waived by the Borrower and the Investor Limited Partner) before the date of the proposed execution and delivery in the case of a Supplemental Indenture to which reference is made in the Indenture, and (b) at least 30 days (unless waived by the Borrower and the Investor Limited Partner) before the giving of the notice of the proposed execution and delivery in the case of a Supplemental Indenture for which provision is made in the Indenture.

Opinion of Counsel

Before the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee an Opinion of Counsel to the effect that (a) any proposed Supplemental Indenture complies with the provisions of the Indenture, and (b) it is proper for the Trustee to join in the execution of that Supplemental Indenture under the provisions of the Indenture.

Release of Indenture

If (a) the Issuer shall pay all of the Outstanding Bonds, or shall cause them to be paid and discharged, or if there otherwise shall be paid to the Holders of the Outstanding Bonds, all Bond Service Charges due or to become due thereon, and (b) provision also shall be made for the payment of all other sums payable under the Indenture or under the Loan Agreement, the Regulatory Agreement and the Note, then the Indenture shall cease, terminate and become null and void (except for those provisions surviving by as described below in the event the Bonds are deemed paid and discharged as described below), and the covenants, agreements and obligations of the Issuer under the Indenture shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of the Indenture described below, if applicable,

(a) the Trustee shall release the Indenture (except for those provisions surviving as described under the heading "Survival of Certain Provisions" below in the event the Bonds are deemed paid and discharged as described under the heading "Payment and Discharge of Bonds" below), and shall execute and deliver to the Issuer any instruments or documents in writing as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer,

(b) the Trustee shall release and satisfy the Note and deliver such release and satisfaction to the Borrower; and

(c) the Trustee shall assign and deliver to the Borrower any property subject at the time to the lien of the Indenture which then may be in its possession, except amounts in the Bond Fund required (i) to be paid to the Borrower under the Indenture, or (ii) to be held by the Trustee under the Indenture or otherwise for the payment of Bond Service Charges.

Payment and Discharge of Bonds

All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of the Indenture, including without limitation, under the heading "Release of Indenture" above, if:

(a) the Trustee as paying agent shall have received, in trust for and irrevocably committed thereto, sufficient money, or

(b) the Trustee shall have received (i) in trust for and irrevocably committed thereto, noncallable Government Obligations; (ii) certification by an Independent public accounting firm of national reputation to the effect that the Government Obligations have such maturities or redemption dates and interest payment dates, and bear such interest, as will be sufficient together with any money to which reference is made in subparagraph (a) above, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (which earnings are to be held likewise in trust and so committed, except as provided herein), for the payment of all Bond Service Charges on those Bonds at their maturity; and (iii) an Opinion of Bond Counsel to the effect that the conditions of this section have been satisfied.

Any money held by the Trustee in accordance with the provisions of this section may be invested by the Trustee only in noncallable Government Obligations having maturity dates, or having redemption dates which, at the option of the Holder of those obligations, shall be not later than the date or dates at which money will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this section is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this section, that income, interest or increment shall be transferred at the time of that determination in the manner provided in the Indenture for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this section, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged, set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this section.

Survival of Certain Provisions

Notwithstanding the foregoing, any provisions of the Bond Resolution and the Indenture which relate to the maturity of Bonds, interest payments and dates thereof, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, non-presentment of Bonds, the holding of money in trust, and repayments to the Borrower from the Bond Fund, the rebate of money to the United States in accordance with the Indenture, and the rights and duties of the Trustee in connection with all of the foregoing, shall remain in effect and be binding upon the Trustee and the Holders notwithstanding the release and discharge of the Indenture. The provisions of this section shall survive the release, discharge and satisfaction of the Indenture. The obligations of the Borrower to pay the Trustee its fees and expenses under the Indenture shall survive the release, discharge and satisfaction of the Indenture.

APPENDIX C

SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

The following is a summary of certain provisions of the Loan Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Loan Agreement, a copy of which is on file with the Trustee.

The Loan

The Issuer agrees, upon the terms and conditions in the Loan Agreement, to make the Loan to the Borrower with the proceeds received by the Issuer from the sale of the Bonds by causing such proceeds to be deposited with the Trustee for disposition as provided in the Indenture. The obligation of the Issuer to finance the Loan shall be deemed fully discharged, and the principal amount of the Bonds shall be deemed fully advanced to the Borrower under the Note, upon the deposit of the proceeds of the Bonds with the Trustee. The Loan shall be evidenced by the Note payable to the Issuer and assigned to the Trustee.

Mortgage Loan to Borrower

To provide and secure funds for the repayment of the Loan, and to provide for the delivery of the Eligible Funds, the Borrower shall on or before [December 1, 2022], obtain the Mortgage Loan from the Mortgage Lender and enter into the Funding Agreement. In particular, the Borrower will promptly take all necessary actions on its part to close the Mortgage Loan and satisfy all other terms and conditions of the FHA Commitment and the requirements of the Mortgage Lender no later than [December 1, 2022].

The Borrower represents that the Mortgage Loan is to be insured by FHA pursuant to and in accordance with the provisions of Section 221(d)(4) of the National Housing Act and applicable regulations thereunder, and that the Mortgage Loan will be in the maximum original principal amount set forth in the Indenture. The Mortgage Loan will be secured on a non-recourse basis pursuant to the Mortgage Loan Documents. In connection with the Mortgage Loan, the Borrower shall execute and deliver such documents as may be customarily utilized for insured mortgage loans under the provisions of Section 221(d)(4) of the National Housing Act and applicable regulations thereunder, with such omissions, insertions and variations as may be permitted by such regulations and as may be consistent with the terms and provisions of the Loan Agreement.

The Mortgage Lender will deposit Eligible Funds with the Trustee in exchange for disbursement by the Trustee of an equal amount of Bond proceeds. Over the course of construction, the Mortgage Lender shall deposit funds in the aggregate amount of \$8,800,000* to the Trustee for deposit into the Collateral Fund to enable the Trustee to disburse the full amount of Bond proceeds from the Project Fund as approved by the Mortgage Lender. Each deposit of Eligible Funds will be made in connection with a completed and fully executed Disbursement Request in the form attached as an exhibit to the Loan Agreement. Any Bond proceeds so approved by the Mortgage Lender for disbursement to the Mortgage Lender or its agent for the benefit of the Borrower which are related to a deposit of Eligible Funds from the Mortgage Lender shall constitute an FHA-insured advance of the Mortgage Loan.

Disbursements from the Project Fund

Subject to the provisions below, disbursements from the Project Fund shall be made only to pay any of the following Project Costs:

- (a) Costs incurred directly or indirectly for or in connection with the acquisition, construction, improvement and equipping of the Project, including costs incurred in respect of the Project for preliminary

* Preliminary; subject to change.

planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work.

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the construction period with respect to the Project.

(c) Taxes, assessments and other governmental charges in respect of the Project that may become due and payable during the construction period.

(d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to the Project.

(e) Subject to the limitations set forth in the Tax Agreement, Costs of Issuance of the Bonds, including, financial, legal, accounting, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee properly incurred under the Indenture that may become due and payable during the construction period.

(f) Any other costs, expenses, fees and charges properly chargeable to the cost of acquisition, construction, improvement and equipping of the Project.

(g) Payment of interest on the Bonds.

(h) Payments to the Rebate Fund.

Disbursements from the Project Fund for the payment of Project Costs shall be made by the Trustee only to, or at the direction of, the Mortgage Lender upon satisfaction of all of the following conditions:

(i) The receipt by the Trustee of notice and instruction of a completed disbursement request (a "Disbursement Request") in the form attached as an exhibit to the Loan Agreement, signed by an Authorized Borrower Representative and approved by the Mortgage Lender, providing the amount of the disbursement request (a "Disbursement Amount") and the expected date of disbursement (a "Disbursement Date").

(ii) Promptly upon receipt of a completed and fully-executed Disbursement Request, the Trustee will confirm in writing to the Mortgage Lender (A) the Disbursement Amount, (B) that the account balance of the Collateral Fund plus the account balance of the Project Fund is at least equal to the then-outstanding principal amount of the Bonds and (C) whether the Trustee has actual knowledge that an Event of Default (as determined in accordance with the Indenture) or a Determination of Taxability has occurred. If an Event of Default or a Determination of Taxability has occurred to the knowledge of the Trustee, the Trustee shall make no further disbursements from the Project Fund so long as such Event of Default or Determination of Taxability continues to exist except in accordance with the Indenture.

(iii) Upon receipt of confirmation from the Trustee of the matters described in clause (ii) above and on or before the expected Disbursement Date, the Mortgage Lender will transfer to the Trustee, by immediately available funds, the Eligible Funds equal to the Disbursement Amount, in the case of a transfer from the Mortgage Lender.

(iv) Upon receipt by the Trustee from the Mortgage Lender of the Eligible Funds in an amount equal to the Disbursement Amount, such Eligible Funds shall be deposited in the Collateral Fund as provided in the Loan Agreement. In the event that the amount of the Eligible Funds received by the Trustee does not equal the amount of the Disbursement Request, the Trustee shall promptly return such Eligible Funds to the Mortgage Lender. In the event that the Trustee is

not prepared to immediately disburse funds from the Project Fund in accordance with the Disbursement Request, it shall return the Eligible Funds to the party that deposited it with the Trustee.

(v) Upon satisfaction of the conditions set forth in clauses (i) through (iv) above, the Trustee shall be unconditionally and irrevocably obligated to disburse funds from the Project Fund in accordance with the Disbursement Request. The Trustee shall disburse funds from the Project Fund in accordance with the instructions contained in the Disbursement Request (A) on the same Business Day that it receives the Eligible Funds in the event the Trustee receives the Eligible Funds with respect to such Disbursement Request prior to 10:30 AM Local Time on such Business Day or (B) on the next succeeding Business Day if the Trustee receives the Eligible Funds after 10:30 AM Local Time.

The Borrower acknowledges and agrees by the Loan Agreement that it shall submit Disbursement Requests to the Trustee no more frequently than once each calendar month and that it shall, simultaneously with the submission of each Disbursement Request to the Trustee, provide a copy of such request to the Mortgage Lender. Each such Disbursement Request shall be consecutively numbered. Proceeds of the Bonds disbursed pursuant to the provisions of this Agreement may only be used to pay those Project Costs identified in the Sources and Uses of Funds attached as an exhibit to the Loan Agreement, as it may be amended pursuant to the agreement of FHA, the Mortgage Lender and the Borrower.

The Borrower's right to request disbursements for the Project Fund is limited to the principal amount of the Loan.

The Borrower agrees that it will not request disbursement for any item not described in, or the cost for which item is other than as described in, the information statement filed by the Issuer in connection with the issuance of the Bonds as required by Section 149(e) of the Code, and in the notice of public hearing pertaining to the Bonds unless the Borrower provides to the Mortgage Lender, with a copy to the Trustee and the Issuer, an Opinion of Bond Counsel to the effect that such disbursement will not adversely affect the Federal Tax Status of the Bonds.

Any money in the Project Fund remaining after the Completion Date and payment, or provision for payment, in full of the Project Costs, at the direction of the Authorized Borrower Representative, promptly shall be paid into the Bond Fund for payment of Bond Service Charges.

Notwithstanding any provision of the Loan Agreement or any provision of the Indenture to the contrary, the Trustee shall not disburse funds from the Project Fund unless and until the Trustee confirms that the account balance of the Collateral Fund plus the account balance of the Project Fund, less the amount of the requested disbursement from the Project Fund, is at least equal to the then-outstanding principal amount of the Bonds.

Borrower Required to Pay Costs in Event Project Fund Insufficient

If money in the Project Fund is not sufficient to pay all Project Costs, the Borrower, nonetheless, will complete the Project in accordance with the Plans and Specifications and shall pay all such additional Project Costs from its own funds. The Borrower shall pay all Costs of Issuance of the Bonds in excess of the amount permitted by the Tax Agreement. The Borrower shall not be entitled to any reimbursement for any such additional Project Costs or payment of Costs of Issuance from the Issuer, the Trustee or any Holder; nor shall it be entitled to any abatement, diminution or postponement of any Loan Payments or other amounts to be paid under the Loan Agreement.

Completion Date

The Borrower shall notify the Issuer and the Trustee of the Completion Date (as defined in the Loan Agreement) by the delivery of a Completion Certificate signed by the Authorized Borrower Representative substantially in the form attached as an exhibit to the Loan Agreement. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a), (b), and (d) of the Completion Certificate and an accountant's determination has been made that the representation in the Loan

Agreement is true and correct. The date of delivery of the Completion Certificate is referred to in the Loan Agreement as the "Completion Date".

Loan Repayment; Delivery of Note

In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, Loan Payments equal to the amount necessary to pay interest on and principal of the Bonds due on the next Bond Payment Date. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and the Loan Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or transferred thereto from the Collateral Fund or the Project Fund for the payment of Bond Service Charges on that date.

To evidence the Borrower's obligations under the Loan Agreement, the Borrower shall execute and deliver the Note concurrently with the issuance and delivery of the Bonds.

Payments on the Note shall inure equally and ratably to the benefit of the Holders of all Outstanding Bonds. So long as no Event of Default has occurred and is subsisting under the Loan Agreement, payments by the Borrower on the Note shall be used by the Trustee to make a like payment of Bond Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (a) the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Trustee to the Borrower, and shall be canceled by the Borrower, or (b) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and the Note shall be surrendered by the Trustee to the Borrower for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrower is entitled to a credit under express terms of the Loan Agreement or the Note, all payments on the Note shall be in the full amount required thereunder.

Eligible Funds

In consideration of and as a condition to the disbursement of Bond proceeds in the Project Fund to pay Project Costs, and to secure the Borrower's obligation to make Loan Payments, the Borrower shall direct the Mortgage Lender, in the Funding Agreement, to deliver or cause to be delivered to the Trustee on or before each such disbursement Eligible Funds equal to the amount of the proposed disbursement from the Project Fund. All such amounts shall be paid to the Trustee for the benefit of the Holders and shall be held in the Collateral Fund and disbursed in accordance with the provisions of the Indenture. Upon receipt of Eligible Funds and satisfaction of the other conditions set forth in the Loan Agreement, the Trustee shall be unconditionally and irrevocably obligated to disburse an equal amount of funds in the Project Fund to, or at the direction of, the Mortgage Lender as provided in the Loan Agreement. In no event may funds held in the Collateral Fund be used to pay Project Costs.

Optional Prepayment

Provided no Event of Default shall have occurred and be continuing, at any time and from time to time, the Borrower may deliver money to the Trustee in addition to Loan Payments or Additional Payments required to be made as a prepayment, in whole or in part, of the Loan and direct the Trustee to use the money so delivered for the purpose of purchasing Bonds, in accordance with the Indenture. Pending application for those purposes, any money so delivered shall be held by the Trustee in a special account in the Bond Fund and delivery of such money shall not operate to abate or postpone Loan Payments or Additional Payments otherwise becoming due or to alter or suspend any other obligations of the Borrower under the Loan Agreement.

Borrower's Obligations Upon Tender of Bonds

If any Tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available in the Collateral Fund, the Negative Arbitrage Account of the Bond Fund and the Project Fund as provided in the Indenture for the purpose of paying the purchase price of such Bond, the Borrower will cause to be paid to the Trustee by the applicable times provided in the Indenture, an amount equal to the amount by which the principal amount of all Bonds tendered and not remarketed, together with interest accrued to the Mandatory Tender Date, exceeds the amount otherwise available pursuant to the Indenture.

Option to Terminate

The Borrower shall have the option to cancel or terminate the Loan Agreement at any time when (a) the Indenture shall have been released in accordance with its provisions, and (b) sufficient money or security acceptable to the Issuer and the Trustee are on deposit with the Trustee or the Issuer, or both, to meet all Loan Payments and Additional Payments due or to become due through the date on which the last of the Bonds is then scheduled to be retired or redeemed, or, with respect to Additional Payments to become due, provisions satisfactory to the Trustee and the Issuer are made for paying such amounts as they come due. Such option shall be exercised by the Authorized Borrower Representative, on behalf of the Borrower, giving the Issuer and the Trustee five days' notice in writing of such cancellation or termination and such cancellation or termination shall become effective at the end of such notice period. The provisions of this section shall not be deemed to permit a prepayment of the Note other than in accordance with its terms.

Events of Default

Each of the following shall be an Event of Default under the Loan Agreement:

(a) The Borrower shall fail to pay any Loan Payment on or prior to the date on which that Loan Payment is due and payable to the extent amounts on deposit in the Bond Fund, including amounts transferred from the Collateral Fund and the Project Fund are insufficient to pay the Bond Service Charges due on the next Bond Payment Date;

(b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in the Loan Agreement or any other Financing Document and the continuation of such failure for a period of 30 days after written notice thereof shall have been given to the Borrower and the Investor Limited Partner by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within 180 days after the aforementioned notice;

(c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws, as now or hereafter in effect, which is not dismissed within 90 days; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for 90 days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of 90 days;

(d) Any representation or warranty made by the Borrower in the Loan Agreement or any statement in any report, certificate, financial statement or other instrument furnished in connection with the Loan Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given; and

(e) There shall occur an “Event of Default” (as defined in the Indenture) by the Borrower or an event of default shall have occurred beyond applicable notice and cure periods under the Regulatory Agreement.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition above which would give rise to an Event of Default under subsection (b) above, the Borrower shall not be deemed in default during the continuance of such inability. However, the Borrower shall promptly give notice to the Trustee and the Issuer of the existence of an event of Force Majeure and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

The term Force Majeure shall mean, without limitation, the following:

(1) acts of God; strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the Commonwealth or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(2) any cause, circumstance or event not reasonably within the control of the Borrower.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

Remedies on Default

Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(a) If acceleration of the principal amount of the Bonds has been declared pursuant to the Indenture, the Trustee shall declare all Loan Payments to be due and payable together with any other amounts payable by the Borrower under the Loan Agreement and the Note whereupon the same shall become immediately due and payable;

(b) The Trustee may exercise any or all or any combination of the remedies specified in the Loan Agreement or any other Financing Document;

(c) The Issuer or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrower pertaining to the Project; or

(d) The Issuer or the Trustee may pursue all remedies now or hereafter existing at law or in equity to collect all amounts then due and thereafter to become due under the Loan Agreement and the Regulatory Agreement and the Note or to enforce the performance and observance of any other obligation or agreement of the Borrower under those instruments.

Notwithstanding the foregoing, neither the Issuer nor the Trustee shall be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the Issuer or the Trustee at no cost or expense to the Issuer or the Trustee. Any amounts collected as Loan Payments or applicable to Loan Payments and any other amounts which would be

applicable to payment of Bond Service Charges collected pursuant to action taken under this section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, shall be paid as provided in the Indenture for transfers of remaining amounts in the Bond Fund.

The provisions of this section are subject to the further limitation that the rescission by the Trustee of its declaration that all of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this section and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

No Remedy Exclusive

No remedy conferred upon or reserved to the Issuer or the Trustee by the Loan Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Loan Agreement, the Regulatory Agreement or the Note, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in the Loan Agreement, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made in the Loan Agreement.

No Waiver

No failure by the Issuer or the Trustee to insist upon the strict performance by the Borrower of any provision of the Loan Agreement shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrower to observe or comply with any provision of the Loan Agreement.

APPENDIX D

SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT

The following is a summary of certain provisions of the Regulatory Agreement. The summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Regulatory Agreement, a copy of which is on file with the Trustee.

The Issuer, the Borrower and the Trustee will enter into a Regulatory Agreement and Declaration of Restrictive Covenants (the “Regulatory Agreement”) in order to set forth certain terms and conditions relating to the rehabilitation and operation of the Project. All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture and the Regulatory Agreement.

Qualified Residential Rental Project

The Issuer and the Borrower declare by the Regulatory Agreement their understanding and intent that the Project is to be owned, managed and operated, as a Qualified Residential Rental Project. The Issuer hereby elects the “40-60” test as set forth in Section 142(d)(1)(B) of the Code. To that end, and in compliance with the Act, the Borrower represents, covenants and agrees by the Regulatory Agreement as follows:

(a) that the Project is being acquired, constructed and equipped for the purpose of providing multifamily residential rental property, and the Project shall be owned, managed and operated as multifamily Rental Housing, all in accordance with Section 142(d)(1) of the Code and Section 1.103-8(b) of the Income Tax Regulations, as the same may be amended from time to time and applicable to the Project;

(b) that all of the dwelling units in the Project will be similarly constructed and each such dwelling unit shall contain complete facilities for living, sleeping, eating, cooking and sanitation for a single person or a family;

(c) that during the Qualified Project Period:

(i) none of the dwelling units in the Project shall ever be leased or rented for a period of less than thirty (30) days; and

(ii) neither the Project nor any portion thereof shall ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer court or park;

(d) that during the Qualified Project Period (i) the dwelling units in the Project shall be leased and rented or made available for rental on a continuous basis to members of the general public, (ii) at least 40% of the Available Units in the Project shall be leased and rented or made available for rental on a continuous basis to Low Income Tenants; and (iii) the Borrower shall not give preference in renting dwelling units in the Project to any particular class or group of persons, other than Low Income Tenants as provided in the Regulatory Agreement; provided, however, that an insubstantial number of dwelling units in the Project, may be occupied by maintenance, security or managerial employees of the Borrower or its property manager, which employees must be reasonably necessary for operation of the Project;

(e) that during the Qualified Project Period no part of the Project will at any time be owned or used by a cooperative housing corporation;

(f) that the Project will consist of one or more discrete edifices or other man-made construction, each consisting of an independent foundation, outer walls and roof, all of which will be (i) owned by the same person for federal tax purposes, (ii) located on a common tract of land or two or more tracts of land which are contiguous except for being separated only by a road, street, stream or similar

property (tracts are contiguous if their boundaries meet at one or more points), and (iii) financed by the Loan of the Issuer or otherwise pursuant to a common plan of financing, and which will consist entirely of:

- (i) units which are similarly constructed; and
- (ii) facilities functionally related and subordinate in purpose and size to property described in (i) above, e.g., parking areas, laundries, swimming pools, tennis courts and other recreational facilities (none of which may be unavailable to any person because such person is a Low Income Tenant) and other facilities which are reasonably required for the Project, e.g., heating and cooling equipment, trash disposal equipment or units for residential managers or maintenance personnel;
- (g) that during the Qualified Project Period the Project will not include a unit in a building where all units in such building are not also included in the Project;
- (h) that during the Qualified Project Period the Borrower will not convert the Project from residential rental property to condominium ownership or other use;
- (i) that during the Qualified Project Period no dwelling unit in the Project shall be occupied by the Borrower at any time unless the Borrower resides in a dwelling unit in a building or structure which contains at least five dwelling units and unless the resident of such dwelling unit is a resident manager or other necessary employee (e.g., maintenance and security personnel);
- (j) that less than 25% of the proceeds of the Bonds will be used for the acquisition of land;
- (k) that during the Qualified Project Period, the Borrower will not discriminate on the basis of age, race, creed, religion, color, sex, marital status, or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project;
- (l) that during the Qualified Project Period, the Borrower will require all tenants moving into units with existing leases, which units have previously qualified as Low Income Tenant units, to be put on the lease in addition to the current tenant on the lease and to require recertification of said unit.

Unless the above provisions of this section are amended as permitted under the Regulatory Agreement, the above provisions of this section shall remain in effect during the Qualified Project Period; provided, however, the Borrower may be discharged from its obligations under the above provisions of this section and the provisions described under the heading "Low Income Tenants" below to the extent only that the same are assumed by any successor in interest to the Borrower pursuant to the provisions described under the heading "Sale, Lease or Transfer of Project" below.

Low Income Tenants

In order to satisfy the requirements of the Act and Section 142(d) of the Code, the Borrower represents, covenants and agrees that by the Regulatory Agreement, as follows:

- (a) (i) commencing on the later of the first date on which 10% of the units in the Project are occupied or the issue date of the Bonds, (1) at least 40% of the Available Units in the Project shall be occupied by Low Income Tenants before any Available Units are rented or leased to any other tenants and (2) after initial rental occupancy of such dwelling units by Low Income Tenants, at least 40% of the Available Units in the Project at all times shall be rented to and occupied (or held available for rent if previously rented to and occupied by a Low Income Tenant) by Low Income Tenants as required by Section 142(d) of the Code. For the purpose of the requirement that not less than 40% of the Available Units be occupied by Low Income Tenants, if a tenant qualified as a Low Income Tenant upon occupancy, the income of that tenant shall be treated as continuing to not exceed the applicable income limit, notwithstanding that such tenant's

income may subsequently exceed the applicable income limit; provided, however, that such person shall no longer be qualified as a Low Income Tenant as of the most recent determination (as provided in paragraph (e) below) if the tenant's Adjusted Family Income exceeds 140% of the then applicable income limit. If it is determined that a tenant's Adjusted Family Income exceeds 140% of the applicable income limit, the Borrower may avoid non-compliance with the rules set forth in the Regulatory Agreement if the next available unit of comparable or smaller size not counted as occupied by a Low Income Tenant is rented to a qualifying Low Income Tenant;

(ii) notwithstanding Section 4(a)(i) above, if the proceeds of the Bonds are financing the acquisition and rehabilitation of an existing residential rental project (other than Substantial Rehabilitation, to which Section 4(a)(i) above will apply), the Borrower shall have twelve months beginning on the date of issuance of the Bonds (the "Transition Period") to satisfy the requirement that at least 40% of the Available Units are occupied by Low Income Tenants. The failure to satisfy the set-aside requirement of this Section 4(a)(ii) by the last day of the Transition Period will cause the Project not to be a Qualified Residential Rental Project as of the issue date of the Bonds issued to finance the Project unless the Bonds issued to finance the Project are redeemed as soon as possible, but in no event later than eighteen months after the issue date of the Bonds;

(b) the income of all tenants who occupy or will occupy the units in the Project will be verified by the Borrower by obtaining an Income Certification and with respect to Low Income Tenants, (i) if the occupant is employed, an employer's written verification of current anticipated annual income or (ii) if the occupant is self-employed, the occupant shall provide an annualized profit and loss statement or (iii) if the occupant is not employed, the occupant shall provide evidence of governmental income or rental assistance and of any other income. Each such certification shall be dated (i) not later than the date of execution of the lease, but in no event more than five days prior to the initial occupancy of such tenant in the Project (and the Borrower shall require such tenant to notify the Borrower of any material change of information in the Income Certification between execution thereof and initial occupancy of such tenant in the Project), and (ii) at least annually thereafter, in each case in the form and containing such information as may be required by Section 142(d) of the Code (initially in the form attached as an exhibit to the Regulatory Agreement, as the same may be from time to time amended by the Borrower with the consent of the Issuer on the advice of Bond Counsel (a copy of which amendments shall be provided to the Issuer, the Trustee and the Mortgage Lender), or in such other form and manner as may be required by applicable rules, rulings, procedures, official statements, regulations or policies now or hereafter promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(a)(7) of the Code;

(c) during the Qualified Project Period, the Borrower shall maintain complete and accurate records pertaining to the dwelling units occupied or to be occupied by Low Income Tenants, including Income Certifications, and will permit any duly authorized representative of the Issuer, the Trustee, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Income Certifications of Low Income Tenants residing in the Project for the purpose of verifying compliance by the Borrower hereunder upon reasonable notice and at reasonable times. The Borrower agrees that in the event of an Internal Revenue Service, Department of Treasury or Issuer audit of compliance with the Regulatory Agreement as authorized by this paragraph (c), the Borrower will pay all reasonable fees and expenses of the Issuer, its authorized representatives, and its counsel in connection with such audit. The Borrower shall keep information as set forth in this paragraph (c) for a period of three years following the end of the Qualified Project Period;

(d) during the Qualified Project Period, (i) the Borrower shall immediately notify the Trustee and the Issuer if at any time the dwelling units in the Project are not occupied or available for occupancy as provided in paragraph (a) above, (ii) the Borrower shall prepare and submit to the Issuer and the Mortgage Lender, not later than the fifteenth (15th) day of the month following the initial occupancy of any of the units in the Project and not later than the fifteenth (15th) day following the end of each six months thereafter, a Compliance Certificate substantially in the form attached as an exhibit to the Regulatory Agreement executed by the Borrower stating, among other matters, the number of dwelling units of the Project which were occupied or were deemed to be occupied by Low Income Tenants during such period and (iii) so long as any

Bonds remain Outstanding, the Borrower shall maintain a copy of each Compliance Certificate required under clause (ii) of this subsection and submit copies thereof to the Trustee upon request;

(e) during the Qualified Project Period, the Borrower shall make the determination of whether the income of a tenant of a unit in the Project exceeds the applicable limit at least annually on the basis of the current income of the tenant by causing each tenant to execute a recertification of their annual income. The Borrower shall require in the lease of each Low Income Tenant that the tenant fill out an annual income recertification to help the Borrower determine whether the tenant still qualifies as a Low Income Tenant. The Borrower shall provide in each tenant's lease that completion and execution of such certificates by the tenant is a substantial obligation, noncompliance with which can result in termination of tenancy. Copies of the recertification of a tenant shall be provided to the Trustee as provided in paragraph (b) above; and

(f) the Borrower shall prepare and file with the Trustee, the Mortgage Lender and the Issuer true copies of each IRS Form 8703 - "Annual Certification of a Residential Rental Project" (or any successor form thereto) as completed and filed with the Internal Revenue Service for each calendar year during the Qualified Project Period, which certification shall be filed within thirty (30) days after each anniversary of the Completion Date (as defined in the Loan Agreement) or at such other times as may be prescribed in the Income Tax Regulations promulgated under Section 142(d)(7) of the Code.

The benefits of this section and the section titled "Qualified Residential Rental Project" above shall inure to, and may be enforced by, the Trustee and the Issuer and their successors and assigns for the Qualified Project Period.

Sale, Lease or Transfer of the Project

Except as may be permitted by the Loan Documents, the Borrower shall not sell, lease (other than to resident tenants in the normal course of business), exchange, assign, convey, transfer or otherwise dispose of all or substantially all of the Project or shall not have a change in the General Partner or Investor Limited Partner of the Borrower (in the Regulatory Agreement collectively called "Disposition") without the prior written consent of the Issuer and the Mortgage Lender (such Issuer consent not unreasonably to be withheld). Notwithstanding anything to the contrary contained in the Loan Documents, the withdrawal, removal and/or replacement of Borrower's General Partner for cause in accordance with Borrower's amended and restated agreement of limited partnership (the "Partnership Agreement") shall not require the consent of Issuer and shall not constitute a default under any of the Loan Documents or accelerate the maturity of the Loan so long as the manager is replaced with an affiliate of the Investor Limited Partner. Issuer shall not unreasonably withhold its consent to the substitute manager if it is other than an affiliate of the Investor Limited Partner. Notwithstanding the foregoing, any substitute manager shall assume all of the rights and obligations of the removed manager under all of the Loan Documents. It is expressly agreed that in connection with determining whether to grant or withhold such consent to a Disposition, the Issuer and the Mortgage Lender may (but are not obligated to) (i) consider the creditworthiness of the party to whom such Disposition will be made, its ability to provide services specifically to Low Income Tenants, its prior operation of lower income rental housing, its operation of other housing facilities in the County of James City, Virginia, if any, and its management ability with respect to the Project; (ii) consider whether or not any security for the performance of the obligations hereunder will be impaired in any material way by the proposed Disposition; (iii) consider such other factors as the Issuer and the Mortgage Lender may reasonably deem appropriate; (iv) require that the Issuer and the Mortgage Lender be reimbursed for all reasonable costs and expenses incurred by the Issuer for investigating the creditworthiness and management ability of the party to whom such Disposition will be made and in determining whether the Issuer's and the Mortgage Lender's security will be impaired by the proposed Disposition; (v) require the payment to the Issuer of a transfer fee equal to the reasonable costs of investigating and approving the Disposition and documenting the Disposition in its records; (vi) require the payment of its reasonable attorney's fee in connection with such Disposition; and (vii) require the execution of modification agreements, supplemental security documents and financing statements, where appropriate, reasonably satisfactory in form and substance to the Issuer and the Mortgage Lender, it being understood and agreed that no material change shall be required to any of the terms and conditions of the Loan Agreement, the Regulatory Agreement or any related instrument or agreement as a condition for the approval of any such Disposition. The foregoing provisions shall not operate to limit in any manner any requirements that the Borrower obtain the consent of any other party to such Disposition under the terms of the Loan Agreement or any of the other documents executed in connection with the Bonds.

The Borrower covenants that upon a Disposition, it will require the party to whom a Disposition will be made to assume in writing, in a form acceptable to the Issuer, the Mortgage Lender and the Trustee, all duties and obligations of the Borrower under the Regulatory Agreement, including this section, in the event of a subsequent Disposition by such party prior to expiration of the Qualified Project Period. The Borrower shall deliver the assumption agreement to the Issuer, the Trustee and the Mortgage Lender concurrently with the Disposition.

It is expressly stipulated and agreed by the Regulatory Agreement that any Disposition of the Project by the Borrower in violation of this section shall be null, void and without effect, and shall be ineffective to relieve the Borrower of its obligations under the Regulatory Agreement and the Loan Agreement. The Borrower shall include by incorporation by reference or verbatim the requirements and restrictions contained in the Regulatory Agreement in any deed or other documents transferring any interest in the Project to another person to the end that such transferee has notice of and is bound by such restrictions, and shall obtain the express agreement from any transferee so to abide. In the event that the Issuer approves the Disposition of the Project in accordance with this section, and the transferee has agreed to perform the obligations of the Borrower under the Loan Agreement and the Regulatory Agreement in accordance with the terms and conditions of the Loan Agreement and the Regulatory Agreement, the Borrower shall be released from its obligations under the Regulatory Agreement automatically and without further action by the Issuer, and the Issuer shall confirm such release by recordable written instrument, if requested to do so by the Borrower.

Except as permitted in the first paragraph of this section, so long as any portion of the Bonds remains outstanding, there shall be no transfer by any party of more than a 50% ownership interest in the Borrower, nor shall there be any other similarly significant change in the ownership interest, control or relative distribution thereof, of the Borrower by any other method or means including, but not limited to, increased capitalization, merger, corporate or other amendments, issuance of additional or new stock or classification of stock, or otherwise, without the prior written consent of the Issuer, which consent shall not be unreasonably withheld; provided, however, that this paragraph shall not apply to transfers of the interests of the Investor Limited Partner in the Borrower.

Any Disposition will be subject to the Issuer, the Mortgage Lender and the Trustee receiving an opinion of Bond Counsel that the transaction contemplated and as carried out will not adversely affect the exclusion of the interest on the Bonds of the holders thereof from gross income for federal income tax purposes.

The restrictions contained in the foregoing provisions of this section shall not be applicable to any of the following exceptions, and the prior consent of the Issuer shall not be required as to such exceptions: (i) any transfer pursuant to or in lieu of a foreclosure under the Mortgage or other similar disposition of the Project, (ii) grants of utility related easements and utility and other service related leases or easements, including without limitation, laundry service leases or television cable easements, over portions of the Project, provided the same are granted in the ordinary course of business in connection with the operation of the Project as contemplated by the Regulatory Agreement, (iii) leases of apartment units to Low Income Tenants or other tenants in accordance with the requirements of the Regulatory Agreement, (iv) any sale or conveyance to a condemning governmental authority as a direct result of a condemnation or a governmental taking or a threat thereof, and (v) any change in allocations of preferred return capital, depreciation or losses or any final adjustments in capital accounts (all of which may be freely transferred or adjusted by Borrower pursuant to Borrower's Partnership Agreement).

Enforcement

The Issuer, the Borrower and the Trustee each covenants that it will not knowingly take or permit any action that would adversely affect the exemption from federal income taxation of interest on the Bonds. Moreover, each covenants to take any lawful action (including amendment of the Regulatory Agreement as may be necessary, in the opinion of Bond Counsel) to comply fully with the requirements of the Act and with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations the interest on which is tax-exempt under Section 142(d) of the Code and affecting the Project.

If the Borrower defaults in the performance of its obligations under the Regulatory Agreement or breaches any covenant, agreement or warranty of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days after notice thereof shall have been given by the Trustee or the Issuer to the

Borrower and the Investor Limited Partner (or for an extended period approved in writing by Bond Counsel if such default stated in such notice can be corrected, but not within such 60 day period, and if the Borrower commences such correction within such 60 day period, and thereafter diligently pursues the same to completion within such extended period), then the Issuer or the Trustee may apply to any court, state or federal, for specific performance of the Regulatory Agreement or an injunction against any violation of the Regulatory Agreement or any other remedies at law or in equity or any such other actions as it may deem necessary or desirable so as to correct noncompliance with the Regulatory Agreement. Any cure of any event of default under the Regulatory Agreement made or tendered by the Investor Limited Partner shall be deemed to be cure by the Borrower, and shall be accepted or rejected by the Issuer and Trustee on the same basis as if made or tendered by the Borrower.

Notwithstanding anything to the contrary stated in the Regulatory Agreement, the Indenture or the Loan Agreement, the Issuer and the Trustee shall have the right to seek specific performance of any of the covenants and requirements of the Regulatory Agreement concerning the construction and operation of the Project. The Trustee and the Issuer shall have the right, either jointly or severally, to enforce the Regulatory Agreement and require curing of defaults in such shorter periods than specified above as Bond Counsel may determine necessary to maintain the tax-exempt status of interest on the Bonds. The Trustee shall have the right in accordance with this section, following written notice to the Issuer, to exercise any or all of the Issuer's rights or remedies under the Regulatory Agreement.

The Issuer shall receive any reports submitted by the Borrower pursuant to the Regulatory Agreement and shall monitor or cause to be monitored any such reports in accordance with the standards set forth below. In performing their duties and obligations under the Regulatory Agreement, the Issuer, the Trustee and their respective counsel may rely upon statements and certificates of the Borrower and tenants and upon audits of the books and records of the Borrower pertaining to occupancy of the Project.

The Borrower and the Issuer each acknowledges that the primary purposes for requiring compliance by the Borrower with the restrictions provided in the Regulatory Agreement are to comply with the requirements of the Act and to preserve the federal income tax exemption of interest on the Bonds to the Bondholders, and that the Trustee on behalf of the Bondholders who are declared to be third-party beneficiaries of the Regulatory Agreement shall be entitled, for any breach of the provisions of the Regulatory Agreement, to all remedies both at law and in equity in the event of any default under the Regulatory Agreement.

Notwithstanding the foregoing, enforcement of the Regulatory Agreement shall not serve as a basis for a declaration of default under the Mortgage or acceleration of the Loan or result in any claim under such Loan, or claim against the Project, the proceeds of the Loan, or against the rents or other income from the Project (other than Surplus Cash) for payment under the Regulatory Agreement.

Amendment

Subject to the provisions of the second paragraph of this section, the Regulatory Agreement may not be amended except (i) by a writing duly executed by each of the parties to the Regulatory Agreement, (ii) with an opinion of Bond Counsel selected by the Issuer to the effect that such amendment does not adversely affect the exclusion of the interest on the Bonds of the holders thereof from gross income for federal income tax purposes, and (iii) with the consent of the Mortgage Lender.

To the extent the Code and the regulations promulgated thereunder, or any amendments thereto, shall impose requirements upon the ownership or operation of the Project, which requirements shall be applicable by their terms to the Project and which are more restrictive than those imposed by the Regulatory Agreement, the Borrower and the Issuer agree to give notice thereof to the Trustee and that the Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements; and subject to any HUD approval, the Borrower, the Trustee and the Issuer shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary in the opinion of Bond Counsel to maintain the exclusion from gross income of the interest on the Bonds, and if the Borrower, the Trustee or the Issuer defaults in the performance of their obligation to execute such an amendment under this section, the Borrower and the Issuer appoint by the Regulatory Agreement the Trustee as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower, or the Issuer, as is applicable, any such document or instrument.

Covenants Run With the Land and the Real Property; Term

The Issuer, the Trustee and the Borrower declare by the Regulatory Agreement their express intent that the covenants, reservations and restrictions set forth in the heading “Qualified Residential Rental Project” above (exclusive of the last paragraph thereof) and under the heading “Low Income Tenants” shall be deemed covenants running with the land, shall run with the Real Property, and shall pass to and be binding upon the Borrower’s successors in title and the Borrower’s successors and assigns. Each and every contract, deed or other instrument executed after the Regulatory Agreement covering or conveying the Real Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth in such contract, deed or other instrument. Unless sooner terminated in accordance with the Regulatory Agreement, such covenants shall continue in full force and effect for the Qualified Project Period, it being expressly agreed and understood that the provisions of the Regulatory Agreement are intended to survive the expiration of the Indenture and the retirement of the Bonds, if such expiration and retirement occur prior to the end of the Qualified Project Period. Upon the expiration of the Qualified Project Period, or if the provisions of the Regulatory Agreement are terminated (in the opinion of Bond Counsel), the Issuer and the Trustee covenant, at the Borrower’s expense, by the Regulatory Agreement to execute a release of the covenants of the Borrower in the Regulatory Agreement and provide such release to the Borrower for recordation in the real property records of the County of James City, Virginia.

HUD Rider

The terms and provisions set forth in the HUD Rider attached to the Regulatory Agreement are by reference into the Regulatory Agreement.

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APPENDIX E

FORM OF CONTINUING DISCLOSURE AGREEMENT

\$8,800,000*

**Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022**

This Continuing Disclosure Agreement, dated as of December 1, 2022 (this “Continuing Disclosure Agreement”), is executed and delivered by Blaine Landing Phase II, L.P., a Virginia limited partnership (the “Borrower”), and U.S. Bank Trust Company, National Association, a national banking association, duly organized and existing under the laws of the United States and authorized to conduct business in the Commonwealth of Virginia (the “State”), as dissemination agent (the “Dissemination Agent”), for the above-captioned bonds (the “Bonds”). The Bonds are being issued pursuant to a Trust Indenture, dated as of December 1, 2022 (the “Indenture”) between the Economic Development Authority of James City County, Virginia (the “Issuer”) and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). Pursuant to the Indenture and the Loan Agreement, dated as of December 1, 2022, between the Issuer and the Borrower (the “Loan Agreement”), the Dissemination Agent and the Borrower covenant and agree as follows:

Section 1. Purpose of this Continuing Disclosure Agreement.

This Continuing Disclosure Agreement is being executed and delivered by the Borrower, and the Dissemination Agent for the benefit of the holders of the Bonds and in order to assist the Participating Underwriter in complying with the Rule (defined below). The Borrower and the Dissemination Agent acknowledge that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided or required under this Continuing Disclosure Agreement, and has no liability to any person, including any holder of the Bonds or Beneficial Owner, with respect to any such reports, notices or disclosures.

Section 2. Definitions.

In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Continuing Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“*Annual Report*” shall mean any Annual Report provided by the Borrower pursuant to, and as described in, Sections 3 and 4 of this Continuing Disclosure Agreement.

“*Audited Financial Statements*” means, in the case of the Borrower, the annual audited financial statements prepared in accordance with generally accepted accounting principles, if any.

“*Beneficial Owner*” shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“*Disclosure Representative*” shall mean the administrator of the Project or his or her designee, or such other person as the Borrower shall designate in writing to the Dissemination Agent from time to time.

“*Dissemination Agent*” shall mean U.S. Bank Trust Company, National Association, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Borrower and which has filed with the Trustee a written acceptance of such designation.

* Preliminary; subject to change.

“*Listed Events*” shall mean any of the events listed in Section 5(a) of this Continuing Disclosure Agreement.

“*MSRB*” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934. All documents provided to the MSRB shall be in an electronic format and accompanied by identifying information, as prescribed by the MSRB. Initially, all document submissions to the MSRB pursuant to this Continuing Disclosure Agreement shall use the MSRB’s Electronic Municipal Market Access (EMMA) system at www.emma.msrb.org.

“*Participating Underwriter*” means Stifel, Nicolaus & Company, Incorporated, and its successors and assigns.

“*Rule*” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The Borrower will, or will cause the Dissemination Agent to, not later than 180 days following the end of the Borrower’s fiscal year, commencing with the fiscal year ending on December 31, 2023, provide to the MSRB an Annual Report which is consistent with the requirements described below. No later than 15 Business Days prior to said date, the Borrower will provide the Annual Report to the Dissemination Agent and the Trustee (if the Trustee is not the Dissemination Agent). In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package and may cross reference other information, provided that the audited financial statements for the prior calendar year of the Borrower may be submitted separately from the balance of the Annual Report.

(b) If by 15 Business Days prior to the date specified in subsection (a) for providing the Annual Report to the MSRB, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent will contact the Disclosure Representative to determine if the Borrower is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the MSRB by the date required in subsection (a), the Dissemination Agent will send in a timely manner a notice to the MSRB in substantially the form attached as Exhibit B to this Continuing Disclosure Agreement.

(d) The Dissemination Agent will file a report with the Borrower and (if the Dissemination Agent is not the Trustee) the Trustee certifying that the Annual Report has been provided pursuant to this Continuing Disclosure Agreement, stating the date it was provided.

Section 4. Content of Annual Reports.

The Borrower’s Annual Report will contain or incorporate by reference the financial information with respect to the Project, provided at least annually, of the type included in Exhibit A hereto, which Annual Report may, but is not required to, include Audited Financial Statements. If the Borrower’s Audited Financial Statements are not available by the time the Annual Report is required to be filed, the Annual Report will contain unaudited financial statements, and the Audited Financial Statements will be filed in the same manner as the Annual Report when and if they become available.

Any or all of the items described in Exhibit A may be incorporated by reference from other documents, including official statements of debt issues with respect to which the Borrower is an “Obligated Person” (as defined by the Rule), which have been filed with the MSRB. The Borrower will clearly identify each such other document so incorporated by reference.

Each annual report submitted hereunder shall be in readable portable document format (“PDF”) or other acceptable electronic form.

Section 5. Reporting of Listed Events.

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following events (each, a “Listed Event”):

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulty;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulty;
- (v) Substitution of credit or liquidity providers or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Borrower. For purposes of this clause (xii), any such event shall be considered to have occurred when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor or additional trustee or paying agent or the change of the name of a trustee or paying agent, if material;
- (xv) Incurrence of a financial obligation of the Borrower, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Borrower, any of which affect security holders, if material;
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Borrower, any of which reflect financial difficulties; and
- (xvii) The Project being placed in service for purposes of qualifying the property for low income housing tax credits. Notice of the Project being placed in service from the Borrower to the Dissemination Agent shall be in the form attached as Exhibit D or such other form as may be approved by the Dissemination

Agent. Notice of the Project being placed in service from the Dissemination Agent to the Municipal Securities Rulemaking Board shall be in the form attached as Exhibit C or such other form as may be approved by the Dissemination Agent.

For purposes of clauses (xv) and (xvi) of this Section 5(a), “financial obligation” is as contemplated by Exchange Act Release No. 34-83885; File No. S7-01-17 (the “Adopting Release”).

(b) The Dissemination Agent shall, within three (3) Business Days of obtaining actual knowledge of the occurrence of any potential Listed Event, pursuant to subsection (c) of this Section 5 or otherwise, provide the Disclosure Representative with notice by facsimile transmission confirmed by telephone or by email. While the Dissemination Agent is also the Trustee, the Dissemination Agent shall be deemed to have actual knowledge of those items listed in clauses (i), (iii) (solely with respect to funds held by the Trustee), (iv), (v), (vii), (viii), (ix), (x) and (xiv) above without the Dissemination Agent’s having received notice of such event. While the Dissemination Agent is not also the Trustee, the Dissemination Agent shall not be deemed to have actual knowledge of any items listed in clauses (i) - (xvii) above without the Dissemination Agent having received written notice of such event. For purposes of providing notice to the Disclosure Representative, the Dissemination Agent shall assume that the unscheduled draws described in clauses (iii) and (iv) reflect financial difficulty.

(c) Whenever the Borrower obtains knowledge of the occurrence of a potential Listed Event, the Borrower shall, within five (5) Business Days of obtaining such knowledge and in any event no more than eight (8) Business Days after the occurrence of such event, determine if such event is in fact a Listed Event that is required by the Rule to be disclosed and provide the Dissemination Agent with notice and instructions pursuant to subsection (d) below.

(d) If the Borrower has determined that a Listed Event is required to be disclosed, then the Borrower shall prepare a written notice describing the Listed Event and provide the same to the Dissemination Agent along with instructions to file the same pursuant to subsection (e) below.

(e) If the Dissemination Agent has been provided with a written notice describing a Listed Event pursuant to subsection (c) of this Section 5 or otherwise, and is instructed by the Borrower to report the occurrence of such Listed Event, the Dissemination Agent shall, within two (2) Business Days of its receipt of such written notice and in any event no more than ten (10) Business Days after the occurrence of the Listed Event, file the notice with the MSRB and send a copy to the Borrower.

Section 6. Amendment; Waiver.

Notwithstanding any other provision of this Continuing Disclosure Agreement, the Borrower and the Dissemination Agent may amend this Continuing Disclosure Agreement (and the Dissemination Agent will agree to any amendment so requested by the Borrower unless such amendment adversely affects its rights, duties, protections, immunities, indemnities or standard of care, as determined by the Dissemination Agent) and any provision of this Continuing Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions described under paragraph (a) under “Provision of Annual Reports,” “Contents of Annual Reports” or paragraph (a) under “Reporting of Listed Events,” it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of an Obligated Person (as defined in the Rule) with respect to the Bonds or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Holders of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders or (ii) does not, in the opinion

of nationally recognized bond counsel, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Continuing Disclosure Agreement, the Borrower will describe such amendment in the next Annual Report and will include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information being presented by the Borrower. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change will be given in the same manner as for a Listed Event under Section 5(f) hereof and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 7. Default.

In the event of a failure of the Borrower or the Dissemination Agent to comply with any provision of this Continuing Disclosure Agreement and such failure to comply continues beyond a period of thirty (30) days following written notice to the Borrower, the Borrower or any Holder or Beneficial Owner of the Bonds may, take such actions as may be necessary and appropriate, including seeking, or specific performance by court order, to cause the Borrower or the Dissemination Agent, as the case may be, to comply with its obligations under this Continuing Disclosure Agreement. A default under this Continuing Disclosure Agreement will not be deemed an Event of Default under the Indenture or the Loan Agreement, and the sole remedy under this Continuing Disclosure Agreement in the event of any failure of the Borrower or the Dissemination Agent to comply with this Continuing Disclosure Agreement will be an action to compel performance.

Section 8. Beneficiaries.

This Continuing Disclosure Agreement will inure solely to the benefit of the Borrower, the Dissemination Agent, the Participating Underwriter and Holders from time to time of the Bonds and will create no rights in any other person or entity.

Section 9. Provisions of Financial Statements.

The Dissemination Agent shall, at the request of the Holders of the Bonds, furnish to the Holders of the Bonds, quarterly statements of the activity and assets held in each of the funds and accounts maintained by the Dissemination Agent in its capacity as Trustee under the Indenture. The Dissemination Agent shall satisfy this obligation by providing such quarterly statements via an online system accessible to the Borrower and the Holders of the Bonds on each March 31st, June 30th, September 30th and December 31st. The Dissemination Agent shall furnish such quarterly statements at the sole cost of the Borrower.

Section 10. Additional Information.

Nothing in this Continuing Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Continuing Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Continuing Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Continuing Disclosure Agreement, the Borrower shall have no obligation under this Continuing Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent.

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Continuing Disclosure Agreement. The Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Borrower has provided such information to the

Dissemination Agent as required by this Continuing Disclosure Agreement. The Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Dissemination Agent shall have no duty or obligation to review or verify any information, disclosures or notices provided to it by the Borrower and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Holders of the Bonds or any other party. The Dissemination Agent shall have no responsibility for the Borrower's failure to report to the Dissemination Agent a Notice Event or a duty to determine the materiality thereof. The Dissemination Agent shall have no duty to determine, or liability for failing to determine, whether the Borrower has complied with this Continuing Disclosure Agreement. The Dissemination Agent may conclusively rely upon Certifications of the Borrower at all times.

The obligations of the Borrower under this Section shall survive resignation or removal of the Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The reasonable fees and expenses of such counsel shall be payable by the Borrower.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Agreement shall be provided in an electronic format and accompanied by identifying information as prescribed by the MSRB.

Section 12. Notices.

All notices, requests, demands or other communications to or upon the respective parties hereto shall be deemed to have been duly given or made when delivered personally or by mail (including electronic mail) to the party to which such notice, request, demand or other communication is required or permitted to be given or made under this Continuing Disclosure Agreement and addressed as set forth below or telecopied to the telecopier number of the recipient, with confirmation of transmission, indicated below:

(i) *If to the Borrower:*

Blaine Landing Phase II, L.P.
c/o S.L. Nusbaum Realty Co.
1700 Wells Fargo Center
440 Monticello Avenue
Norfolk, VA 23510
Attention: Miles B. Leon

(ii) *If to the Dissemination Agent:*

U.S. Bank Trust Company, National Association
Three James Center
1051 East Cary Street, Suite 600
Richmond, VA 23219
Attention: U.S. Bank Corporate Trust Services
Telephone: (804) 771-7928

Section 13. Governing Law.

This Continuing Disclosure Agreement shall be governed by the laws of the State.

Section 14. Termination of this Continuing Disclosure Agreement.

The Borrower or the Dissemination Agent may terminate this Continuing Disclosure Agreement by giving written notice to the other party at least 30 days prior to such termination. The Dissemination Agent shall be fully discharged at the time any such termination is effective. The Borrower's and the Dissemination Agent's obligations under this Continuing Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Borrower shall give notice of such termination in a filing with the MSRB.

Section 15. Counterparts.

This Continuing Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Continuing Disclosure Agreement to be executed by their duly authorized representatives as of the date set forth above.

BLAINE LANDING PHASE II, L.P.

a Virginia limited partnership

By: Blaine Landing Phase II GP, L.L.C.,
its General Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

[Signatures continued on next page]

[Counterpart Signature Page to Continuing Disclosure Agreement]

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION**, as Dissemination Agent

By: _____
Authorized Officer

EXHIBIT A

ANNUAL REPORT

\$8,800,000*

**Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022**

CUSIP: _____

Annual report for the period ending December 31, _____

THE PROJECT

Name of the Project:	Blaine Landing Phase II
Address:	7581 Richmond Road, Williamsburg, VA 23188
Number of Units:	60

INFORMATION ON THE BONDS AND THE MBS

Original principal amount of Bonds:	
Outstanding principal amount of Bonds:	

OPERATING HISTORY OF THE PROJECT

The tables set forth below offer a summary of the operating results of the Project for fiscal year ended December 31, _____, as derived from the Borrower's audited financial statements [or unaudited financial statements].

Financial Results for Fiscal Year Ending December 31, _____	
Revenues	
Operating Expenses ¹	
Net Operating Income	
Debt Service on the Series 2022 Bonds	
Net Income (Loss)	
Debt Service Coverage Ratio	

¹ Excludes depreciation and other non-cash expenses.

Occupancy Results for Fiscal Year Ending December 31, _____	
Physical Occupancy	____%
Economic Occupancy ¹	____%

¹ The physical occupancy rate is the proportion of units that are occupied or leased by tenants. The economic occupancy rate is the proportion of the gross potential rent that is actually collected. As such, the economic occupancy takes into consideration items such as model units, employee units, discounted units, rent incentives, loss to lease and bad debt expense.

* Preliminary; subject to change.

AUDITED FINANCIAL STATEMENTS

_____ Attached

_____ Audited financial statements of the Borrower for the period ending December 31, 20____ are not yet completed; therefore, no audited financial statements of the Borrower are being filed herewith. Unaudited financial statements for such period are attached in lieu of audited financial statements. Audited financial statements will be filed when available.

_____ No audited financial statements of the Borrower were prepared for the period ending December 31, 20____; therefore, no audited financial statements of the Borrower are being filed herewith. Unaudited financial statements for such period are attached in lieu of audited financial statements.

EXHIBIT B

**NOTICE OF FAILURE TO
FILE ANNUAL DISCLOSURE REPORT**

Name of Issuer: Economic Development Authority of James City County, Virginia

Name of Issue: Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022

Name of Borrower: Blaine Landing Phase II, L.P., a Virginia limited partnership

CUSIP: _____

Date of Issuance: December __, 2022

NOTICE IS HEREBY GIVEN that the above-referenced borrower (the “Borrower”) has not provided an Annual Report with respect to the above-named Bonds as required by its Continuing Disclosure Agreement. The undersigned has been informed by the Borrower that it anticipates that Annual Report will be filed by _____.

Dated:

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION**, as Dissemination Agent

By: _____
Authorized Officer

cc: Borrower

EXHIBIT C

**NOTICE TO MUNICIPAL SECURITIES RULEMAKING BOARD OF
PROJECT PLACED IN SERVICE**

Name of Issuer: Economic Development Authority of James City County, Virginia

Name of Bond Issue: Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022

Name of Borrower: Blaine Landing Phase II, L.P., a Virginia limited partnership

Name of Project: Blaine Landing Phase II

Address of Project: 7581 Richmond Road, Williamsburg, VA 23188

Date of Issuance: December __, 2022

NOTICE IS HEREBY GIVEN as per the requirements of the Continuing Disclosure Agreement, dated as of December 1, 2022, between the above-referenced borrower (the “Borrower”) and U.S. Bank Trust Company, National Association, a national banking association, as Dissemination Agent, that the Borrower has certified that the above-referenced project (the “Project”) is complete and placed in service by the Borrower as evidenced by a certificate from the Borrower confirming that the Project is placed in service for purposes of Section 42 of the Code.

Dated:

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION**, as Dissemination Agent

By: _____
Authorized Officer

cc: Borrower

EXHIBIT D

FORM OF NOTICE OF PLACED IN SERVICE

\$8,800,000*

**Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022**

The undersigned hereby provides notice to U.S. Bank Trust Company, National Association, a national banking association, as dissemination agent (the “Dissemination Agent”) that the multifamily rental housing facility known as Blaine Landing Phase II (the “Project”) has been placed in service in accordance with the Trust Indenture, dated as of December 1, 2022, between Economic Development Authority of James City County, Virginia (the “Issuer”) and U.S. Bank Trust Company, National Association, a national banking association, as Trustee (the “Trustee”), pursuant to which the above-captioned bonds were issued, as further evidenced by the attached Certificate of Occupancy.

BLAINE LANDING PHASE II, L.P.

a Virginia limited partnership

By: Blaine Landing Phase II GP, L.L.C.,
its General Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

* Preliminary; subject to change.

ATTACHMENT

Certificate of Occupancy

APPENDIX F

FORM OF BOND COUNSEL OPINION

The form of the approving legal opinion of McGuireWoods LLP, bond counsel, is set forth below. The actual opinion will be delivered on the date of delivery of the bonds referred to therein and may vary from the form set forth to reflect circumstances both factual and legal at the time of such delivery. Recirculation of the Official Statement shall create no implication that McGuireWoods LLP, has reviewed any of the matters set forth in such opinion subsequent to the date of such opinion.

December __, 2022

Economic Development Authority of James City County, Virginia
Williamsburg, Virginia

\$8,800,000*
Economic Development Authority of James City County, Virginia
Multifamily Housing Revenue Bonds
(Blaine Landing Phase II), Series 2022

Ladies and Gentlemen:

We have served as Bond Counsel in connection with the issuance and sale by the Economic Development Authority of James City County, Virginia (the “Issuer”) of its \$8,800,000* Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022, dated the date hereof (the “Bonds”). The Bonds have been issued pursuant to the Industrial Development and Revenue Bond Act, Title 15.2, Chapter 49 of the Code of Virginia of 1950, as now in effect and as from time to time hereafter amended or supplemented (the “Act”), and pursuant to the terms of a Trust Indenture dated as of December 1, 2022 (the “Indenture”), between the Issuer and U.S. Bank Trust Company, National Association, as trustee (the “Trustee”). Unless otherwise defined, each capitalized term used in this opinion shall have the meaning given it in the Indenture.

We have examined the Constitution of the Commonwealth of Virginia and the laws of both the United States and the Commonwealth of Virginia, including, without limitation, the Internal Revenue Code of 1986, as amended (the “Code”), and the Act, and such certified proceedings and other documents of the Issuer as we deem necessary to render this opinion, including the resolution adopted by the Issuer on November 15, 2022, authorizing the issuance of the Bonds.

The proceeds of the Bonds will be loaned to Blaine Landing Phase II, L.P. (the “Borrower”) under the Loan Agreement dated as of December 1, 2022 (the “Loan Agreement”), between the Issuer and the Borrower, for the purpose of financing a portion of the costs of the acquisition, construction and equipping of a multifamily residential housing development known as Blaine Landing Phase II, consisting of approximately 60 units and related facilities (the “Project”), located in the County of James City, Virginia (the “County”). The use and operation of the Project are subject to the provisions of a Regulatory Agreement and Declaration of Restrictive Covenants dated as of December 1, 2022 (the “Regulatory Agreement”), executed by the Borrower for the benefit of the Issuer and the Trustee. The Regulatory Agreement requires, among other things, that the Project be operated as a “qualified residential rental project” within the meaning of and for the period required by Section 142(d) of the Code.

The Bonds are secured by the Indenture, which assigns to the Trustee, as security for the Bonds (i) the Revenues, including, without limitation, all Loan Payments, Eligible Funds and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan, (ii) the Special Funds, including all accounts in such Special Funds and all money deposited therein and the investment earnings on such money, (iii) all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which money in the Special Funds are invested, and (except for money required to be rebated to the United States of America under the Code) the proceeds derived therefrom, and any and all other real or personal property of every name and

* Preliminary; subject to change.

nature from time to time hereafter by delivery or by writing of any kind pledged, assigned or transferred, as and for additional security under the Indenture by the Issuer or by anyone on its behalf, or with its written consent, to the Trustee, which is, under the Indenture, authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture, (iv) the Note, except for the Reserved Rights and (v) the Loan Agreement, except for the Reserved Rights (collectively, the “Security”). Payments with respect to the principal of and interest on the Bonds are payable solely from the Security.

As to questions of fact material to our opinion, we have relied upon: (a) representations of and compliance with covenants by the Borrower and the Issuer contained in the Indenture, the Loan Agreement, the Regulatory Agreement, and the Tax Agreement; (b) certificates of public officials furnished to us; and (c) certificates of representatives of the Borrower, the Issuer and other parties, including, without limitation, representations, covenants and certifications as to the use, expenditure and investment of the proceeds of the Bonds, the use of the Project as a “qualified residential rental project” for a “qualified project period,” compliance with the arbitrage reporting and rebate requirements, the average reasonably expected economic life of the property being financed with the Bonds and other factual matters which are relevant to the opinions expressed in numbered paragraph 4 below. We have assumed that all signatures on documents, certificates and instruments examined by us are genuine, all documents, certificates and instruments submitted to us as originals are authentic and all documents, certificates and instruments submitted to us as copies conform to the originals. In addition, we have assumed that all documents, certificates and instruments relating to this financing have been duly authorized, executed and delivered by all of the parties other than the Issuer, and we have further assumed the due organization, existence and powers of such other parties other than the Issuer.

Reference is made to the opinion of Willcox & Savage P.C., counsel to the Borrower, dated today, as to, among other things, the due authorization, execution and delivery of the Loan Agreement, the Note and the Regulatory Agreement and related documents by the Borrower and the enforceability of such documents against the Borrower, upon which you are relying as to matters therein.

Based on the foregoing, we are of the opinion that:

1. The Issuer is validly organized and existing under Virginia law and has the power to execute and deliver the Indenture and the Loan Agreement, to assign the Note, to perform the agreements on its part contained in the Indenture and Loan Agreement, to issue the Bonds and to apply the proceeds from the issuance and sale of the Bonds as set forth in the Indenture.

2. The Bonds have been duly authorized, executed and delivered in accordance with the Act and, subject to the exceptions set forth below, are valid and binding limited obligations of the Issuer payable solely from the revenues and receipts derived under the Indenture and the Security. The Bonds do not create or constitute a debt or a pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including without limitation, the County or the Issuer.

3. The Indenture and the Loan Agreement have been duly authorized, executed and delivered by the Issuer and, subject to the exceptions set forth below, constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms.

4. Under current law, interest on the Bonds (a) is excludable from gross income for purposes of federal income taxation (except during any period while the Bonds are held by a “substantial user” of the Project or a “related person” within the meaning of Section 147(a) of the Code), and (b) is not treated as a tax preference item in calculating the alternative minimum income tax imposed under the Code. However, for taxable years beginning after December 31, 2022, such interest is included in the “adjusted financial statement income” (as defined in Section 56A of the Code) of certain corporations in determining the applicability and amount of the federal corporate alternative minimum tax imposed under Section 55(b) of the Code. The opinions set forth in this paragraph are subject to compliance by the Issuer and the Borrower with all of the requirements of the Code that must be satisfied after the issuance of the Bonds so that the interest on the Bonds is, or continues to be, excluded from gross income for federal income tax purposes. Each of the Issuer and the Borrower has covenanted to comply with these requirements. Failure to comply with certain of these requirements may cause the inclusion of interest on the Bonds in gross income for federal income tax purposes.

to be retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

This opinion letter speaks as of its date, is based on current legal authority and precedent, covers certain matters not directly addressed by such authority and precedent, and represents our judgment as to the proper treatment of interest on the Bonds for federal income tax purposes. This opinion letter does not contain or provide any opinion or assurance regarding the future activities of the Issuer and the Borrower or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the Internal Revenue Service. The Issuer and the Borrower have covenanted, however, to comply with the requirements of the Code.

5. Interest on the Bonds is not subject to taxation as income by the Commonwealth of Virginia.

The enforceability of the Bonds, the Indenture, the Loan Agreement and the assignment of the Note is subject to bankruptcy, insolvency, reorganization, moratorium, and similar laws now or hereafter in effect affecting creditors' rights, and is also subject to the exercise of judicial discretion in accordance with general principles of equity.

Our services as Bond Counsel have been limited to rendering the foregoing opinion based on our review of such legal proceedings as we deem necessary to approve the validity of the Bonds and the tax status of the interest on them. The foregoing opinion is in no respect an opinion as to the Issuer's or the Borrower's business or financial resources or their ability to provide for the payment of the Bonds or the accuracy or completeness of any information that anyone may have relied upon in making the decision to purchase the Bonds.

This opinion is delivered solely for the benefit of the addressees hereof. It may not be relied upon by any other person, in whole or in part, without our prior written consent. This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

Very truly yours,

ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF JAMES CITY

APPLICATION STATEMENT

A. APPLICANT:

1. Legal name of applicant, type of entity and state of incorporation/organization:

Blaine Landing Phase II, L.P., a Virginia limited partnership

2. Address and location of principal office:

Project

Developer/Owner

7581 Richmond Rd
Williamsburg, VA 23188

440 Monticello Avenue, Suite 1700
Norfolk, VA 23510

3. Telephone number and email address:

757-640-2299 rcounselman@slnusbaum.com
757-640-2211 sswanberg@slnusbaum.com

4. Names and addresses of primary corporate officers:

Thomas G. Johnson, III
Richard T. Counselman
Miles B. Leon

440 Monticello Avenue, Suite 1700
Norfolk, VA 23510

5. Primary contact to whom correspondence should be directed:

Richard Counselman 757-640-2299 rcounselman@slnusbaum.com
Sharon Swanberg 757-640-2211 sswanberg@slnusbaum.com

6. Name and address of legal counsel for applicant:

Primary Counsel

Greg Lydon
Willcox & Savage
440 Monticello Avenue, Suite 2200
Norfolk, VA 23510

Special Counsel

Erik Hoffman
Klein Hornig
1325 G Street NW, Suite 770
Washington DC 20005

7. Indicate name, type of entity, state of incorporation/organization and relationship of all direct or indirect parent companies of applicant.

NA

B. STATEMENT OF BENEFITS TO JAMES CITY COUNTY AND THE COMMONWEALTH OF VIRGINIA FROM THIS PROJECT:

1. State what new employment opportunities will be created or retained as a result of this project, including number, types of jobs and estimated payroll.

This project is Phase II (60 Units) of a 2-part development, providing a total of 119 affordable housing apartment units. In addition to permanent management, leasing, maintenance and cleaning site staff, with an estimated annual salary total of \$170,500, the development will employ all trades necessary to complete construction, during an approximate 24-month construction period.

2. Estimate all local taxes by type and amount projected to be paid to James City County as a result of this project.

Real Estate Taxes - \$50,000 annually
Personal and Business Property Taxes - \$1,400

3. Specifically, state other potential benefits which will accrue to the inhabitants of James City County and the State of Virginia, including economic, social, or other non-monetary benefits.

The project will provide quality affordable housing in good proximity to employment and education opportunities, as well medical and other services.

C. IDENTIFICATION AND DESCRIPTION OF PROPOSED PROJECT:

1. General location of proposed project in James City County.

7581 Richmond Road
Williamsburg, VA 23188

2. Describe the type of facility which you are applying for financing. What operations will be conducted at the facility?

60 affordable multi-family housing units for lease to individuals and families.

3. Are you applying for pollution control bonds? If so, please state the types of pollution generated by your facility and briefly describe the type of equipment which you propose to meet your pollution problems.

NA

4. Describe the proposed arrangement to finance the cost of construction or acquisition of the project. Briefly detail a projected time schedule.

Project Financing

Bond Proceeds	\$ 8,000,000
LIHTC Syndication Proceeds	\$ 7,082,496
Deferred Developer Fee Note	\$ 835,906
Total Development Costs	\$15,918,402

Project Projected Timeline

Loan Commitments for Construction and Permanent Financing	4/30/22
Closing / Construction Start-Date	6/30/22
Begin Lease Up	6/01/23
Complete Construction	9/29/23
Complete Lease Up	12/01/23

5. If the applicant currently owns the project site, indicate:NA

- (a) Date of purchase
- (b) Purchase price
- (c) Balance of existing mortgage or other financing
- (d) Holder of mortgage or other financing

6. If the applicant is not the owner of the project site, does the applicant have an option to purchase the site and any buildings on the site? If yes, indicate: NA

- (a) Date option agreement signed with owner
- (b) Purchase price under option

(c) Expiration date of option

7. Has the applicant entered into a contract to purchase the site? If yes, indicate:

(a) Date signed 8/29/2020

(b) Purchase price \$1,835,000.00 purchase price of entire property Phase I and II

(c) Expected settlement date 6/30/2022

8. Who is the present owner of the project site, and what is the relationship between the present legal owner and the applicant?

Lisa Joy P. Marston, Trustee of the Lisa Joy P. Marston Revocable Trust Dated September 13, 2010.

No Identity of Interest between Buyer and Seller.

9. If pollution control bonds are issued, please indicate: NA

(a) Whether the total project is designed for any significant purpose other than the control of pollution, i.e., does the project result in an increase in production or capacity, or in a material extension of the useful life of a manufacturing or production facility or a part thereof.

(b) Estimated incremental cost of the project if the project is for the purpose of controlling pollution and for a significant purpose other than controlling pollution.

10. Status of plans for the project. Please indicate architect, engineer, general contractor and major subcontractors, as applicable.

Building plans are complete as of December 9, 2021

Site plan has been submitted to County and 1st round comments have been addressed.

TS3 Architects

AES Engineers

Morgan Keller Construction

11. Has construction work on this project begun? If yes, complete the following:

- (a) Site clearance ____ yes x no ____% complete
- (b) Foundation ____ yes x no ____% complete
- (c) Footings ____ yes x no ____% complete
- (d) Steel ____ yes x no ____% complete
- (e) Masonry work ____ yes x no ____% complete
- (f) Other (describe below) ____ yes x no ____% complete

12. List principal items or categories of equipment to be acquired as part of the project.

Office FF&E

Pool/Amenity Area FF&E

Grounds and Building Maintenance Tools and Equipment

13. Has any of the above equipment been ordered or purchased? If yes, indicate: None

<u>Item</u>	<u>Date ordered</u>	<u>Delivery date</u>	<u>Price</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

14. State the proposed uses of bond proceeds.

Description of Cost

Land

Buildings \$11,846.234

Equipment	\$200,000
Engineering	\$86,600
Architecture	\$178,163
Interest during construction	\$ 218,644
Original Issue Bond Discount	
Costs of issuance	\$228,280
Reserves	
Other (please explain)	
Face amount of issue	\$8,000,000

15. Have any of the above expenditures already been made by the applicant? If yes, indicate particulars:

Yes, Architectural and Engineering plans are nearing completion. Expenses incurred to date are as follows:

Architecture – \$332,730
Engineering - \$125,455

16. Have any of the above expenditures been incurred but not paid by the applicant? If yes, indicate particulars:

No

17. Are costs of working capital, moving expenses, work in process, or stock in trade included in the proposed uses of bond proceeds?

No

18. Will any of the funds to be borrowed through the Authority be used to repay or refinance an existing mortgage or outstanding loan?

No

19. If any space in the project is to be leased to third parties, indicate total square footage of the project, amount to be leased to each tenant, and proposed use by each tenant.

NA

20. Type and amount of outstanding debt incurred by applicant. In addition, separately state the type and amount of outstanding bonds or other obligations, if any, on the present facilities. Include full debt service schedule for each separate obligation.

NA

21. Brief description of existing facilities:

- (a) Describe the location and type of existing facilities (including, if applicable, pollution abatement equipment now provided, its design, capacity, and year constructed). Indicate if the existing facilities are to be abandoned or will continue in use as part of the proposed new facility.

Existing abandoned structures, one residence (constructed around 1974) and two barns (constructed in the early to mid 60s), will be demolished.

- (b) Estimated first year annual operation and maintenance cost of any existing facility and the proposed facility.

Existing facility – NA
Proposed facility - \$372,513

- (c) Age and condition of existing buildings, if any improvements included within this project are to be made thereto, and whether owned in fee or leased.

Existing abandoned structures, one residence (constructed around 1974) and two barns (constructed in the early to mid 60s), will be demolished.

22. Will the construction, occupation, operation or use of the project involve the creation of any pollutants or other emissions, or the use or manufacture of any toxic or hazardous substances? No.

Will operation of the project involve consumption or use of large amounts of electricity,

water, gas or other services as products customarily furnished by utilities? Yes

N Will construction or operation of the project have any impact upon local businesses or residents, such as emission of odors, traffic in and out of the project, or storage of large amounts of materials at the project site? No,

Please provide particulars.

The project consists of 60, 1, 2 and 3 bedroom, multi-family apartment units, which will require new electric and water service.

D. FINANCIAL:

1. Commercial banking connections and for how long a period.

Wells Fargo
Towne Bank
Bank of America

2. Attach to application the following proof of financial responsibility for the preceding 3 years:

- (a) Financial statements, including the audit, review or compilation report from a certified public accounting firm
- (b) Tax returns

If the applicant does not have an annual audit, review or compilation, submit internal financial statements. If the applicant is a new or recently formed business entity, without recent financial statements, the applicant should furnish the financial information required by the application for each principal shareholder, partner or other principal of the applicant. If the applicant is a subsidiary corporation without its own financial statements, financial statements of the parent corporation or consolidated financial statements may be submitted. If the obligations of the applicant will be guaranteed by any person or business entity, then financial statements of such guarantor should also be included with the application. Pro forma financial statements, if available, should be submitted with the application. Because this application will become a part of the public records of the Authority, in the event the applicant does not desire financial records not otherwise available to the public to be included in the public record, please so indicate on the records so that such records may be returned to the applicant.

3. Has the applicant, any proposed guarantor, or any of their principal partners or shareholders ever declared bankruptcy or been involved in any bankruptcy or insolvency proceeding, whether voluntary or involuntary? If so, describe particulars.

No

4. Has any underwriter, broker or investment banker been retained by applicant in connection with this proposed bond issue? If so, who?

Stifel & Nicholas

5. Please indicate the person or institution to whom the bonds will be sold or any persons or institutions which have indicated an interest in purchasing or underwriting the bonds.

Stifel & Nicholas

E. MISCELLANEOUS:

1. Is the applicant or any major shareholder or partner presently involved in any litigation, investigation or proceeding? If so, please describe.

No

2. Is the applicant or any major shareholder or partner of the applicant, or any other person working for the applicant in this proposed financing subject to any order, decree or judgment of any court or administrative or other governmental agency or body? If so, please describe.

No

3. Is the applicant, or any of its shareholders or partners, or any guarantor, or any other person representing applicant in connection with this proposed financing, involved in any investigation, litigation or proceeding relating to the issuance or sale of securities or any applicable banking laws or regulations? Have any of the foregoing persons ever been involved in any such investigation, litigation or proceeding? If so, please describe details in full.

No

4. Is the applicant subject to any regulatory sanction (other than in the ordinary course of business) by any Federal or State administrative agencies or bodies? If so, please provide details.

No

F. AGREEMENT:

To induce the Economic Development Authority of the County of James City to consider this application, it is understood and agreed that the applicant is required:

1. To pay all cost and expenses incurred by the Authority in connection with this application, either from the proceeds of Industrial Revenue Bonds which might be approved for the project by the Authority or in the event such assistance is not approved or forthcoming or the proceeds are not sufficient, to pay all cost and expenses from its own resources.
2. To pay, in addition to all cost and expenses incurred by the Authority, a nonrefundable applicant fee to the Authority of \$400.00, to be paid at the time of submittal of this application.
3. To pay, in addition to all costs, expenses, and application fee, an administrative fee of either (check one):

☒ $\frac{1}{2}$ of 1% of the bond amount up to \$5 million, plus $\frac{1}{10}$ of 1% of the bond amount over \$5 million, with a total minimum fee of \$1,250, said fee to be paid at closing; or

☐ $\frac{1}{8}$ of 1% of the declining principle bond balance annually at the end of each calendar year for the life of the bond, said fee to be guaranteed by a binding promissory note at closing.

Administrative fees may be paid from bond proceeds to the extent permitted by law.

4. To comply with the Authority's Rules and Procedures, a copy of which has been received by the applicant.
5. To certify that all statements and information furnished with this application or on supporting papers are true and correct to its best knowledge and belief.
6. To advise the Authority in writing immediately of any material changes to the information contained in this application.
7. To certify that it understands the conditions of this application, and that there is no guarantee of approval of this application by the Authority.

This application is approved and submitted by the _____ Manager _____
(Authorized Agent)

of Blaine Landing Phase II, L.P. (Official Name of Applicant)

on this 16th day of December, 2021

WITNESS: Richard T. Counselman

By: Blaine Landing Phase II GP, L.L.C.
TITLE: By: Richard T. Counselman, Manager

DATE: 12/16/2021

(SEAL)

FISCAL IMPACT STATEMENT
FOR PROPOSED INDUSTRIAL REVENUE BOND FINANCING

Date: 12/16/2021

To the Board of Supervisors of
James City County, Virginia

Applicant: _____
Facility: _____

1.	Maximum amount of financing sought	\$ 8,000,000
2.	Estimated taxable value of the facility's real property to be constructed in the locality	\$ <u>\$6,000,000</u>
3.	Estimated real property tax per year using present tax rates	\$ <u>\$50,400</u>
4.	Estimated personal property tax per Year using present tax rates	\$ <u>1,400</u>
5.	Estimated merchants' capital tax per year using present tax rates	\$
6.a.	Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	\$ <u>\$25,000</u>
b.	Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	\$ <u>\$310,000</u>
c.	Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	\$
d.	Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	\$
7.	Estimated number of regular employees on year round basis	\$ <u>3-4</u>
8.	Average annual salary per employee	\$ <u>\$38,500</u>

Chairman, Economic Development Authority of
James City County, Virginia

This Instrument Prepared By
and After Recording Return To:

Michael W. Graff, Jr.
McGuireWoods LLP
1750 Tysons Boulevard, Suite 1800
Tysons Corner, Virginia 22102

EXEMPTION CLAIMED:
VA. CODE §58.1-809

Tax Map Parcel Nos. _____

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, as amended, modified or supplemented from time to time (this "Regulatory Agreement") is made as of [December] 1, 2022, by BLAINE LANDING PHASE II, L.P., a Virginia limited partnership (the "Borrower"), for the benefit of the ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA (the "Issuer") and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee (the "Trustee"), under the Indenture referred to below:

W I T N E S S E T H:

WHEREAS, the Borrower has applied to the Issuer for a loan (the "Loan") for the acquisition, construction and equipping of an affordable housing development to be (i) occupied by persons of low and moderate income, (ii) known as Blaine Landing Phase II (the "Project") and (iii) located in the County of James City, Virginia, on the real property described in Exhibit "C" attached hereto and by this reference made a part hereof (the "Real Property"); and

WHEREAS, the Issuer is unwilling to make the Loan unless the Borrower agrees to be regulated in the manner set forth herein, and the Borrower is willing to execute and abide by this Regulatory Agreement as a condition of obtaining the Loan.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto, their successors and assigns, as follows:

1. Definitions. As used in this Regulatory Agreement, the following terms shall have the following respective meanings.

"Act" means the Industrial Development and Revenue Bond Act, Title 15.2, Chapter 49 of the Code of Virginia of 1950, as amended.

"Adjusted Family Income" means the anticipated annual income of a person (together with the anticipated annual income of all persons who intend to reside with such person in one residential unit), as determined in a manner consistent with Section 8 of the United States Housing Act of 1937 or if such program is terminated under such program as in effect immediately before such termination.

"Available Units" means residential units in a residential rental project that are actually occupied and residential units in the project that are unoccupied and have been leased at least once after becoming available for occupancy, provided that a residential unit that is not available for occupancy due to

renovations is not an Available Unit and does not become an Available Unit until it has been leased for the first time after the renovations are completed.

"Bond Counsel" means McGuireWoods LLP or any other law firm of nationally recognized standing in the field of municipal finance law whose opinions are generally accepted by purchasers of tax-exempt obligations that is acceptable to the Issuer.

"Bondholder" means, with respect to any Bond, the registered owner of such Bond.

"Bonds" means the [\$8,000,000] Economic Development Authority of James City County, Virginia Multifamily Housing Revenue Bonds (Blaine Landing Phase II), Series 2022 issued to provide funds to make the Loan, including any refunding obligations.

"Borrower" means Blaine Landing Phase II, L.P., a Virginia limited partnership, together with its permitted successors and assigns.

"Business Day" means any day other than (a) a Saturday or a Sunday, (b) any day on which banking institutions located in the city or cities in which the principal office or payment office of the Trustee are located or the city or cities in which any paying agent is located are required or authorized by law or executive order to close, (c) any day on which banking institutions located in the city of New York, New York are required or authorized by law or executive order to close or (d) a day on which The New York Stock Exchange is closed.

"Code" means the Internal Revenue Code of 1986, as amended and supplemented from time to time, or any successor statute, and applicable final, temporary or proposed regulations thereunder.

"Commercial Facilities" means that part of the Project not consisting of (i) that portion of the building or buildings of the Project containing residential units and (ii) any facilities, or portions thereof, that are approved by the Issuer and are properly allocable and are directly related and essential to the portions of such building or buildings containing residential units for purposes of Section 142(d) of the Code, including the Recreation Facilities hereinafter defined and the portion of the parking facilities hereinafter described and the tenant laundry facilities which are intended for use by the Project's residential tenants.

"Commonwealth" means the Commonwealth of Virginia.

"Completion Date Certificate" means the certificate from the Borrower to the Trustee stating that the acquisition, construction and equipping of the Project has been completed.

"Compliance Certificate" means the Compliance Certificate substantially in the form of Exhibit "B" hereto, as such form may be revised by the Issuer from time to time upon advice of Bond Counsel.

"Electronic Means" means a facsimile transmission or other similar electronic means of communication, including a telephonic communication promptly confirmed by writing or written transmission.

"General Partner" means Blaine Landing Phase II GP, L.L.C., a Virginia limited liability company, its respective successors and assigns.

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

"Income Certification" means a Certification of Tenant Eligibility substantially in the form of Exhibit "A" hereto, as such form may be revised by the Issuer from time to time upon advice of Bond Counsel.

"Income Tax Regulations" means any applicable final, proposed or temporary regulations and revenue rulings under the Code. References to a section of the Income Tax Regulations shall be deemed to include any analogous section of revised or successor regulations.

"Indenture" means the Trust Indenture dated as of [December] 1, 2022, by and between the Issuer and the Trustee, under which the Bonds are issued and secured, as the same may be amended, modified or supplemented from time to time.

"Investor Limited Partner" means TB Blaine Landing Phase II Affordable Housing, LLC, a Virginia limited liability company, its respective successors and assigns.

"Issuer" means the Economic Development Authority of James City County, Virginia, a political subdivision of the Commonwealth, duly organized and validly existing under the laws of the Commonwealth, and its successors and assigns.

"Loan" means the proceeds provided by the Issuer to the Borrower pursuant to the Loan Agreement.

"Loan Agreement" means the Loan Agreement dated as of [December] 1, 2022, between the Borrower and the Issuer, together with any amendments, modifications or supplements thereto.

"Loan Documents" means the Loan Agreement, the Indenture, the Bonds, the Note, and any and all other instruments executed and delivered in connection with the Loan.

"Low Income Persons or Families" or **"Low Income Tenants"** means persons whose aggregate Adjusted Family Income does not exceed 60% of the Median Gross Income for the Area determined by the Secretary of Housing and Urban Development in a manner consistent with determinations of low income families under Section 8 of the United States Housing Act of 1937, as amended (or, if such program is terminated, under such program as in effect immediately before such termination), with adjustments for smaller and larger families. For purposes of this definition, the occupants of a residential unit shall not be deemed to be Low Income Persons or Families or Low Income Tenants if all the occupants of such residential unit at any time are "students", as defined in Section 152(f) of the Code, unless an occupant falls within the exceptions set forth in Section 42(i)(3)(D) of the Code as provided through Section 142(d)(2)(C) of the Code.

"Median Gross Income for the Area" means the median income for the households in the area which includes the County of James City, Virginia, as determined from time to time by the Secretary of Housing and Urban Development, under Section 8 of the United States Housing Act of 1937, as amended (or if such program is terminated, median income determined under the program in effect immediately before such termination), in each case as adjusted for family size, all in accordance with Section 142(d) of the Code.

"Mortgage" means the [Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement Fixture Filing (Virginia) dated as of December 1, 2022], given by the Borrower in favor of a deed of trust trustee named therein for the benefit of the Mortgage Lender, as the same may be amended, modified, assigned or supplemented from time to time.

"Mortgage Lender" means AGM Financial Services, Inc., its successors and assigns.

"Mortgaged Property" includes all property covered by the Mortgage.

"Note" means the Note dated as of even date with the Bonds, given by the Borrower and payable to the order of the Issuer, evidencing the Borrower's obligation to repay the Loan, and any riders thereto or amendments thereof.

"Plans" means the final plans and specifications for the Project, as such plans and specifications may be revised from time to time. Modifications to the Plans do not require the approval of the Issuer or the Trustee.

"Project" means the residential rental housing project known as Blaine Landing Phase II, to consist of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, located in the County of James City, Virginia on the Real Property.

"Qualified Project Period" means that period, beginning on the later of the first day on which at least ten percent (10%) of the residential units in the Project are occupied or the Closing Date and ending on the latest of:

- (i) the date which is 15 years after the later of the Closing Date or the date on which fifty percent (50%) of the residential units in the Project are occupied, or
- (ii) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding, or
- (iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates.

"Qualified Residential Rental Project" means any project for residential rental property if at all times during the Qualified Project Period, such project meets the requirements of Section 142(d)(1)(A) or (B) of the Code, whichever is elected by the Issuer at the time of issuance of the Bonds.

"Real Property" means the land described in Exhibit "C" attached hereto.

"Recreation Facilities" means any recreational or exercise facilities located on the Real Property.

"Rental Housing" means similarly constructed proximate housing units made available for rental, and not ownership, to members of the general public, each of which units shall contain complete living facilities which are to be used on other than a transient basis and facilities which are functionally related and subordinate to the living facilities and which meet the requirements of Section 142(d) of the Code. Rental Housing shall at all times be constructed and maintained in accordance with the applicable building code standards within the County of James City, Virginia.

"Substantial Rehabilitation" means the acquisition of an existing residential rental project where more than 90% of the residential units in the project are not Available Units at any time within 60 days after the later of (1) the date the Project is acquired or (2) the issue date of the Bonds.

"Trustee" means U.S. Bank Trust Company, National Association, the trustee designated as such under the Indenture or any successor trustee under the Indenture, together with their respective successors and assigns.

Other capitalized terms used herein and not otherwise defined shall have the respective meanings accorded such terms in the Indenture and the Loan Agreement.

2. Completion of the Project. The Borrower covenants to complete the acquisition, construction and equipping of the Project with due diligence substantially in accordance with the Loan Agreement. Promptly upon such completion, the Borrower shall furnish to the Trustee and the Issuer a Completion Date Certificate. In the event the proceeds of the Loan are insufficient to complete the Project, the Borrower shall pay from other sources additional moneys as are necessary to complete the Project. No proceeds of the Bonds will be used to finance any Commercial Facilities.

3. Qualified Residential Rental Project. The Issuer and the Borrower hereby declare their understanding and intent that the Project is to be owned, managed and operated, as a Qualified Residential Rental Project. The Issuer hereby elects the "40-60" test as set forth in Section 142(d)(1)(B) of the Code. To that end, and in compliance with the Act, the Borrower hereby represents, covenants and agrees as follows:

(a) that the Project is being acquired, constructed and equipped for the purpose of providing multifamily residential rental property, and the Project shall be owned, managed and operated as multifamily Rental Housing, all in accordance with Section 142(d)(1) of the Code and Section 1.103-8(b) of the Income Tax Regulations, as the same may be amended from time to time and applicable to the Project;

(b) that all of the dwelling units in the Project will be similarly constructed and each such dwelling unit shall contain complete facilities for living, sleeping, eating, cooking and sanitation for a single person or a family;

(c) that during the Qualified Project Period:

(i) none of the dwelling units in the Project shall ever be leased or rented for a period of less than thirty (30) days; and

(ii) neither the Project nor any portion thereof shall ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer court or park;

(d) that during the Qualified Project Period (i) the dwelling units in the Project shall be leased and rented or made available for rental on a continuous basis to members of the general public, (ii) at least 40% of the Available Units in the Project shall be leased and rented or made available for rental on a continuous basis to Low Income Tenants; and (iii) the Borrower shall not give preference in renting dwelling units in the Project to any particular class or group of persons, other than Low Income Tenants as provided herein; provided, however, that an insubstantial number of dwelling units in the Project, may be occupied by maintenance, security or managerial employees of the Borrower or its property manager, which employees must be reasonably necessary for operation of the Project;

(e) that during the Qualified Project Period no part of the Project will at any time be owned or used by a cooperative housing corporation;

(f) that the Project will consist of one or more discrete edifices or other man-made construction, each consisting of an independent foundation, outer walls and roof, all of which will be (i) owned by the same person for federal tax purposes, (ii) located on a common tract of land or two or more tracts of land which are contiguous except for being separated only by a road, street, stream or similar

property (tracts are contiguous if their boundaries meet at one or more points), and (iii) financed by the Loan of the Issuer or otherwise pursuant to a common plan of financing, and which will consist entirely of:

- (i) units which are similarly constructed; and
- (ii) facilities functionally related and subordinate in purpose and size to property described in (i) above, e.g., parking areas, laundries, swimming pools, tennis courts and other recreational facilities (none of which may be unavailable to any person because such person is a Low Income Tenant) and other facilities which are reasonably required for the Project, e.g., heating and cooling equipment, trash disposal equipment or units for residential managers or maintenance personnel;
- (g) that during the Qualified Project Period the Project will not include a unit in a building where all units in such building are not also included in the Project;
- (h) that during the Qualified Project Period the Borrower will not convert the Project from residential rental property to condominium ownership or other use;
- (i) that during the Qualified Project Period no dwelling unit in the Project shall be occupied by the Borrower at any time unless the Borrower resides in a dwelling unit in a building or structure which contains at least five dwelling units and unless the resident of such dwelling unit is a resident manager or other necessary employee (e.g., maintenance and security personnel);
- (j) that less than 25% of the proceeds of the Bonds will be used for the acquisition of land;
- (k) that during the Qualified Project Period, the Borrower will not discriminate on the basis of age, race, creed, religion, color, sex, marital status, or national origin in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project;
- (l) that during the Qualified Project Period, the Borrower will require all tenants moving into units with existing leases, which units have previously qualified as Low Income Tenant units, to be put on the lease in addition to the current tenant on the lease and to require recertification of said unit.

Unless the above provisions of this Section 3 are amended as permitted under Section 17 hereof, the above provisions of this Section shall remain in effect during the Qualified Project Period; provided, however, the Borrower may be discharged from its obligations under the above provisions of this Section 3 and Section 4 hereof to the extent only that the same are assumed by any successor in interest to the Borrower pursuant to Section 7 hereof.

4. Low Income Tenants. In order to satisfy the requirements of the Act and Section 142(d) of the Code, the Borrower hereby represents, covenants and agrees that, as follows:

- (a) (i) commencing on the later of the first date on which 10% of the units in the Project are occupied or the issue date of the Bonds, (1) at least 40% of the Available Units in the Project shall be occupied by Low Income Tenants before any Available Units are rented or leased to any other tenants and (2) after initial rental occupancy of such dwelling units by Low Income Tenants, at least 40% of the Available Units in the Project at all times shall be rented to and occupied (or held available for rent if previously rented to and occupied by a Low Income Tenant) by Low Income Tenants as required by Section 142(d) of the Code. For the purpose of the requirement that not less than 40% of the Available Units be occupied by Low Income Tenants, if a tenant qualified as a Low Income Tenant upon occupancy, the

income of that tenant shall be treated as continuing to not exceed the applicable income limit, notwithstanding that such tenant's income may subsequently exceed the applicable income limit; provided, however, that such person shall no longer be qualified as a Low Income Tenant as of the most recent determination (as provided in Section 4(e) below) if the tenant's Adjusted Family Income exceeds 140% of the then applicable income limit. If it is determined that a tenant's Adjusted Family Income exceeds 140% of the applicable income limit, the Borrower may avoid non-compliance with the rules set forth herein if the next available unit of comparable or smaller size not counted as occupied by a Low Income Tenant is rented to a qualifying Low Income Tenant;

(ii) notwithstanding Section 4(a)(i) above, if the proceeds of the Bonds are financing the acquisition and rehabilitation of an existing residential rental project (other than Substantial Rehabilitation, to which Section 4(a)(i) above will apply), the Borrower shall have twelve months beginning on the date of issuance of the Bonds (the "Transition Period") to satisfy the requirement that at least 40% of the Available Units are occupied by Low Income Tenants. The failure to satisfy the set-aside requirement of this Section 4(a)(ii) by the last day of the Transition Period will cause the Project not to be a Qualified Residential Rental Project as of the issue date of the Bonds issued to finance the Project unless the Bonds issued to finance the Project are redeemed as soon as possible, but in no event later than eighteen months after the issue date of the Bonds;

(b) the income of all tenants who occupy or will occupy the units in the Project will be verified by the Borrower by obtaining an Income Certification and with respect to Low Income Tenants, (i) if the occupant is employed, an employer's written verification of current anticipated annual income or (ii) if the occupant is self-employed, the occupant shall provide an annualized profit and loss statement or (iii) if the occupant is not employed, the occupant shall provide evidence of governmental income or rental assistance and of any other income. Each such certification shall be dated (i) not later than the date of execution of the lease, but in no event more than five days prior to the initial occupancy of such tenant in the Project (and the Borrower shall require such tenant to notify the Borrower of any material change of information in the Income Certification between execution thereof and initial occupancy of such tenant in the Project), and (ii) at least annually thereafter, in each case in the form and containing such information as may be required by Section 142(d) of the Code (initially in the form attached hereto as Exhibit "A", as the same may be from time to time amended by the Borrower with the consent of the Issuer on the advice of Bond Counsel (a copy of which amendments shall be provided to the Issuer, the Trustee and the Mortgage Lender), or in such other form and manner as may be required by applicable rules, rulings, procedures, official statements, regulations or policies now or hereafter promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to obligations issued under Section 142(a)(7) of the Code;

(c) during the Qualified Project Period, the Borrower shall maintain complete and accurate records pertaining to the dwelling units occupied or to be occupied by Low Income Tenants, including Income Certifications, and will permit any duly authorized representative of the Issuer, the Trustee, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Income Certifications of Low Income Tenants residing in the Project for the purpose of verifying compliance by the Borrower hereunder upon reasonable notice and at reasonable times. The Borrower agrees that in the event of an Internal Revenue Service, Department of Treasury or Issuer audit of compliance with this Regulatory Agreement as authorized by this Section 4(c), the Borrower will pay all reasonable fees and expenses of the Issuer, its authorized representatives, and its counsel in connection with such audit. The Borrower shall keep information as set forth in this Section 4(c) for a period of three years following the end of the Qualified Project Period;

(d) during the Qualified Project Period, (i) the Borrower shall immediately notify the Trustee and the Issuer if at any time the dwelling units in the Project are not occupied or available for occupancy

as provided in Section 4(a) above, (ii) the Borrower shall prepare and submit to the Issuer and the Mortgage Lender, not later than the fifteenth (15th) day of the month following the initial occupancy of any of the units in the Project and not later than the fifteenth (15th) day following the end of each six months thereafter, a Compliance Certificate substantially in the form attached hereto as Exhibit "B" executed by the Borrower stating, among other matters, the number of dwelling units of the Project which were occupied or were deemed to be occupied by Low Income Tenants during such period, and (iii) so long as any Bonds remain Outstanding, the Borrower shall maintain a copy of each Compliance Certificate required under clause (ii) of this subsection and submit copies thereof to the Trustee upon request;

(e) during the Qualified Project Period, the Borrower shall make the determination of whether the income of a tenant of a unit in the Project exceeds the applicable limit at least annually on the basis of the current income of the tenant by causing each tenant to execute a recertification of their annual income. The Borrower shall require in the lease of each Low Income Tenant that the tenant fill out an annual income recertification to help the Borrower determine whether the tenant still qualifies as a Low Income Tenant. The Borrower shall provide in each tenant's lease that completion and execution of such certificates by the tenant is a substantial obligation, noncompliance with which can result in termination of tenancy. Copies of the recertification of a tenant shall be provided to the Trustee as provided in Section 4(b) above; and

(f) the Borrower shall prepare and file with the Trustee, the Mortgage Lender and the Issuer true copies of each IRS Form 8703 - "Annual Certification of a Residential Rental Project" (or any successor form thereto) as completed and filed with the Internal Revenue Service for each calendar year during the Qualified Project Period, which certification shall be filed within thirty (30) days after each anniversary of the Completion Date (as defined in the Loan Agreement) or at such other times as may be prescribed in the Income Tax Regulations promulgated under Section 142(d)(7) of the Code.

The benefits of Sections 3 and 4 shall inure to, and may be enforced by, the Trustee and the Issuer and their successors and assigns for the Qualified Project Period.

5. Compliance with Act, Code and Rules.

(a) The Borrower covenants and agrees that (i) it will comply with all requirements of the Act, and the rules applicable to it or to the Project; (ii) at no time will it take any action, or fail to take any action, which action or failure to act would adversely affect the exclusion from gross income of the interest on the Bonds for federal income tax purposes; (iii) at least 95% of the net proceeds of the Bonds will be applied to finance a Qualified Residential Rental Project; and (iv) it will maintain the Project at all times during the Qualified Project Period in such a manner that the Project qualifies as a Qualified Residential Rental Project and pursuant thereto, forty percent (40%) or more of the residential units in such Project will be occupied by Low Income Persons or Families, with adjustments for smaller and larger families within the respective meanings ascribed to such quoted terms in Section 142(d) of the Code. In connection with the foregoing and with Section 17(b) hereof, the Borrower agrees to execute and deliver such amendments and supplements to this Regulatory Agreement as the Issuer (with a copy to Bond Counsel and the Trustee) or Bond Counsel (with a copy to the Issuer and the Trustee) reasonably shall determine to be necessary to preserve the exclusion of the interest on the Bonds of the holders thereof from gross income for federal income tax purposes.

(b) The Borrower agrees that it will not request any disbursement under the Loan for:

(i) the acquisition of a building (and any fixtures thereto as of the date of acquisition), the "first use" of which is not pursuant to such acquisition within the meaning of Section 147(d) of the Code, unless the Borrower shall expend from Loan proceeds or other available sources, an amount at least equal to fifteen percent (15%) of "the portion of the cost of acquiring such building

(and equipment) financed with the proceeds" of the Bonds for "rehabilitation expenditures" within the meaning of Section 147(d) and of the Code with respect to such building and fixtures;

(ii) the acquisition of land (or an interest therein) in any amount which would cause the aggregate amount therefore and thereupon disbursed for such costs to equal or exceed twenty-five percent (25%) of the net proceeds of the sale of the Bonds; or

(iii) any portion of the Project which would cause the "average reasonably expected economic life", as determined in the manner and as of the time provided by Section 147(b) of the Code, of the portion of the Project that has been, or pursuant to such requested disbursement is to be, financed with proceeds of the Loan to be less than one day more than eighty-three and one-third percent (83 1/3%) of the "average maturity" of the Bonds within the meaning of Section 147(b) of the Code.

If for any reason disbursements under this Section 5(b) in excess of the limits imposed by paragraphs (i), (ii) or (iii) set forth above shall be made, or if, assuming after any disbursement that no further disbursements were made under the Loan Agreement, such limits would be violated by measurement against the amount of disbursements theretofore made, the Borrower agrees to reimburse the Trustee under the Indenture for the portion of any such excess as would be necessary to assure the exclusion of the interest payable on the Bonds of the holders thereof from gross income for federal income tax purposes.

(c) The Borrower agrees that it will not request any disbursement under the Loan for any costs of:

(i) any portion of the Project constituting a "health club facility," a "facility primarily used for gambling," or a "store the principal business of which is the sale of alcoholic beverages for consumption off premises" within the meaning of Section 147(e) of the Code;

(ii) land, or an interest therein, to be used for "farming purposes" within the meaning of Section 147(c) of the Code; and

(iii) any property, other than a building (and fixtures located therein as of the date of the building's acquisition), the "first use" of which is not pursuant to such acquisition within the meaning of Section 147(c) of the Code.

6. Commercial, Recreation and Parking Facilities. The Borrower represents, warrants, covenants and agrees that:

(a) The Project has been designed and will be constructed to include no Commercial Facilities.

(b) The Recreation Facilities are intended and shall be available for use solely by tenants of the Project and their guests. Such use shall be included in the rent charged to each tenant, and no additional fees or charges may be assessed.

(c) The Project shall include two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, [for use by residential tenants]. [None of the automobile parking spaces located on the Project will be available for use by persons other than the residential tenants or their guests or invitees]; there will be no charge for such parking.

7. Sale, Lease or Transfer of Project.

(a) Except as may be permitted by the Loan Documents, the Borrower shall not sell, lease (other than to resident tenants in the normal course of business), exchange, assign, convey, transfer or otherwise dispose of all or substantially all of the Project or shall not have a change in the General Partner or Investor Limited Partner of the Borrower (herein collectively called "Disposition") without the prior written consent of the Issuer and the Mortgage Lender (such Issuer consent not unreasonably to be withheld). Notwithstanding anything to the contrary contained in the Loan Documents, the withdrawal, removal and/or replacement of Borrower's General Partner for cause in accordance with Borrower's [Amended and Restated Agreement of Limited Partnership] (the "Partnership Agreement") shall not require the consent of Issuer and shall not constitute a default under any of the Loan Documents or accelerate the maturity of the Loan so long as the General Partner is replaced with an affiliate of the Investor Limited Partner. Issuer shall not unreasonably withhold its consent to the substitute general partner if it is other than an affiliate of the Investor Limited Partner. Notwithstanding the foregoing, any substitute general partner or limited partner shall assume all of the rights and obligations of the removed general partner or limited partner under all of the Loan Documents. It is expressly agreed that in connection with determining whether to grant or withhold such consent to a Disposition, the Issuer and the Mortgage Lender may (but are not obligated to) (i) consider the creditworthiness of the party to whom such Disposition will be made, its ability to provide services specifically to Low Income Tenants, its prior operation of lower income rental housing, its operation of other housing facilities in the County of James City, Virginia, if any, and its management ability with respect to the Project; (ii) consider whether or not any security for the performance of the obligations hereunder will be impaired in any material way by the proposed Disposition; (iii) consider such other factors as the Issuer and the Mortgage Lender may reasonably deem appropriate; (iv) require that the Issuer and the Mortgage Lender be reimbursed for all reasonable costs and expenses incurred by the Issuer for investigating the creditworthiness and management ability of the party to whom such Disposition will be made and in determining whether the Issuer's and the Mortgage Lender's security will be impaired by the proposed Disposition; (v) require the payment to the Issuer of a transfer fee equal to the reasonable costs of investigating and approving the Disposition and documenting the Disposition in its records; (vi) require the payment of its reasonable attorney's fee in connection with such Disposition; and (vii) require the execution of modification agreements, supplemental security documents and financing statements, where appropriate, reasonably satisfactory in form and substance to the Issuer and the Mortgage Lender, it being understood and agreed that no material change shall be required to any of the terms and conditions of the Loan Agreement, this Regulatory Agreement or any related instrument or agreement as a condition for the approval of any such Disposition. The foregoing provisions shall not operate to limit in any manner any requirements that the Borrower obtain the consent of any other party to such Disposition under the terms of the Loan Agreement or any of the other documents executed in connection with the Bonds.

(b) The Borrower covenants that upon a Disposition, it will require the party to whom a Disposition will be made to assume in writing, in a form acceptable to the Issuer, the Mortgage Lender and the Trustee, all duties and obligations of the Borrower under this Regulatory Agreement, including this Section 7, in the event of a subsequent Disposition by such party prior to expiration of the Qualified Project Period. The Borrower shall deliver the assumption agreement to the Issuer, the Trustee and the Mortgage Lender concurrently with the Disposition.

(c) It is hereby expressly stipulated and agreed that any Disposition of the Project by the Borrower in violation of this Section 7 shall be null, void and without effect, and shall be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement and the Loan Agreement. The Borrower shall include by incorporation by reference or verbatim the requirements and restrictions contained in this Regulatory Agreement in any deed or other documents transferring any interest in the Project to another person to the end that such transferee has notice of and is bound by such restrictions, and

shall obtain the express agreement from any transferee so to abide. In the event that the Issuer approves the Disposition of the Project in accordance with this Section 7, and the transferee has agreed to perform the obligations of the Borrower under the Loan Agreement and this Regulatory Agreement in accordance with the terms and conditions of the Loan Agreement and this Regulatory Agreement, the Borrower shall be released from its obligations hereunder automatically and without further action by the Issuer, and the Issuer shall confirm such release by recordable written instrument, if requested to do so by the Borrower.

(d) Except as permitted in Section 7(a), so long as any portion of the Bonds remains outstanding, there shall be no transfer by any party of more than a 50% ownership interest in the Borrower, nor shall there be any other similarly significant change in the ownership interest, control or relative distribution thereof, of the Borrower by any other method or means including, but not limited to, increased capitalization, merger, corporate or other amendments, issuance of additional or new stock or classification of stock, or otherwise, without the prior written consent of the Issuer, which consent shall not be unreasonably withheld; provided, however, that this subsection 7(d) shall not apply to transfers of the interests of the Investor Limited Partner in the Borrower.

(e) Any Disposition will be subject to the Issuer, the Mortgage Lender and the Trustee receiving an opinion of Bond Counsel that the transaction contemplated and as carried out will not adversely affect the exclusion of the interest on the Bonds of the holders thereof from gross income for federal income tax purposes.

(f) The restrictions contained in the foregoing provisions of this Section 7 shall not be applicable to any of the following exceptions, and the prior consent of the Issuer shall not be required as to such exceptions: (i) any transfer pursuant to or in lieu of a foreclosure under the Mortgage or other similar disposition of the Project, (ii) grants of utility related easements and utility and other service related leases or easements, including without limitation, laundry service leases or television cable easements, over portions of the Project, provided the same are granted in the ordinary course of business in connection with the operation of the Project as contemplated by this Regulatory Agreement, (iii) leases of apartment units to Low Income Tenants or other tenants in accordance with the requirements of this Regulatory Agreement, (iv) any sale or conveyance to a condemning governmental authority as a direct result of a condemnation or a governmental taking or a threat thereof, and (v) any change in allocations of preferred return capital, depreciation or losses or any final adjustments in capital accounts (all of which may be freely transferred or adjusted by Borrower pursuant to Borrower's Partnership Agreement).

8. Enforcement.

(a) The Issuer, the Borrower and the Trustee each covenants that it will not knowingly take or permit any action that would adversely affect the exemption from federal income taxation of interest on the Bonds. Moreover, each covenants to take any lawful action (including amendment of this Regulatory Agreement as may be necessary, in the opinion of Bond Counsel) to comply fully with the requirements of the Act and with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations the interest on which is tax-exempt under Section 142(d) of the Code and affecting the Project.

(b) If the Borrower defaults in the performance of its obligations under this Regulatory Agreement or breaches any covenant, agreement or warranty of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after notice thereof shall have been given by the Trustee or the Issuer to the Borrower (or for an extended period approved in writing by Bond Counsel if such default stated in such notice can be corrected, but not within such 60-day period, and if the Borrower commences such correction within such 60-day period, and thereafter diligently pursues the same

to completion within such extended period), then the Issuer or the Trustee may apply to any court, state or federal, for specific performance of this Regulatory Agreement or an injunction against any violation of this Regulatory Agreement or any other remedies at law or in equity or any such other actions as it may deem necessary or desirable so as to correct noncompliance with this Regulatory Agreement. Any cure of any event of default hereunder made or tendered by the Investor Limited Partner shall be deemed to be cure by the Borrower, and shall be accepted or rejected by the Issuer and Trustee on the same basis as if made or tendered by the Borrower.

(c) Notwithstanding anything to the contrary stated in this Regulatory Agreement, the Indenture or the Loan Agreement, the Issuer and the Trustee shall have the right to seek specific performance of any of the covenants and requirements of this Regulatory Agreement concerning the construction and operation of the Project. The Trustee and the Issuer shall have the right, either jointly or severally, to enforce this Regulatory Agreement and require curing of defaults in such shorter periods than specified above as Bond Counsel may determine necessary to maintain the tax-exempt status of interest on the Bonds. The Trustee shall have the right in accordance with this Section 8, following written notice to the Issuer, to exercise any or all of the Issuer's rights or remedies hereunder.

(d) The Issuer shall receive any reports submitted by the Borrower pursuant to this Regulatory Agreement and shall monitor or cause to be monitored any such reports in accordance with the standards set forth below. In performing their duties and obligations hereunder, the Issuer, the Trustee and their respective counsel may rely upon statements and certificates of the Borrower and tenants and upon audits of the books and records of the Borrower pertaining to occupancy of the Project.

(e) The Borrower and the Issuer each acknowledges that the primary purposes for requiring compliance by the Borrower with the restrictions provided in this Regulatory Agreement are to comply with the requirements of the Act and to preserve the federal income tax exemption of interest on the Bonds to the Bondholders, and that the Trustee on behalf of the Bondholders who are declared to be third-party beneficiaries of this Regulatory Agreement shall be entitled, for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder.

(f) Notwithstanding the foregoing, enforcement of this Regulatory Agreement shall not serve as a basis for a declaration of default under the Mortgage or acceleration of the Loan or result in any claim under such Loan, or claim against the Project, the proceeds of the Loan, or against the rents or other income from the Project (other than Surplus Cash) for payment hereunder.

9. Agreement Binding. This Regulatory Agreement and the covenants contained herein shall run with the Real Property and, except as provided in Section 7 hereof, shall bind the Borrower, its heirs, legal representatives, executors, administrators, successors in office or interest, and assigns, and all subsequent owners of the Project or any interest therein, and the benefits shall inure to the Issuer, the Trustee and their respective successors and assigns, for the term provided in Section 10 hereof.

10. Term of Agreement. This Regulatory Agreement shall be in full force and effect from the date hereof for the Qualified Project Period regardless of whether the Bonds remain outstanding; provided, however, that the requirements of this Regulatory Agreement shall:

(a) terminate in the event that involuntary non-compliance with this Regulatory Agreement is caused by fire, seizure, requisition, change in federal law or an action of a federal agency which prevents the Issuer from enforcing this Regulatory Agreement, or condemnation or similar event, and if the Borrower, within a reasonable period, either prepays the Loan in full or uses the amounts received as a consequence of such event to construct another project meeting the requirements of Section 142(d) of the Code; or

(b) cease to apply in the event of an involuntary loss or a substantial destruction of the Project as a result of unforeseen events such as fire, seizure, requisition, condemnation, foreclosure or transfer of title by deed in lieu of foreclosure pursuant to the Mortgage or any other mortgage with respect to the Project, so long as, within a reasonable time period, either the Bonds are retired in full or the amounts received as a consequence of such event are used to provide a Qualified Residential Rental Project. Notwithstanding the foregoing, the termination provisions of this Section 10(b) shall cease to apply in the event of foreclosure pursuant to the Mortgage, or other mortgage with respect to the Project, transfer of title by deed-in-lieu of foreclosure, or similar event if, at any time subsequent to such event and during the Qualified Project Period, the Borrower or a related person (as defined in Section 1.103-10(e) of the Treasury Regulations) obtains an ownership interest in the Project for tax purposes.

11. Equal Opportunity. The Borrower will comply with the provisions of any federal, Commonwealth, or local law prohibiting discrimination in housing on the grounds of age, race, color, religion or creed, sex, marital status or national origin, including Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), Title VIII of the Civil Rights Act of 1968 (Public Law 90-284, 82 Stat. 73), and Executive Order 11063.

12. Indemnification. The Borrower hereby covenants and agrees that it shall indemnify and hold harmless the Issuer, the Trustee and their respective directors, officers, commissioners, officials, employees and agents, from and against (i) any and all claims of or on behalf of any person arising from any cause whatsoever in connection with the this Regulatory Agreement or the Project (other than any such claims solely arising from the gross negligence or willful misconduct of the Issuer or the Trustee, respectively) or the financing thereof except for the payment of principal and interest on the Bonds, but including any expenses arising from the failure to make payment of principal and interest on the Bonds; (ii) any and all claims arising from any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees, in connection with the Project or financing thereof; and (iii) all costs, reasonable counsel fees (actually incurred), expenses or liabilities incurred in connection with any such claim or proceeding brought thereon. In the event that any action or proceeding is brought against the Issuer or the Trustee or any of their respective officers, commissioners, officials, employees or agents, with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel (acceptable to the Issuer and the Trustee) and the payment of all expenses. If the Borrower is unable to retain counsel acceptable to an indemnified party, such indemnified party shall have the right to employ separate counsel in any such action or proceedings and to participate in the investigation and defense thereof, and the Borrower shall pay the reasonable, actually incurred fees and expenses of such separate counsel.

13. Expenses. The Borrower covenants and agrees to pay all fees, expenses, including reasonable attorneys' fees and expenses, paid or to be paid by the Issuer and the Trustee in connection with execution or performance of the obligations of the Borrower under this Regulatory Agreement or the enforcement by the Trustee or the Issuer of the provisions hereof.

14. Severability. The invalidity of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions thereof.

15. Governing Law. This Regulatory Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the Commonwealth.

16. Property. The Real Property covered by this Regulatory Agreement is described in Exhibit "C" attached hereto.

17. Amendment.

(a) Subject to the provisions of Section 17(b) below, this Regulatory Agreement may not be amended except (i) by a writing duly executed by each of the parties hereto, (ii) with an opinion of Bond Counsel selected by the Issuer to the effect that such amendment does not adversely affect the exclusion of the interest on the Bonds of the holders thereof from gross income for federal income tax purposes, and (iii) with the consent of the Mortgage Lender.

(b) To the extent the Code and the regulations promulgated thereunder, or any amendments thereto, shall impose requirements upon the ownership or operation of the Project, which requirements shall be applicable by their terms to the Project and which are more restrictive than those imposed by this Regulatory Agreement, the Borrower and the Issuer agree to give notice thereof to the Trustee and that this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements; and subject to any HUD approval, the Borrower, the Trustee and the Issuer shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary in the opinion of Bond Counsel to maintain the exclusion from gross income of the interest on the Bonds, and if the Borrower, the Trustee or the Issuer defaults in the performance of their obligation to execute such an amendment under this Section 17(b), the Borrower and the Issuer hereby appoint the Trustee as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower, or the Issuer, as is applicable, any such document or instrument.

18. No Individual Liability. No covenant or agreement contained in this Regulatory Agreement shall be deemed to be the covenant or agreement of any director, officer, commissioner, agent or employee of the Issuer, or any officer, agent or employee of the Trustee or the Borrower, in his or her individual capacity, and none of such persons shall be subject to any personal liability or accountability by reason of the execution hereof.

19. Covenants Run With the Land and the Real Property; Term. The Issuer, the Trustee and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth in Sections 3 (exclusive of the last paragraph thereof) and 4 herein shall be deemed covenants running with the land, shall run with the Real Property, and shall pass to and be binding upon the Borrower's successors in title and the Borrower's successors and assigns. Each and every contract, deed or other instrument hereafter executed covering or conveying the Real Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth in such contract, deed or other instrument. Unless sooner terminated in accordance with Section 10 hereof, such covenants shall continue in full force and effect for the Qualified Project Period, it being expressly agreed and understood that the provisions hereof are intended to survive the expiration of the Indenture and the retirement of the Bonds, if such expiration and retirement occur prior to the end of the Qualified Project Period. Upon the expiration of the Qualified Project Period, or if the provisions hereof are terminated (in the opinion of Bond Counsel), the Issuer and the Trustee hereby covenant, at the Borrower's expense, to execute a release of the covenants of the Borrower herein and provide such release to the Borrower for recordation in the real property records of the County of James City, Virginia.

20. Post-Defeasance. The Borrower represents, warrants and covenants that in the event that the Bonds are paid in full or defeased and the lien of the Indenture released, prior to the end of the Qualified Project Period, it shall continue to contract, at the Borrower's expense, with a compliance monitoring agent, to review compliance by the Borrower with the requirements of this Regulatory Agreement until the end of the Qualified Project Period. The parties agree that upon such defeasance, all obligations of the Trustee hereunder shall be terminated.

21. Notices. All notices to be given pursuant to this Regulatory Agreement shall be sent by first-class, certified or registered mail, postage prepaid, return receipt requested, or by private courier

service which provides evidence of delivery, or sent by Electronic Means, which produces evidence of transmission, confirmed by first-class mail, and in each case shall be deemed to have been given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

To the Borrower:	Blaine Landing Phase II, L.P. 440 Monticello Avenue, Suite 1700 Norfolk, Virginia 23510 Attention: Miles B. Leon
TB Blaine Landing Phase II Affordable Housing, LLC c/o TowneBank 6001 Harbor View Boulevard Suffolk, VA 23435 Attn: Anne C. H. Conner, President Public Finance and Community Investment	
To the Issuer:	Economic Development Authority of James City County, Virginia 101 Mounts Bay Road, Building D Williamsburg, VA 23185 Attention: _____ Telephone: _____ Email: _____
To the Trustee:	U.S. Bank Trust Company, National Association 1051 E. Cary Street, Suite 600 Richmond, Virginia 23219 Attention: U.S. Bank Corporate Trust Services Telephone: _____ Email: _____
To the Investor Limited Partner:	TB Blaine Landing Phase II Affordable Housing, LLC c/o TowneBank 6001 Harbor View Boulevard Suffolk, VA 23435 Attn: Anne C. H. Conner, President Public Finance and Community Investment

22. HUD Rider. See Exhibit D (HUD Rider to Restrictive Covenants), which is attached hereto and incorporated herein by reference thereto, for additional terms and provisions of this Regulatory Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Regulatory Agreement under seal on the date first above written.

BLAINE LANDING PHASE II, L.P., a Virginia
limited partnership
By: Blaine Landing Phase II GP, L.L.C., its General
Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

____ OF _____
____ OF _____; to wit:

The foregoing instrument was acknowledged before me, this _____ day of _____, 2022, by Richard T. Counselman and Thomas G. Johnson, III, each a manager of Blaine Landing Phase II GP, L.L.C., a Virginia limited liability company and general partner of Blaine Landing Phase II, L.P., a Virginia limited partnership, on its behalf. He/she is personally known to me or has presented satisfactory identification to me.

(SEAL)

Notary Public

My Commission Expires: _____
Registration No.: _____

**ECONOMIC DEVELOPMENT
AUTHORITY OF JAMES CITY COUNTY,
VIRGINIA**

By: _____
Chair

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY; to wit:

The foregoing instrument was acknowledged before me, this ____ day of _____, 2022, by _____, Chair of the Economic Development Authority of James City County, Virginia, a political subdivision of the Commonwealth of Virginia, in its behalf. He/she is personally known to me or has presented satisfactory identification to me.

(SEAL)

Notary Public

My Commission Expires: _____
Registration No.: _____

**U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, as trustee**

By: _____
Vice President

COMMONWEALTH OF VIRGINIA,
_____ OF _____; to wit:

The foregoing instrument was acknowledged before me, this ____ day of _____, 2022, by M. Dorsel Robinson, Vice President of U.S. Bank Trust Company, National Association, a national banking association, in its behalf. He/she is personally known to me or has presented satisfactory identification to me.

(SEAL)

Notary Public

My Commission Expires: _____
Registration No.: _____

Initial Certification _____
Annual Recertification _____
(Check One)

EXHIBIT "A"

CERTIFICATION OF TENANT ELIGIBILITY

RE: Blaine Landing Phase II
County of James City, Virginia

I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully, and truthfully each of the following questions for all persons who are to occupy the unit in the above apartment project for which application is made, all of whom are listed below:

1. Name of Members of the Household	2. Relationship to Head of Household	3. <u>Age</u>	4. Social Security Number	5. Place of Employment

6. The anticipated income of all the above persons during the 12-month period beginning this date,

(a) including all wages and salaries, over-time pay, commissions, fees, tips and bonuses before payroll deductions; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or the allowance for depreciation of capital assets); interest and dividends; the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts; payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay; the maximum amount of public assistance available to the above persons; periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling; all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse or other person whose dependents are residing in the unit; and any earned income tax credit to the extent that it exceeds income tax liability, but

(b) excluding casual, sporadic or irregular gifts; amounts which are specifically for or in reimbursement of medical expense; lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire;

relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments received pursuant to participation in ACTION volunteer programs.

And the total for each member is as follows:

<u>Name</u>	<u>Amount</u>
_____	_____
_____	_____
_____	_____

7. If any of the persons described above (or whose income or contributions was included in item 6) has any savings, stocks, bonds, equity in real property or other form of capital investment, provide:

(a) the total value of all such assets owned by all such persons: \$_____.

(b) the amount of income expected to be derived from such assets in the 12-month period commencing this date: \$_____ and

(c) the amount of such income which is included in item 6: \$_____.

8. (a) Will all of the persons listed in column 1 above be or have they been full-time students during five calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students?

Yes _____ No _____

(b) Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

Yes _____ No _____

We acknowledge that all of the above information is relevant to the status under federal income tax law of the interest on bonds issued to finance construction of the Project for which application is being made. We consent to the disclosure of such information to the issuer of such bonds, the holders of such bonds, any trustee acting on their behalf and any authorized agent of the Treasury Department or the Internal Revenue Service.

Head of Household

Other

Spouse

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____.

(NOTARY SEAL)

Notary Public in and for the Commonwealth of
Virginia.

My Commission Expires: _____

BORROWER'S STATEMENT: The family or individual(s) named in Section 1 of this Income Certification is (are) eligible under the provisions of the Regulatory Agreement and Declaration of Restrictive Covenants dated as of [December] 1, 2022 (the "Regulatory Agreement"), by and among Blaine Landing Phase II, L.P. (the "Borrower"), the Economic Development Authority of James City County, Virginia (the "Issuer") and U.S. Bank Trust Company, National Association (the "Trustee"), to live in a unit in the Project, as defined in the Regulatory Agreement, and the anticipated annual income from paragraph 6 and, if applicable, from paragraph 7 will be \$_____. In determining whether an individual or a family qualifies as a "lower-income" tenant, appropriate adjustments for the size of the family have been made. Thus, the family or individual(s):

_____ constitutes a Lower-Income Tenant.

_____ Does not constitute a Lower-Income Tenant.

Signature of Borrower's Authorized Agent

Date

REQUEST FOR VERIFICATION OF EMPLOYMENT

PART I - REQUEST

1. Name and Address of Employer

2. Name and Address of Apt. Project

Blaine Landing Phase II

7581 Richmond Road
Williamsburg, Virginia 23188

3. My signature below authorizes verification
of my employment information

4. I certify that this verification has been sent
directly to the employer and has not passed through
the hands of the applicant or any other interested
party. _____

Signature of Apartment Manager

5. Employer Identification #

6. Name and Address of Applicant

Date

PART II - VERIFICATION

7. Present Position:

8. Date of Employment:

9. Current Base Pay \$_____

(check one)

_____Annual

_____Monthly

_____Hourly

_____Weekly

10. Average hours worked each week _____

11. Year-to-Date Earnings \$_____

Overtime_____

Commissions_____

Bonus_____

PART III - EMPLOYER CERTIFICATION

Signature

Name and Title

Date

SUBJECT: Income Certification - explanation of income certificates

In order for the revenue bonds issued to finance this multifamily housing project to qualify as tax-exempt under Sections 103 (a) and 142 (a) (7) of the Internal Revenue Code of 1986, as amended, either (i) 20 percent or more of the units in each multi-family residential rental project must be occupied by individuals whose income is 50 percent or less of the "area median gross income" or (ii) 40 percent or more of the units must be occupied by individuals whose income is 60 percent or less of the area median gross income, depending on which test is elected. The Economic Development Authority of James City County, Virginia has elected the 40-60 test as its "applicable income limit." In determining whether an individual or family meets the "applicable income limit," appropriate adjustments for family size must be made. The purpose of the Income Certification is to assist in determining whether the occupants of a particular unit satisfy the "applicable income limit" requirements for federal tax purposes.

Sections 1, 2, 3 and 8 of the Certificate asks the occupants to list their names, relationship, ages, and whether they are students. Section 3 of the Certificate asks whether any of the students listed in Section 1 are able to file a joint return for federal income tax purposes (i.e., are they married). Section 6 of the Certificate asks each occupant to list his/her anticipated annual income, as defined. Finally, Section 7 asks the occupants to estimate the value of all "capital investments" (excluding "necessary items"), the estimated amount of income expected to be derived from these "capital investments", and the amount of income (that has already been included in Section 6 of the Certificate) expected to be derived from these "capital investments".

The information provided in Sections 1 through 8 of the Certificate should be sufficient to determine whether an individual(s) or the family meets the "applicable income limit" for federal income tax purposes.

The Income Tax Regulations provide that the occupants of a unit shall not be considered to be within the "applicable income limit" if all of the occupants are students no one of whom is entitled to file a joint return for federal income tax purposes. Thus, if Section 1 of the Certificate indicates that all of the occupants are students, and if Section 8 of the Certificate indicates that none of the students are able to file a joint return for federal income tax purposes, the occupants are not within the "applicable income limit" even if the occupants have no income.

Assuming the occupants of the units are not all students, none of whom are entitled to file a joint return for federal income tax purposes, the next step in filling out the Certificate is to determine the "anticipated annual income" of the occupants of the unit for the "certification year." The "certification year" is the twelve-month period of time that begins on the date the unit is first occupied. Thus, if the Certification is completed before the prospective occupants move in, the occupants should recertify the Certificate on the date they actually move into the unit so that you may determine whether they qualify as being within the "applicable income limit."

All payments from all sources received by the Family head (even if temporarily absent) and each additional member of the Family household excluding only the income from employment of children (including foster children) under the age of 18 years that are members of the household should be included in "anticipated annual income." For example, if a 17-year old son or daughter has a part- or full-time job that pays \$5,000 per year and has income from bank deposits of \$100 per year, only the \$100 should be listed. Sections 2 and 3 of the Certificate indicate the various relationships of the occupants in a household

and their ages. Once the anticipated annual income in Section 6 of the Certificate has been totaled, you should determine whether the occupants have "capital investments", including capital investments of any children in the family, of more than \$5,000 listed in Section 1) of the Certificate. If the "capital investments" exceed \$5,000, "anticipated annual income" will be the sum of the amount totaled in Section 6 of the Certificate plus the greater of, if any, (a) the actual amount of income in Section 7(b), minus the amount of income enumerated in Section 7(c), if any, or (b) the "imputed amount of income" minus the amount of income enumerated in Section 7(c), if any. The "imputed amount of income" is the value of the assets listed in Section 7(a) of the Income Certification multiplied by the "current passbook savings rate" as determined by the United States Department of Housing and Urban Development. The "anticipated annual income" of Section 6 of the Certificate plus, if the capital investments exceed \$5,000, the necessary adjustments of Section 7 of the Certificate, as discussed in the preceding paragraph, should be entered in the blank in Section 6 of the Certificate. If the amount entered into the blank in Section 6 of the Certificate does not exceed (1) 42% of the median gross income for the area, in the case of an individual; (2) 48% of the median gross income for the area in the case of a family of two; (3) 54% of the median gross income for the area in the case of a family of three; or (4) 60% of the median gross income for the area in the case of a family of four, then the occupants qualify as being within the "applicable income limit". The appropriate line within action of the Certificate should be checked. (In the case of a family that has more than four members, you should consult the Issuer for the applicable percentages.) If the amount entered in the blank in Section 8 of the Certificate exceeds the applicable percent of median gross income in the area described in the previous sentence, the occupants do not qualify as being within the "applicable income limit".

The "applicable income limit" requirement must be met for the "qualified project period." Thus, 40 percent of the occupants at any one time must satisfy the "applicable income limit requirements" beginning at the time when 10 percent of the units are first occupied. For example, if a project contains 200 units, the "applicable income limit" restrictions need not be met until 20 units have been occupied. However, as soon as 20 units have been occupied, 8 units must actually be occupied by occupants whose income is 60 percent or less of the area median gross income, i.e., it is not sufficient that 8 units are reserved for individuals whose income is 60 percent or less of the area median gross income.

It should be noted that a unit occupied by an individual or family whose income at the commencement of such occupancy falls within the "applicable income limit" is treated as occupied by such an individual or family during their occupancy of such unit, even though their income subsequently exceeds the "applicable income limit," until their income exceeds 140 percent of the "applicable income limit", at which time such unit will cease to be treated as occupied by a tenant who meets the "applicable income limit." Further, if a tenant has occupied a unit for a length of time and decides to add a roommate, the "anticipated annual income" of the new tenant when he/she first occupies the unit, and the "anticipated annual income" of the existing tenant when he/she first occupied the unit must be aggregated to determine whether the unit may continue to be certified as being occupied by individuals whose income falls within the "applicable income limit." If, however, the occupants of a unit move into another unit in the project, the second unit will be treated as occupied by an occupant whose income falls within the "applicable income limit" only if the occupant qualified as being within the "applicable income limit" at the time of the move. Moreover, if a qualifying occupant moves out of a unit, such unit is treated as occupied by an individual or family whose income falls within the "applicable income limit" until reoccupied at which time the character of the unit shall be redetermined.

Finally, if in Section 5 of the Certificate an occupant is unable to provide an Employer verification because he/she is currently unemployed and the occupant is unable to provide a copy of his/her federal income tax return because a return was not filed, such occupant may not be included as meeting the "applicable income limit."

EXHIBIT "B"

COMPLIANCE CERTIFICATE

To: Economic Development Authority of James City County, Virginia
AGM Financial Services, Inc.

Re: Blaine Landing Phase II, County of James City, Virginia

Pursuant to Section 4 of the Regulatory Agreement and Declaration of Restrictive Covenants dated as of [December] 1, 2022 (the "Regulatory Agreement"), the undersigned on behalf of Blaine Landing Phase II, L.P., a Virginia limited partnership (the "Borrower"), hereby certifies with respect to the operation and management of Blaine Landing Phase II (the "Project"), that as of the date shown above:

- (1) The total number of Low Income Tenants, as defined in the Regulatory Agreement, is ____.
- (2) The number of units in the Project rented is ____ and the number of Available Units, as defined in the Regulatory Agreement, is ____.
- (3) The percentage that the number of units occupied constitutes of the total number of units is ____%.
- (4) ____% of the Available Units are occupied by Low Income Tenants.
- (5) The information contained in this report is true, accurate and correct as of the date hereof.
- (6) As of the date hereof, the Borrower is not in default under any covenant or agreement contained in the Regulatory Agreement.
- (7) At least 40% of the Available Units in the Project were occupied by Low Income Tenants as required in Section 4 of the Regulatory Agreement.
- (8) All new tenants of the Project and all Low Income Tenants whose incomes are subject to annual verification since the date of the immediately preceding report and certification have executed an income certification as required by Section 4 of the Regulatory Agreement.
- (9) The lowest percentage of the Available Units in the Project that were occupied or treated as being occupied by Low Income Tenants during the month preceding the date hereof was ____%.
- (10) The attached rent roll, which designates the date of initial occupancy, the number of bedrooms, the unit number, the tenant name, the household size (if applicable), and whether the tenant is a Low Income Tenant, is true, accurate and correct.
- (11) As of the first day of the month hereof, the following is true, accurate and correct.

NEW TENANTS

Unit #___	Street <u>Address</u>	Tenant Name <u>Last, First</u>	Date In. <u>Occup.</u>	# <u>Bdr.</u>	# <u>HH</u>	Ten. <u>Type</u>	Annual <u>Income</u>	Rent <u>\$___</u>

TENANT DELETIONS

Unit #___	Street <u>Address</u>	Tenant Name <u>Last, First</u>	Date In. <u>Occup.</u>	# <u>Bdr.</u>	# <u>HH</u>	Ten. <u>Type</u>	Annual <u>Income</u>	Rent <u>\$___</u>

IN WITNESS WHEREOF, the undersigned has signed this Compliance Certificate as of

_____.

BLAINE LANDING PHASE II, L.P., a Virginia
limited partnership

By: Blaine Landing Phase II GP, L.L.C., its General
Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

(to be accompanied by current income certifications as required by Section 4 of the Regulatory Agreement)

(to be accompanied by exceptions, if any)

EXHIBIT "C"

LEGAL DESCRIPTION

[To Come]

EXHIBIT "D"

HUD RIDER TO REGULATORY AGREEMENT

This RIDER TO RESTRICTIVE COVENANTS is made as of [December] 1, 2022, by Blaine Landing Phase II, L.P. (the "Borrower") and the Economic Development Authority of James City County, Virginia (the "Authority").

WHEREAS, Borrower has obtained financing from AGM Financial Services, Inc. (the "Lender"), for the benefit of the project known as Blaine Landing Phase II (the "Project"), which loan is secured by a [Multifamily Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing (Virginia) ("Security Instrument") dated as of December 1, 2022], and recorded in the Office of the Clerk of the Circuit Court of the County of James City, Virginia (the "Records") more or less immediately prior to this Regulatory Agreement, and is insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, Borrower has received tax-exempt bond financing from the Authority, which Authority is requiring certain restrictions be recorded against the Project (the "Restrictive Covenants"); and

WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Authority has agreed to subordinate the Restrictive Covenants to the lien of the Mortgage Loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

"Code" means the Internal Revenue Code of 1986, as amended.

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

"HUD Regulatory Agreement" means the [Regulatory Agreement for Multifamily Projects] between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

"Lender" means AGM Financial Services, Inc., its successors and assigns.

"Mortgage Loan" means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

"Mortgage Loan Documents" means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

"National Housing Act" means the National Housing Act of 1934, as amended.

"Program Obligations" has the meaning set forth in the Security Instrument.

"Residual Receipts" has the meaning specified in the HUD Regulatory Agreement.

"Security Instrument" means the [Multifamily Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing (Virginia)] from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

"Surplus Cash" has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, except the requirements in 26 U.S.C. 42(h)(6)(E)(ii), to the extent applicable, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the "HUD Requirements"). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Authority's ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower's knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In accordance with 26 U.S.C. 42(h)(6)(E)(i)(1), in the event of foreclosure (or deed in lieu of foreclosure), the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate, with the exception of the requirements of 26 U.S.C. 42(h)(6)(E)(ii) above, to the extent applicable, or as otherwise approved by HUD.

(e) Borrower and the Authority acknowledge that Borrower's failure to comply with the covenants provided in the Restrictive Covenants does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

(f) Except for the Authority's reporting requirement, in enforcing the Restrictive Covenants the Authority will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available surplus cash, if the Borrower is a for-profit entity;
- ii. Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Borrower is a limited distribution entity; or
- iii. Available residual receipts authorized by HUD, if the Borrower is a non-profit entity; or
- iv. A HUD-approved collateral assignment of any HAP contract.

(g) For so long as the Mortgage Loan is outstanding, Borrower and Authority shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Authority may require the Borrower to indemnify and hold the Authority harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Authority relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower's obligation to indemnify and hold the Authority harmless shall be limited to available surplus cash and/or residual receipts of the Borrower.

(i) Notwithstanding anything to the contrary contained herein, it is not the intent of any of the parties hereto to cause a recapture of the Low Income Housing Tax Credits or any portion thereof related to any potential conflicts between the HUD Requirements and the Restrictive Covenants. Borrower represents and warrants that to the best of Borrower's knowledge the HUD Requirements impose no requirements which may be inconsistent with full compliance with the Restrictive Covenants. The acknowledged purpose of the HUD Requirements is to articulate requirements imposed by HUD, consistent with its governing statutes, and the acknowledged purpose of the Restrictive Covenants is to articulate requirements imposed by Section 42 of the Code. In the event an apparent conflict between the HUD Requirements and the Restrictive Covenant arises, the parties and HUD will work in good faith to determine which federally imposed requirement is controlling. It is the primary responsibility of the Borrower, with advice of counsel, to determine that it will be able to comply with the HUD Requirements and its obligations under the Restrictive Covenants. No action shall be taken in accordance with the rights granted herein to preserve the tax exemption of the interest on the notes or bonds, or prohibiting the owner from taking any action that might jeopardize the tax-exemption, except in strict accord with Program Obligations.

BLAINE LANDING PHASE II, L.P., a Virginia
limited partnership
By: Blaine Landing Phase II GP, L.L.C., its General
Partner

By: _____
Thomas G. Johnson, III
Manager

By: _____
Richard T. Counselman
Manager

____ OF _____
____ OF _____; to wit:

The foregoing instrument was acknowledged before me, this _____ day of _____, 2022, by Richard T. Counselman and Thomas G. Johnson, III, each a manager of Blaine Landing Phase II GP, L.L.C., a Virginia limited liability company and general partner of Blaine Landing Phase II, L.P., a Virginia limited partnership, on its behalf. He/she is personally known to me or has presented satisfactory identification to me.

(SEAL)

Notary Public

My Commission Expires: _____
Registration No.: _____

[HUD Rider to Regulatory Agreement]

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA**

By: _____
Chair

COMMONWEALTH OF VIRGINIA
CITY OF PORTSMOUTH; to wit:

The foregoing instrument was acknowledged before me, this ____ day of _____, 2022, by _____, Chair of the Economic Development Authority of James City County, Virginia, a political subdivision of the Commonwealth of Virginia, on its behalf. He/she is personally known to me or has presented satisfactory identification to me.

(SEAL)

Notary Public

My Commission Expires: _____
Registration No.: _____

[HUD Rider to Regulatory Agreement]

STIFEL

INVESTMENT BANKING ENGAGEMENT AGREEMENT

THIS AGREEMENT is made and entered into on April 4, 2022, by and among Blaine Landing Phase II, L.P. (the "Obligor") and Stifel, Nicolaus & Company, Incorporated, (the "Underwriter" or "Stifel"), with reference to the following facts:

RECITALS

WHEREAS, the Obligor plans to finance the Blaine Landings Phase II Apartments (the "Project") with Multifamily Housing Bonds (the "Bonds") to be issued by the the Economic Development Authority of the County of James City, VA (the "Issuer"); and

WHEREAS, the Obligor desires and is authorized by law to retain the services of the Underwriter in connection with the issuance of the Bonds; and

WHEREAS, the Underwriter agrees to be retained by the Obligor and to provide to the Obligor the services described herein; and

WHEREAS, Stifel agrees to act as underwriter, subject to the conditions set forth herein;

NOW therefore, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

Scope of Services

The Obligor has engaged the Underwriter to perform various services related to the issuance of the Bonds, which are to be performed within the framework of all relevant rules and regulations. All services are provided on an arm's length, commercial basis and may or may not be provided in conjunction with services provided by advisors to the Obligor, such as, but not limited to, a financial advisor or a municipal advisor.

With this understanding, the Underwriter may provide the following services and perform the following functions with respect to the Bonds:

A. Structuring the Financing

1. The Underwriter will work with the Issuer, the Obligor, bond counsel, financial advisor, disclosure counsel, and other members of the Issuer's and Obligor's financing team in evaluating specific terms and conditions affecting the Bonds with the purposes of meeting the Obligor's and Issuer's financing objectives and assuring appropriate credit quality;
2. The Underwriter will work with the Obligor and the Issuer to create a feasible and efficient structure for the Bonds in order to enhance the Bonds' marketability;
3. In cooperation with the Obligor and the Issuer, the Underwriter will assist in the preparation of and/or review of all documents necessary to implement the issuance of the Bonds, including, but not limited to,

authorizing resolutions, bond purchase agreement, and preliminary and final official statements distributed to potential investors, as required;

B. Marketing the Securities

1. The Underwriter will provide information and material as needed to support presentations for rating agencies and/or bond insurance companies; if requested;
2. The Underwriter will coordinate printing and distribution of the preliminary and final official statements;
3. Together with the Issuer, the Obligor, and other appropriate parties, the Underwriter will provide market information on the timing of the sale of the Bonds in relation to the market conditions and financing needs;
4. The Underwriter will arrange for distribution of the final official statements in accordance with Section 240.15c2-12 of Title 17 of the Code of Federal Regulations; and
5. The Underwriter will serve as sole managing underwriter of the Bonds, which obligation is conditioned upon the execution of a mutually satisfactory bond purchase agreement and other customary documentation, and coordinate with all parties so as to consummate the sale and delivery of the Bonds in a timely manner.

Regulatory Disclosure

The Obligor is aware of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Securities and Exchange Commission's adopted rule commonly known as the "Municipal Advisor Rule" (SEC Rule 15Ba1-1 to 15Ba1-8 -"the Rule") and the underwriter exclusion from the definition of "municipal advisor" for a firm serving as an underwriter for a particular issuance of municipal securities. Some of the services that Stifel will be called upon to perform, such as providing advice with respect to the sizing, structure, timing and terms of the Bond issuance, are services that are also commonly provided by financial advisory firms.

However, in providing such services for the Bonds, the parties understand and agree that Stifel is serving as an underwriter for this transaction and is permitted to give advice and recommendations under the "underwriter exclusion" provision of the Rule. The Obligor agrees that Stifel will not be serving as the Obligor's financial advisor or acting as an agent or fiduciary for the Obligor and that the Obligor will be consulting with its own legal, financial and other advisors.

Disclosures Required by MSRB Rule G-17 Concerning the Role of the Underwriter

The Obligor confirms and acknowledges the following disclosures, as required to be delivered to issuers by the Municipal Securities Rulemaking Board (MSRB) Rule G-17 as set forth in MSRB Notice 2019-20 (Nov. 8, 2019)¹:

The following G-17 conflict of interest disclosures are broken down into three types, including: 1) dealer-specific conflicts of interest disclosures (if applicable); 2) transaction-specific disclosures (if applicable); and 3) standard disclosures.

1. Dealer-Specific Conflicts of Interest Disclosures

Stifel has not identified any actual or potential² material conflicts of interest.

¹ Revised Interpretive Notice Concerning the Application of MSRB Rule G-17 to Underwriters of Municipal Securities (effective Mar. 31, 2021).

² When we refer to *potential* material conflicts throughout this letter, we refer to ones that are reasonably likely to mature into *actual* material conflicts during the course of the transaction, which is the standard required by MSRB Rule G-17.

2. Transaction-Specific Disclosures: Disclosures Concerning Complex Municipal Securities Financing:

- o Since we have not recommended a “complex municipal securities financing” to the Issuer or Obligor, additional disclosures regarding the financing structure for the Bonds are not required under MSRB Rule G-17.

3. Standard Disclosures

A. Disclosures Concerning the Underwriter’s Role:

- o MSRB Rule G-17 requires the Underwriter to deal fairly at all times with all parties, including issuers, obligated persons, and investors.
- o The Underwriter’s primary role in this transaction is to facilitate the sale and purchase of securities between the issuer and one or more investors for which it will receive compensation in an arm’s-length commercial transaction with the Issuer. The Underwriter has financial and other interests that differ from those of the Obligor and the Issuer.
- o Unlike a municipal advisor, the Underwriter does not have a fiduciary duty to the Issuer under the federal securities laws and are, therefore, not required by federal law to act in the best interests of the Issuer without regard to our own financial or other interests.
- o The Issuer or you may choose to engage the services of a municipal advisor with a fiduciary obligation to represent the Issuer’s interest in this transaction.
- o Under the federal securities laws, neither a municipal advisor, nor an underwriter, nor a placement agent has a fiduciary duty to Obligor.
- o The Underwriter has a duty to use its commercially reasonable efforts to arrange the purchase of securities from the Issuer at a fair and reasonable price, but must balance that duty with its duty to arrange the sale of securities to investors at prices that are fair and reasonable.
- o The Underwriter will review the official statement for the securities, if any, in accordance with, and a part of, its respective responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction.³

B. Disclosures Concerning the Underwriter’s Compensation:

- o The Underwriter will be compensated by a fee and/or an underwriting discount that will be set forth in the bond purchase agreement to be negotiated and entered into in connection with the issuance of the Bonds. Payment or receipt of the underwriting fee or discount will be contingent on the closing of the transaction and the amount of the fee or discount may be based, in whole or in part, on a percentage of the principal amount of the Bonds. While this form of compensation is customary in the municipal

³ Under federal securities law, an issuer of securities has the primary responsibility for disclosure to investors. The review of the Placement Materials by the Placement Agent is solely for purposes of satisfying the Placement Agent’s obligations under the federal securities laws and such review should not be construed by you as a guarantee of the accuracy or completeness of the information in the Placement Materials.

securities market, it presents a conflict of interest since the underwriters may have an incentive to recommend to the Issuer a transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

Limitation of Duties

The Obligor acknowledges and agrees that Stifel is not making a commitment to extend credit, make a loan or otherwise fund the Project beyond the obligations contained in a mutually satisfactory bond purchase agreement. The Obligor acknowledges that the services provided under this Agreement involve professional judgment by Stifel and that the results cannot be, and are not, guaranteed. The Obligor acknowledges that it understands that this Agreement is not an offer to buy or to sell securities, and that whether such an offer may be made in the future is conditioned upon Stifel's independent due diligence analysis, financial conditions set forth in bond and financing documents, the approval of all applicable Stifel internal review processes, market conditions, and other conditions that may be imposed by Stifel at its sole discretion. The Obligor may not rely on the execution of this Agreement as a representation that an offer to buy or sell securities will be made by Stifel in the future to finance the Project.

As addressed above, among the services that Stifel will perform under this Agreement is assistance in preparation of, and/or review of the preliminary and final official statements for the Bonds. We note, however, that under federal securities law, an issuer of securities has the primary responsibility for disclosure to investors. Our assistance with respect to, and/or review of the official statement will be solely for purposes of satisfying our obligations as underwriter under the federal securities laws and such assistance and/or review should not be construed by the Obligor or the Issuer as a guarantee of the accuracy or completeness of the information in the official statement.

Neither the Underwriter nor any of its associated persons shall be responsible for or have any liability for any lost profits or any other indirect, special, or consequential damages arising out of or in connection with this Agreement or the transactions contemplated hereby, even if advised of the possibility thereof.

Expenses

The Obligor, from the Bond proceeds, will pay the Underwriter's costs incurred in the performance of this Agreement, including costs of its legal counsel, if any, communication, preparation of the official statements, and overhead expenses.

The Obligor, from the Bond proceeds or other lawfully available funds, will pay for legal fees, including disclosure counsel; rating agency and credit enhancement fees including all related travel (if any); the cost of appraisal, fiscal consultant, statistical, computer, and graphics services (if any), cost of printing and distribution of the official statements and expense of publication, advertising, and informational meetings; and the costs of fiscal agent or bond trustee and registrar.

Compensation

The Underwriter agrees to prepare and coordinate all aspects of the sale of the Bonds. Stifel will be paid only when the Bonds are sold. The fee for Stifel's preparation and coordination of the sale of the Bonds shall be .75% of the Bonds sold. The underwriting fee is contingent on a successful sale of the Bonds and is payable from the proceeds of the Bonds.

The fee for Stifel's expenses, excluding its legal counsel and their fees, shall be \$5,000.

Term of Agreement

This Agreement is to continue until the Project is financed or until the Obligor formally abandons the Project, unless previously terminated by mutual written consent of the parties hereto.

This Agreement may be terminated at any time by the Obligor, upon five business days' prior notice to such effect to the Underwriter, or by the Underwriter upon five business days' prior notice to such effect to the Obligor. Any such termination, however, shall not affect the obligations of the Obligor under the Expenses section hereof.

Severability of Provisions

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

Governing law, Venue and Disputes

This Agreement, and all of the rights and obligations of the parties hereto, shall be construed, interpreted and enforced pursuant to the laws of the State of Missouri. Any cause of action between the parties, whether contract, statutory, or otherwise, shall be construed and limited to causes of action under Missouri law without giving effect to any choice or conflict of law provision or rule (whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Missouri. Venue in any and all actions relating or arising out of this Agreement shall, however, be maintained exclusively in the United States District Court for the Eastern District of Missouri, St. Louis, Missouri or the St. Louis County, Missouri, Courts. The parties (a) hereby irrevocably and unconditionally submit to the jurisdiction of the United States District Court, Eastern District of Missouri, St. Louis, Missouri or the St. Louis County, Missouri, Courts for the purpose of any suit, action or other proceeding relating to or arising out of this Agreement, (b) agree not to commence any suit, action or other proceeding relating or arising out of this Agreement except in the United States District Court, Eastern District of Missouri, St. Louis, Missouri or the St. Louis County, Missouri, Courts, and (c) hereby waive, and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such court.

The unsuccessful party therein agrees to pay all costs incurred by the prevailing party therein, including reasonable interest and attorney's fees, to be fixed by the court, and said costs, interest and attorneys' fees shall be made a part of the judgment in said action.

Prior to the commencement of any litigation concerning this Agreement, the Obligor and Stifel agree to first submit any disagreements to mediation. This mediation requirement is intended to reduce the costs of dispute resolution for both parties.

Subcontractors

The Underwriter shall, with the prior written approval of the Obligor, use such subcontractors as are necessary in the fulfillment of this Agreement.

Confidentiality

The Underwriter represents and warrants that it shall keep all information and/or reports obtained from Obligor, or related to or connected with the Project, the Obligor, or the issuance of the Bonds, confidential and will not disclose

any such information to any person or entity (other than those persons or entities assisting the Underwriter in the evaluation of the Project or in connection with Underwriter performing the services set forth herein) without obtaining the prior written consent of Obligor, which consent shall not be unreasonably withheld, conditioned or delayed. The confidentiality provisions of this paragraph shall not apply to any matters of public record, or any disclosures made to any nationally recognized rating agency engaged to provide a rating for the Bonds, set forth in any disclosure or offering documents prepared in connection with the Bonds or as otherwise required by law, ordinance, or regulation.

Miscellaneous

Nothing contained herein shall preclude the Underwriter from carrying on its customary and usual business activities. The Underwriter specifically reserves the right, but is not obligated, to bid for and maintain secondary markets on any Issuer or Obligor outstanding bonds subject to appropriate information barriers. Services provided by the Underwriter in connection with this Agreement shall not limit the Underwriter from providing services for the Issuer or Obligor in conjunction with other services requested by the Issuer or Obligor except as limited by rule of law or regulation.

Stifel certifies that it and its parent company, wholly or majority-owned subsidiaries, and other affiliates, are not currently engaged in, or for the duration of this Agreement will not engage in, a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. Stifel understands that "boycott" includes, but is not limited to, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations, but does not include an action made for ordinary business purposes.

In connection with services agreed to herein, it is understood that the Underwriter will render professional services as an independent contractor. Neither the Underwriter nor any of its agents or employees shall be deemed an employee of the Issuer or the Obligor for any purpose.

The Underwriter shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of the Obligor.

The Obligor acknowledges and recognizes Stifel as Underwriter with respect to the municipal securities referenced for purposes of MSRB Rule G-23 and Securities and Exchange Commission Rule 17 CFR (Registration of Municipal Advisors) and acknowledges receipt of the G-17 disclosures included herein.

This Agreement constitutes the entire agreement between the parties relating to the subject matter thereof and supersedes any prior understandings or representations. The Agreement may be amended or modified only by a writing signed by both parties. It is solely for the benefit of the Obligor and Stifel, and no other person.

This Agreement is submitted in duplicate originals. The acceptance of this Agreement by the Obligor will occur upon the return of one original executed by an authorized Obligor representative, and the Obligor hereby represents that the signatory below is so authorized.

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

STIFEL, NICOLAUS & COMPANY, INCORPORATED

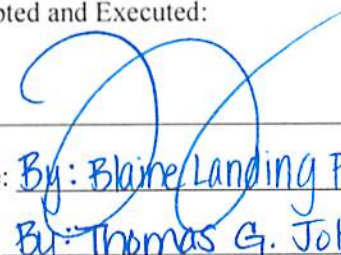
By 

Name: John Sabatier

Title: Managing Director

Date: April 4, 2022

The Obligor accepts and acknowledges the foregoing.
Accepted and Executed:

By: 
Name: By: Blaine/Landing Phase II GP, L.L.C.
Title: By: Thomas G. Johnson, III, Manager
Date: 4/4/2022



Glenn Youngkin
Governor

Caren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

September 15, 2022

Christopher Johnson
Secretary
Economic Development Authority of James City County
101 Mounts Bay Road
Williamsburg, VA 23185

Dear Mr. Johnson:

The Department of Housing and Community Development has reviewed the application for an allocation of private activity bond authority for the Blaine Landing Phase II project and has found the application to be complete. I am pleased to inform you that there is 2022 bond authority available for local housing authority projects and the project has been awarded a portion of this authority via the Governor's Pool, as evidenced by the attached allocation certificate.

This allocation is valid until December 15, 2022. In order to document the amount of bonds issued, a completed copy of U.S. Internal Revenue Service Form 8038 must be received by DHCD by 5:00 p.m. by December 15, 2022 if bonds are issued for this project. Any bond authority that has not been documented as having been issued by this deadline will revert to DHCD for reallocation to other projects.

Sincerely,

Kyle Flanders
Senior Policy Analyst

Enclosure

Cc: Michael Graff, McGuireWoods, LLP



Virginia Department of Housing and Community Development | Partners for Better Communities
Main Street Centre | 600 East Main Street, Suite 300 Richmond, VA 23219
www.dhcd.virginia.gov | Phone (804) 371-7000 | Fax (804) 371-7090 | Virginia Relay 7-1-1

CERTIFICATE OF ALLOCATION
OF PRIVATE ACTIVITY BOND AUTHORITY

On behalf of the Virginia Department of Housing and Community Development (DHCD),
the undersigned hereby certifies, as follows:

1. Pursuant to the Virginia Private Activity Bond Allocation Guidelines, DHCD has made the following allocation of private activity bond authority in the Commonwealth:

Allocation Date: September 15, 2022

Issuing Entity: Economic Development Authority of James City County

Locality: James City County

Amount: \$8,000,000

Project: Blaine Landing Phase II

Bond Type: Multi-family residential (Governor's Pool)

Expiration Date: December 15, 2022

2. Without independent investigation and based, in part, on filings made with DHCD, the foregoing issue of bonds for this project issued on or prior to the expiration date, and with respect to which a copy of IRS Form 8038 shall have been received by DHCD prior to 5:00 p.m. on the expiration date, when added to all private activity bonds issued after December 31, 2021 and on or prior to such expiration date will not exceed the 2022 State Ceiling on private activity bonds for the Commonwealth of Virginia, as established by the provisions of the Internal Revenue Code of 1986; and therefore, the issue of Bonds meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended, (relating to volume cap on private activity bonds).

Witness my signature this 15th day of September 2022



Kyle Flanders, Senior Policy Analyst
Virginia Department of Housing and Community Development

APPLICATION
GOVERNOR'S DISCRETIONARY BOND ALLOCATION

1. GENERAL INFORMATION

- A. Issuing Entity James City County, Virginia
- B. Name of Project
- C. Use of Bond Proceeds
- ☐ Manufacturing
- ☐ Exempt facility
- ☐ Other
- D. Bond allocation requested \$
- E. Indicate if this is a first or second submission for this project.
- ☐ First ☐ Second
- F. If this is a second submission, indicate the amount of submission fee included with this application. The fee may be in the form of a letter of credit or a check. _____

2. PROJECT INFORMATION

- A. General Description of the Project
- B. Number of jobs to be created (net) within two years of project completion. _____

C. Location of Project – street address and jurisdiction _____

D. Please explain how this project will meet a public purpose

E. Please describe the financial need for tax-exempt private activity bonds

F. Please outline the total financing package for this project with sources and amounts.

G. Name, address, phone number, and tax ID number of each proposed borrower and developer. Indicate the role of each one listed.

H. Name, address, and phone number of bond counsel.

3. **ATTACHMENTS - ALL FOUR ATTACHMENTS MUST BE SUBMITTED WITH THIS FORM. ALLOCATIONS CANNOT BE AWARDED UNTIL ALL ATTACHMENTS HAVE BEEN RECEIVED. ALL DOCUMENTATION MUST BE CURRENT.**

A. Copy of inducement or official intent resolution or other documentation of the preliminary approval of the project by the issuing authority, in conformity with applicable federal and state law.

- B. Copy of appropriate elected official's or governing body's (or bodies') formal approval of the project, dated within 60 days of a local public hearing, in conformity with applicable federal and state law. Approval within the 60 day time period may not apply to certain statewide issuing authorities/entities.
- C. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Internal Revenue Code of 1986, as amended, and that an allocation of bond issuing authority from the state ceiling on private activity bonds is required.
- D. A definite and binding financing commitment from the buyer or underwriter of the bonds for the project, or if the bonds are to be sold competitively, a letter from the financial advisor for the project.

4. CERTIFICATION

I hereby certify that the information filed herewith is accurate to the best of my knowledge.

Name of Issuing Entity _____

By: _____
Signature of Authorized Representative

Name (please print) _____

Title _____

Full Address _____

Date _____

Submit completed applications to:

Virginia Department of Housing and Community Development
Main Street Centre
600 East Main Street
Suite 300
Richmond, VA 23219
Attn: Policy Office

ATTACHMENT A
INDUCEMENT RESOLUTION

(See Attached)

RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES
CITY COUNTY, VIRGINIA AUTHORIZING AND APPROVING THE ISSUANCE
OF UP TO \$8,000,000 MULTIFAMILY REVENUE BONDS FOR
BLAINE LANDING PHASE II

RECITALS

A. The Economic Development Authority of James City County, Virginia (the “Authority”) is a public body corporate and a political subdivision of the Commonwealth of Virginia (the “Commonwealth”) duly created pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as amended (the “Act”). The Act authorizes the Authority: to issue its revenue bonds for, among other purposes, the financing of facilities for use primarily as single or multifamily residences; to assist in the acquisition, construction, equipping, expansion, enlargement and improvement of such facilities to the end that the Authority may promote safe and affordable housing in the Commonwealth and benefit thereby the safety, health, welfare, convenience and prosperity of the inhabitants of the Commonwealth; and to make and execute indentures of trust, security documents and other contracts and instruments necessary or convenient in the exercise of such powers.

B. To further the Act’s purposes, at the request of Blaine Landing Phase II, L.P., a Virginia limited partnership (the “Applicant”), the Authority has determined to issue and sell its Multifamily Revenue Bonds in a principal amount not in excess of \$8,000,000 (the “Bonds”), pursuant to the Act, for the purpose of assisting the Applicant or an entity affiliated with and controlled by, or under common ownership with, the Applicant (the Applicant or such resulting ownership entity hereinafter referred to as the “Borrower”) in financing or refinancing a portion of the costs of constructing and equipping an affordable housing development to be known as Blaine Landing Phase II, to consist of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, to be located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia (the “Project”). Based on representations of the Applicant, the Project is structured to meet the requirements of a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended. The Applicant has represented that the Project will be owned by the Borrower.

C. Based on the representations of the Applicant and the information submitted concerning the Project, the Authority has determined that the issuance and sale of the Bonds will benefit the inhabitants of the County of James City and the Commonwealth by promoting their health, welfare, convenience and prosperity.

NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC
DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA THAT:

1. The foregoing recitals are approved by the Authority and are incorporated in, and deemed a part of, this resolution.

2. Based on the representations of the Applicant and the information submitted concerning the Project, it is hereby found and determined that the Project will further the public purposes of the Act by promoting the health and welfare of the Commonwealth, the County of James City and their citizens.

3. Based on the representations of the Applicant and the information concerning the Project, it is hereby found and determined that the facilities which are the subject of the Project will constitute facilities for use primarily as safe and affordable single or multifamily residences, as described in the Act.

4. To induce the Borrower to acquire, construct and equip the facilities which are the subject of the Project as safe and affordable single or multifamily residences within the meaning of the Act, the Authority hereby agrees, subject to approvals required by applicable law, to assist the Borrower in financing the Project by undertaking the issuance of (and hereby declares its official intent to issue) the Bonds in an aggregate principal amount not to exceed \$8,000,000 upon terms and conditions as shall be mutually agreeable to the Authority and the Borrower. The Bonds will be issued pursuant to documents as shall be satisfactory to the Authority and its counsel. The Bonds may be issued in one or more series at one time or from time to time, but in no event later than December 31, 2022, pursuant to the terms of a subsequent resolution or resolutions adopted by the Authority.

5. It having been represented by the Applicant to the Authority that it is necessary to proceed with the financing of the Project, the Authority hereby agrees that the Borrower may proceed with the plans for the Project, enter into contracts related to the financing of the Project and take such other steps as it may deem appropriate in connection therewith, provided that nothing herein shall be deemed to authorize the Borrower to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with the Project or any portion thereof. The Authority agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all expenditures and costs so incurred by it, provided such expenditures and costs are properly reimbursable under the Act and applicable federal laws.

6. The Authority hereby designates McGuireWoods LLP, Tysons, Virginia, to serve as bond counsel and hereby appoints such firm to supervise the proceedings and approve the issuance of the Bonds.

7. As a condition of the issuance of the Bonds by the Authority, the Borrower shall agree in the Bond Documents to indemnify and save harmless the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, losses, costs and expenses in any way connected with the issuance and sale of the Bonds.

8. All costs and expenses in connection with the financing of the Project, including the fees and expenses of the Authority (including, without limitation, any application fee and origination fee or annual fee, as applicable), bond counsel, and counsel for the Authority shall be paid from the proceeds of the Bonds (but only to the extent

permitted by applicable law) or from moneys provided by the Borrower. If for any reason the Bonds are not issued, it is understood that all such fees and expenses shall be paid by the Borrower and that the Authority shall have no responsibility therefor.

9. In adopting this resolution the Authority intends to evidence its “official intent” to reimburse Project expenditures with proceeds from the issuance of the Bonds within the meaning of Treasury Regulations Section 1.150-2.

10. The Chair, the Vice Chair and the Secretary/Treasurer of the Authority, any of whom may act alone, are hereby authorized to request an allocation or allocations of the State Ceiling (as defined in Section 15.2-5000 of the Virginia Code) in accordance with the applicable provisions of the Virginia Code and any regulations or executive orders issued thereunder. All costs incurred by the Authority, if any, in connection with such proceeding shall be paid for by the Borrower.

11. No bonds may be issued pursuant to this resolution until such time as (a) the issuance of the bonds has been approved by the Board of Supervisors of James City County, Virginia and (b) the bonds have received an allocation or allocations of the State Ceiling in accordance with the applicable provisions of the Virginia Code and any regulations or executive orders issued thereunder.

12. The Bonds shall be limited obligations of the Authority and shall be payable solely out of revenues, receipts and payments specifically pledged therefor. Neither the directors, officers, agents or employees of the Authority, past, present and future, nor any person executing the Bonds, shall be liable personally on the Bonds by reason of the issuance thereof. The Bonds shall not be deemed to constitute a general obligation debt or a pledge of the faith and credit of the Commonwealth or any political subdivision thereof, including the Authority or the County of James City (and the Bonds shall so state on their face), and neither the Commonwealth nor any such political subdivision thereof shall be generally liable thereon, nor in any event shall the Bonds be payable out of any funds or properties other than the special funds and sources provided therefor. Neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, shall be pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto. The Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

13. The Authority (including its officers, directors, employees and agents) shall not be liable and hereby disclaims all liability to the Borrower and all other persons or entities for any damages, direct or consequential, resulting from the issuance of the Bonds or failure of the Authority to issue the Bonds for any reason. The Authority’s agreement to exercise its powers to issue the Bonds as requested by the Borrower is contingent upon the satisfaction of all legal requirements and the Authority shall not be liable and hereby disclaims all liability to the Borrower for any damages, direct or consequential, resulting from the Authority’s failure to issue Bonds for the Project for any reason, including but not limited to, the failure of the Board of Supervisors of the County of James City (the “Board of Supervisors”) to approve the issuance of the Bonds.

14. The Applicant, by receiving the benefit of this resolution, has agreed that the Borrower will cause the documents executed in connection with the issuance of the bonds to contain a covenant, in form and substance satisfactory to the Authority and its counsel, substantially to the effect that the Borrower will agree to pay to the Authority a non-refundable fee of $\frac{1}{2}$ of 1% of the Bond amount up to \$5 million, plus $\frac{1}{10}$ of 1% of the Bond amount over \$5 million, with a total minimum fee of \$1,250, said fee to be paid at closing.

15. The Authority recommends that the Board of Supervisors approve the issuance of the Bonds.

16. No Bonds may be issued pursuant to this resolution until such time as the issuance of the Bonds has been approved by the Board of Supervisors.

17. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Borrower.

18. This resolution shall take effect immediately upon its adoption.

Adopted: January 18, 2022

CERTIFICATE

The undersigned Secretary of the Economic Development Authority of James City County, Virginia (the "Authority"), hereby certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Directors of the Authority at a meeting duly called and held on January 18, 2022, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on the date hereof.

WITNESS the following signature and seal of the Authority as of January 18, 2022.



Secretary, Economic Development Authority of
James City County, Virginia

[SEAL]

ATTACHMENT B

**APPROVAL OF PROJECT BY
THE BOARD OF SUPERVISORS ON
FEBRUARY 22, 2022**

**CERTIFICATE OF PUBLICATION OF
PUBLIC HEARING ON JANUARY 4 & 11, 2022**

(See Attached)

RESOLUTION

BLAINE LANDING PHASE II \$8,000,000 MULTIFAMILY REVENUE BONDS ISSUANCE

- WHEREAS, the Economic Development Authority of James City County, Virginia (the "Authority") is authorized to advertise and hold public hearings relative to the issuance of private activity bonds; and
- WHEREAS, the Authority has considered the application of Blaine Landing Phase II, L.P., a Virginia limited partnership (the "Applicant") requesting that the Authority issue up to \$8,000,000 of its revenue bonds (the "Bonds") to assist the Applicant or an entity affiliated with and controlled by, or under common ownership with, the Applicant (the Applicant or such resulting ownership entity hereinafter referred to as the "Borrower") in financing or refinancing a portion of the costs of constructing and equipping an affordable housing development to be known as Blaine Landing Phase II, to consist of two buildings containing a total of 12 one-bedroom units and 48 two- or three-bedroom units, including 125 parking spaces, to be located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia (the "Project"). Based on representations of the Applicant, the Project is structured to meet the requirements of a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the "Code"). The Applicant has represented that the Project will be owned by the Borrower; and
- WHEREAS, Section 147(f) of the Code provides that the applicable elected representatives of the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of such bonds; and
- WHEREAS, the Authority issues its bonds on behalf of the County of James City and the facilities related to the Project to be financed or refinanced with the Bonds are located in the County of James City; and
- WHEREAS, the Authority, as the issuing governmental unit with respect to the Bonds, has no applicable elected representative, the County of James City constitutes the next highest governmental unit with such a representative, and the members of the Board of Supervisors of the County of James City (the "Board") constitute the applicable elected representatives of the County of James City; and
- WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds; and
- WHEREAS, a copy of the Authority's resolution authorizing the issuance of the Bonds, a certificate of the public hearing (including a summary of statements expressed at the hearing) and a fiscal impact statement have been filed with the Board.
- NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia:
1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Borrower, to satisfy the requirements of Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended, to permit the Authority to assist in the financing of the Project.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds or the creditworthiness of the Project or the Borrower.
3. The Bonds shall provide that neither the County of James City nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged thereto and that neither the faith and credit nor the taxing power of the County of James City or the Authority is pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto.
4. In adopting this resolution, the County of James City, including its elected supervisors, representatives, officers, employees and agents, shall not be liable for, and hereby disclaim all liability for, any damages to any person, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.
5. This resolution shall take effect immediately upon its adoption.


John J. McGlennon
Chairman, Board of Supervisors

EST:



Lisa J. Saeed
County Clerk to the Board

ICENHOUR
HIPPLE
LARSON
SADLER
MCGLENNON

VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
☒	☐	☐	☐
☒	☒	☐	☐
☒	☒	☐	☐
☒	☐	☐	☐

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of January, 2022.

1eLdgIIRevBd-res

As the Deputy Clerk to the Board of Supervisors of James City County, and custodian of the Seal, I, Teresa J. Saeed, hereby certify that this is a true and correct copy of the original document.



Sold To:
McGuireWoods LLP - CU80063108
800 E Canal St
Richmond, VA 23219-3956

Bill To:
McGuireWoods LLP - CU80063108
800 E Canal St
Richmond, VA 23219-3956

Affidavit of Publication

State of Illinois
County of Cook

Order Number: 7117515
Purchase Order: Active_154101090_3_James City

This day, Jeremy Gates appeared before me and, after being duly sworn, made oath that:

- 1) He/she is affidavit clerk of Daily Press, a newspaper published by Daily Press, LLC in the city of Newport News and the state of Virginia
- 2) That the advertisement hereto annexed has been published in said newspaper on the dates stated below
- 3) The advertisement has been produced on the websites classifieds.pilotonline.com and <https://www.publicnoticevirginia.com>

Published on: Jan 04, 2022; Jan 11, 2022

A handwritten signature in black ink, appearing to read 'J. Gates'.

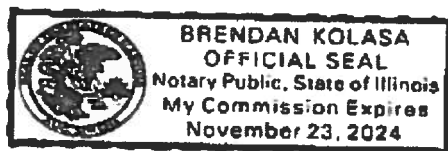
Jeremy Gates

Subscribed and sworn to before me in my city and state on the day and year aforesaid this 12 day of January, 2022

My commission expires November 23, 2024

A handwritten signature in black ink, appearing to read 'B. Kolasa'.

Notary Signature



Notary Stamp



**NOTICE OF PUBLIC HEARING
ON PROPOSED
REVENUE BOND FINANCING
BY ECONOMIC DEVELOPMENT
AUTHORITY OF JAMES CITY
COUNTY, VIRGINIA**

Notice is hereby given that the Economic Development Authority of James City County, Virginia (the "Authority"), whose mailing address is 101 Mounts Bay Road, Building D, Williamsburg, VA 23185, will hold a public hearing on the application of Blaine Landing Phase II, L.P. (the "Applicant"), a Virginia limited partnership whose business address is 440 Monticello Avenue, Suite 1700, Norfolk, VA 23510. The Applicant has requested the Authority to issue up to \$8,000,000 of its revenue bonds (the "Bonds"), in one or more series of qualified residential rental bonds, at one time or from time to time pursuant to a plan of finance, to assist the Applicant in financing or refinancing a portion of the costs of constructing and equipping an affordable housing development to be known as Blaine Landing Phase II, to consist of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, to be located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia (the "Project"). The Project will meet the requirements of a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the "Code"). The Project will be owned by the Applicant or an entity affiliated with and controlled by or under common ownership with the Applicant.

THE ISSUANCE OF THE BONDS AS REQUESTED BY THE APPLICANT WILL NOT CONSTITUTE A DEBT OR PLEDGE OF THE FAITH AND CREDIT OF THE COMMONWEALTH OF VIRGINIA OR ANY OTHER POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY AND JAMES CITY COUNTY, VIRGINIA, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING JAMES CITY COUNTY, VIRGINIA, WILL BE PLEDGED TO THE PAYMENT OF SUCH BONDS BUT WILL BE PAYABLE SOLELY FROM THE REVENUES DERIVED FROM THE APPLICANT AND PLEDGED TO THE PAYMENT THEREOF.

The public hearing, which may be continued or adjourned, will be held at 4:00 o'clock p.m. on Tuesday, January 18, 2022, before the Authority, in the Main Conference Room of Building D, James City County Government Center, 101 Mounts Bay Road, Williamsburg, Virginia 23185.

Any person interested in the issuance of the Bonds or the facilities to be financed or refinanced with the bond proceeds may appear at the hearing and present his or her views. Information regarding the Applicant's request is on file and is open for inspection at the Authority's office (c/o the James City County Office of Economic Development) at 101 Mounts Bay Road, Williamsburg, Virginia 23185 during regular business hours.

This notice is published, and the public hearing is being held by or on behalf of the Authority as issuer of the proposed



VIRGINIA
MEDIA

revenue bonds, as required by section
147(f) of the Code and the regulations
promulgated thereunder.

ECONOMIC DEVELOPMENT AU-
THORITY OF JAMES CITY COUNTY,
VIRGINIA

Advertised:

January 4, 2022

January 11, 2022

1/4/22, 1/11/22 7117515

ATTACHMENT C
ELIGIBILITY OPINION OF BOND COUNSEL

(See Attached)

October 18, 2022

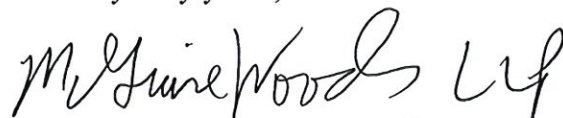
Economic Development Authority of
the County of James City, Virginia
Williamsburg, Virginia

**Economic Development Authority of the County of James City, Virginia
\$8,800,000 Revenue Bonds
Relating to Blaine Landing Phase II**

Ladies and Gentlemen:

We are serving as Bond Counsel in connection with the possible issuance by the Economic Development Authority of the County of James City, Virginia (the "Authority") of its tax-exempt multifamily housing revenue bonds in a principal amount of up to \$8,800,000 (the "Bonds") to assist Blaine Landing Phase II, L.P., a Virginia limited partnership, in financing or refinancing certain (a) costs of acquiring, constructing and equipping a housing project consisting of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, to be known as Blaine Landing Phase II located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia and (b) costs of issuance of the Bonds, required reserves and other financeable expenditures (collectively, the "Project"). It is our opinion that the Project qualifies for private activity bond financing pursuant to Section 142(a)(7) of the Internal Revenue Code of 1986, as amended (the "Code") and that the Bonds are required to be included under the volume limitation for private activity bonds established pursuant to Section 146 of the Code and, therefore, require an allocation of bond issuing authority from the state ceiling (as defined in Section 15.2-5000 of the Code of Virginia of 1950, as amended).

Very truly yours,

A handwritten signature in dark ink, appearing to read "McGuireWoods LLP", is written over the typed name "McGuireWoods LLP".

ATTACHMENT D

FINANCING/UNDERWRITING COMMITMENT

(See Attached)

ATTACHMENT E
FINANCING SOURCES AND USES

(See Attached)

Sources and Uses for Blaine Landing Phase II, L.P.:

Bond Proceeds: \$8,800,000

LIHTC Syndication Proceeds: \$8,040,541

Deferred Developer Fee: \$905,414

GP Loan: \$1,750,000

Total Development Costs: \$19,495,955

LOCAL HOUSING AUTHORITY APPLICATION HOUSING BOND ALLOCATION

1. GENERAL INFORMATION

- A. Issuing Entity _____
- B. Name of Project _____
- C. Type of Project _____
- ☐ Single Family ☐ Multifamily
- _____ Number of Units _____ Number of Units
- D. Bond allocation requested \$ _____
- E. Indicate if this is a first or second submission for this project.
- ☐ First ☐ Second
- F. If this is a second submission, indicate the amount of submission fee included with this application. The fee may be in the form of a letter of credit or a check. _____

2. PROJECT INFORMATION

- A. Project Description
- _____
- _____
- _____
- B. Please check the appropriate response for the low income set-aside requirement if the project is a multifamily rental project.
- ☐ 40% of the units will be occupied by persons having incomes of 60% of area median income or less.
- ☐ 20% of the units will be occupied by persons having incomes of 50% of area median income or less.

- C. Location of Project – street address and jurisdiction _____
- D. Indicate how rent affordability will be enforced on the units subject to restriction on the incomes of residents under the Code. Rent affordability can be met through an allocation of low-income housing tax credits under Section 42 of the Code or participation in other federal, state, or local housing affordability programs that include legally enforceable rent standards. Please specify the program and the number of units subject to rent affordability.
- _____
- _____
- _____
- E. Name, address, phone number, and tax ID number of each proposed borrower and developer. Indicate the role of each one listed.
- _____
- _____
- _____
- F. Name, address, and phone number of bond counsel.
- _____
- _____

3. **ATTACHMENTS - ALL SIX ATTACHMENTS MUST BE SUBMITTED WITH THIS FORM. ALLOCATIONS CANNOT BE AWARDED UNTIL ALL ATTACHMENTS HAVE BEEN RECEIVED. ALL DOCUMENTATION MUST BE CURRENT.**

- A. Copy of inducement or official intent resolution or other documentation of the preliminary approval of the project by the issuing authority, in conformity with applicable federal and state law.
- B. Copy of appropriate elected official's or governing body's (or bodies') formal approval of the project, dated within 60 days of a local public hearing, in conformity with applicable federal and state law.

- C. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Internal Revenue Code of 1986, as amended, and that an allocation of bond issuing authority from the state ceiling on private activity bonds is required.
- D. A definite and binding financing commitment from the buyer or underwriter of the bonds for the project, or if the bonds are to be sold competitively, a letter from the financial advisor for the project.
- E. A letter from the chief appointed official of the locality in which the project is located, endorsing the project and stating that the project is in conformity with the Consolidated Plan covering the locality. If the locality is subject to the State's Consolidated Plan, DHCD will determine if the project is in conformity with the plan.
- F. Provide documentation of the project's participation in the program ensuring rent affordability indicated in 2D.

4. CERTIFICATION

I hereby certify that the information filed herewith is accurate to the best of my knowledge.

Name of Issuing Entity

By: _____
Signature of Authorized Representative

Name (please print) _____

Title _____

Full Address _____

Date _____

Submit completed applications to:

Virginia Department of Housing and Community Development
600 East Main Street
Suite 300
Richmond, VA 23219
Attn: Policy Office

ATTACHMENT A
INDUCEMENT RESOLUTION

(See Attached)

RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES
CITY COUNTY, VIRGINIA AUTHORIZING AND APPROVING THE ISSUANCE
OF UP TO \$8,000,000 MULTIFAMILY REVENUE BONDS FOR
BLAINE LANDING PHASE II

RECITALS

A. The Economic Development Authority of James City County, Virginia (the "Authority") is a public body corporate and a political subdivision of the Commonwealth of Virginia (the "Commonwealth") duly created pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as amended (the "Act"). The Act authorizes the Authority: to issue its revenue bonds for, among other purposes, the financing of facilities for use primarily as single or multifamily residences; to assist in the acquisition, construction, equipping, expansion, enlargement and improvement of such facilities to the end that the Authority may promote safe and affordable housing in the Commonwealth and benefit thereby the safety, health, welfare, convenience and prosperity of the inhabitants of the Commonwealth; and to make and execute indentures of trust, security documents and other contracts and instruments necessary or convenient in the exercise of such powers.

B. To further the Act's purposes, at the request of Blaine Landing Phase II, L.P., a Virginia limited partnership (the "Applicant"), the Authority has determined to issue and sell its Multifamily Revenue Bonds in a principal amount not in excess of \$8,000,000 (the "Bonds"), pursuant to the Act, for the purpose of assisting the Applicant or an entity affiliated with and controlled by, or under common ownership with, the Applicant (the Applicant or such resulting ownership entity hereinafter referred to as the "Borrower") in financing or refinancing a portion of the costs of constructing and equipping an affordable housing development to be known as Blaine Landing Phase II, to consist of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, to be located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia (the "Project"). Based on representations of the Applicant, the Project is structured to meet the requirements of a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended. The Applicant has represented that the Project will be owned by the Borrower.

C. Based on the representations of the Applicant and the information submitted concerning the Project, the Authority has determined that the issuance and sale of the Bonds will benefit the inhabitants of the County of James City and the Commonwealth by promoting their health, welfare, convenience and prosperity.

NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC
DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA THAT:

1. The foregoing recitals are approved by the Authority and are incorporated in, and deemed a part of, this resolution.

2. Based on the representations of the Applicant and the information submitted concerning the Project, it is hereby found and determined that the Project will further the public purposes of the Act by promoting the health and welfare of the Commonwealth, the County of James City and their citizens.

3. Based on the representations of the Applicant and the information concerning the Project, it is hereby found and determined that the facilities which are the subject of the Project will constitute facilities for use primarily as safe and affordable single or multifamily residences, as described in the Act.

4. To induce the Borrower to acquire, construct and equip the facilities which are the subject of the Project as safe and affordable single or multifamily residences within the meaning of the Act, the Authority hereby agrees, subject to approvals required by applicable law, to assist the Borrower in financing the Project by undertaking the issuance of (and hereby declares its official intent to issue) the Bonds in an aggregate principal amount not to exceed \$8,000,000 upon terms and conditions as shall be mutually agreeable to the Authority and the Borrower. The Bonds will be issued pursuant to documents as shall be satisfactory to the Authority and its counsel. The Bonds may be issued in one or more series at one time or from time to time, but in no event later than December 31, 2022, pursuant to the terms of a subsequent resolution or resolutions adopted by the Authority.

5. It having been represented by the Applicant to the Authority that it is necessary to proceed with the financing of the Project, the Authority hereby agrees that the Borrower may proceed with the plans for the Project, enter into contracts related to the financing of the Project and take such other steps as it may deem appropriate in connection therewith, provided that nothing herein shall be deemed to authorize the Borrower to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with the Project or any portion thereof. The Authority agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all expenditures and costs so incurred by it, provided such expenditures and costs are properly reimbursable under the Act and applicable federal laws.

6. The Authority hereby designates McGuireWoods LLP, Tysons, Virginia, to serve as bond counsel and hereby appoints such firm to supervise the proceedings and approve the issuance of the Bonds.

7. As a condition of the issuance of the Bonds by the Authority, the Borrower shall agree in the Bond Documents to indemnify and save harmless the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, losses, costs and expenses in any way connected with the issuance and sale of the Bonds.

8. All costs and expenses in connection with the financing of the Project, including the fees and expenses of the Authority (including, without limitation, any application fee and origination fee or annual fee, as applicable), bond counsel, and counsel for the Authority shall be paid from the proceeds of the Bonds (but only to the extent

permitted by applicable law) or from moneys provided by the Borrower. If for any reason the Bonds are not issued, it is understood that all such fees and expenses shall be paid by the Borrower and that the Authority shall have no responsibility therefor.

9. In adopting this resolution the Authority intends to evidence its “official intent” to reimburse Project expenditures with proceeds from the issuance of the Bonds within the meaning of Treasury Regulations Section 1.150-2.

10. The Chair, the Vice Chair and the Secretary/Treasurer of the Authority, any of whom may act alone, are hereby authorized to request an allocation or allocations of the State Ceiling (as defined in Section 15.2-5000 of the Virginia Code) in accordance with the applicable provisions of the Virginia Code and any regulations or executive orders issued thereunder. All costs incurred by the Authority, if any, in connection with such proceeding shall be paid for by the Borrower.

11. No bonds may be issued pursuant to this resolution until such time as (a) the issuance of the bonds has been approved by the Board of Supervisors of James City County, Virginia and (b) the bonds have received an allocation or allocations of the State Ceiling in accordance with the applicable provisions of the Virginia Code and any regulations or executive orders issued thereunder.

12. The Bonds shall be limited obligations of the Authority and shall be payable solely out of revenues, receipts and payments specifically pledged therefor. Neither the directors, officers, agents or employees of the Authority, past, present and future, nor any person executing the Bonds, shall be liable personally on the Bonds by reason of the issuance thereof. The Bonds shall not be deemed to constitute a general obligation debt or a pledge of the faith and credit of the Commonwealth or any political subdivision thereof, including the Authority or the County of James City (and the Bonds shall so state on their face), and neither the Commonwealth nor any such political subdivision thereof shall be generally liable thereon, nor in any event shall the Bonds be payable out of any funds or properties other than the special funds and sources provided therefor. Neither the faith and credit nor the taxing power of the Commonwealth, or any political subdivision thereof, shall be pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto. The Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

13. The Authority (including its officers, directors, employees and agents) shall not be liable and hereby disclaims all liability to the Borrower and all other persons or entities for any damages, direct or consequential, resulting from the issuance of the Bonds or failure of the Authority to issue the Bonds for any reason. The Authority’s agreement to exercise its powers to issue the Bonds as requested by the Borrower is contingent upon the satisfaction of all legal requirements and the Authority shall not be liable and hereby disclaims all liability to the Borrower for any damages, direct or consequential, resulting from the Authority’s failure to issue Bonds for the Project for any reason, including but not limited to, the failure of the Board of Supervisors of the County of James City (the “Board of Supervisors”) to approve the issuance of the Bonds.

14. The Applicant, by receiving the benefit of this resolution, has agreed that the Borrower will cause the documents executed in connection with the issuance of the bonds to contain a covenant, in form and substance satisfactory to the Authority and its counsel, substantially to the effect that the Borrower will agree to pay to the Authority a non-refundable fee of $\frac{1}{2}$ of 1% of the Bond amount up to \$5 million, plus $\frac{1}{10}$ of 1% of the Bond amount over \$5 million, with a total minimum fee of \$1,250, said fee to be paid at closing.

15. The Authority recommends that the Board of Supervisors approve the issuance of the Bonds.

16. No Bonds may be issued pursuant to this resolution until such time as the issuance of the Bonds has been approved by the Board of Supervisors.

17. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Borrower.

18. This resolution shall take effect immediately upon its adoption.

Adopted: January 18, 2022

CERTIFICATE

The undersigned Secretary of the Economic Development Authority of James City County, Virginia (the "Authority"), hereby certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Directors of the Authority at a meeting duly called and held on January 18, 2022, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on the date hereof.

WITNESS the following signature and seal of the Authority as of January 18, 2022.



Secretary, Economic Development Authority of
James City County, Virginia

[SEAL]

ATTACHMENT B

**APPROVAL OF PROJECT BY
THE BOARD OF SUPERVISORS ON
FEBRUARY 22, 2022**

**CERTIFICATE OF PUBLICATION OF
PUBLIC HEARING ON JANUARY 4 & 11, 2022**

(See Attached)

RESOLUTION

BLAINE LANDING PHASE II \$8,000,000 MULTIFAMILY REVENUE BONDS ISSUANCE

- WHEREAS, the Economic Development Authority of James City County, Virginia (the "Authority") is authorized to advertise and hold public hearings relative to the issuance of private activity bonds; and
- WHEREAS, the Authority has considered the application of Blaine Landing Phase II, L.P., a Virginia limited partnership (the "Applicant") requesting that the Authority issue up to \$8,000,000 of its revenue bonds (the "Bonds") to assist the Applicant or an entity affiliated with and controlled by, or under common ownership with, the Applicant (the Applicant or such resulting ownership entity hereinafter referred to as the "Borrower") in financing or refinancing a portion of the costs of constructing and equipping an affordable housing development to be known as Blaine Landing Phase II, to consist of two buildings containing a total of 12 one-bedroom units and 48 two- or three-bedroom units, including 125 parking spaces, to be located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia (the "Project"). Based on representations of the Applicant, the Project is structured to meet the requirements of a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the "Code"). The Applicant has represented that the Project will be owned by the Borrower; and
- WHEREAS, Section 147(f) of the Code provides that the applicable elected representatives of the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of such bonds; and
- WHEREAS, the Authority issues its bonds on behalf of the County of James City and the facilities related to the Project to be financed or refinanced with the Bonds are located in the County of James City; and
- WHEREAS, the Authority, as the issuing governmental unit with respect to the Bonds, has no applicable elected representative, the County of James City constitutes the next highest governmental unit with such a representative, and the members of the Board of Supervisors of the County of James City (the "Board") constitute the applicable elected representatives of the County of James City; and
- WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds; and
- WHEREAS, a copy of the Authority's resolution authorizing the issuance of the Bonds, a certificate of the public hearing (including a summary of statements expressed at the hearing) and a fiscal impact statement have been filed with the Board.
- NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia:
1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Borrower, to satisfy the requirements of Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended, to permit the Authority to assist in the financing of the Project.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds or the creditworthiness of the Project or the Borrower.
3. The Bonds shall provide that neither the County of James City nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged thereto and that neither the faith and credit nor the taxing power of the County of James City or the Authority is pledged to the payment of the principal of the Bonds or the interest thereon or other costs incident thereto.
4. In adopting this resolution, the County of James City, including its elected supervisors, representatives, officers, employees and agents, shall not be liable for, and hereby disclaim all liability for, any damages to any person, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.
5. This resolution shall take effect immediately upon its adoption.


John J. McGlennon
Chairman, Board of Supervisors

EST:



Lisa J. Saeed
County Clerk to the Board

ICENHOUR
HIPPLE
LARSON
SADLER
MCGLENNON

VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
☒	☐	☐	☐
☒	☒	☐	☐
☒	☒	☐	☐
☒	☐	☐	☐

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of January, 2022.

1eLdgIIRevBd-res

As the Deputy Clerk to the Board of Supervisors of James City County, and custodian of the Seal, I, Teresa J. Saeed, hereby certify that this is a true and correct copy of the original document.



Sold To:
McGuireWoods LLP - CU80063108
800 E Canal St
Richmond, VA 23219-3956

Bill To:
McGuireWoods LLP - CU80063108
800 E Canal St
Richmond, VA 23219-3956

Affidavit of Publication

State of Illinois
County of Cook

Order Number: 7117515
Purchase Order: Active_154101090_3_James City

This day, Jeremy Gates appeared before me and, after being duly sworn, made oath that:

- 1) He/she is affidavit clerk of Daily Press, a newspaper published by Daily Press, LLC in the city of Newport News and the state of Virginia
- 2) That the advertisement hereto annexed has been published in said newspaper on the dates stated below
- 3) The advertisement has been produced on the websites classifieds.pilotonline.com and <https://www.publicnoticevirginia.com>

Published on: Jan 04, 2022; Jan 11, 2022

A handwritten signature in black ink, appearing to read 'J. Gates'.

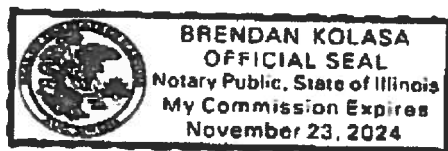
Jeremy Gates

Subscribed and sworn to before me in my city and state on the day and year aforesaid this 12 day of January, 2022

My commission expires November 23, 2024

A handwritten signature in black ink, appearing to read 'B. Kolasa'.

Notary Signature



Notary Stamp



**NOTICE OF PUBLIC HEARING
ON PROPOSED
REVENUE BOND FINANCING
BY ECONOMIC DEVELOPMENT
AUTHORITY OF JAMES CITY
COUNTY, VIRGINIA**

Notice is hereby given that the Economic Development Authority of James City County, Virginia (the "Authority"), whose mailing address is 101 Mounts Bay Road, Building D, Williamsburg, VA 23185, will hold a public hearing on the application of Blaine Landing Phase II, L.P. (the "Applicant"), a Virginia limited partnership whose business address is 440 Monticello Avenue, Suite 1700, Norfolk, VA 23510. The Applicant has requested the Authority to issue up to \$8,000,000 of its revenue bonds (the "Bonds"), in one or more series of qualified residential rental bonds, at one time or from time to time pursuant to a plan of finance, to assist the Applicant in financing or refinancing a portion of the costs of constructing and equipping an affordable housing development to be known as Blaine Landing Phase II, to consist of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, to be located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia (the "Project"). The Project will meet the requirements of a qualified residential rental project within the meaning of Section 142(d) of the Internal Revenue Code of 1986, as amended (the "Code"). The Project will be owned by the Applicant or an entity affiliated with and controlled by or under common ownership with the Applicant.

THE ISSUANCE OF THE BONDS AS REQUESTED BY THE APPLICANT WILL NOT CONSTITUTE A DEBT OR PLEDGE OF THE FAITH AND CREDIT OF THE COMMONWEALTH OF VIRGINIA OR ANY OTHER POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY AND JAMES CITY COUNTY, VIRGINIA, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING JAMES CITY COUNTY, VIRGINIA, WILL BE PLEDGED TO THE PAYMENT OF SUCH BONDS BUT WILL BE PAYABLE SOLELY FROM THE REVENUES DERIVED FROM THE APPLICANT AND PLEDGED TO THE PAYMENT THEREOF.

The public hearing, which may be continued or adjourned, will be held at 4:00 o'clock p.m. on Tuesday, January 18, 2022, before the Authority, in the Main Conference Room of Building D, James City County Government Center, 101 Mounts Bay Road, Williamsburg, Virginia 23185.

Any person interested in the issuance of the Bonds or the facilities to be financed or refinanced with the bond proceeds may appear at the hearing and present his or her views. Information regarding the Applicant's request is on file and is open for inspection at the Authority's office (c/o the James City County Office of Economic Development) at 101 Mounts Bay Road, Williamsburg, Virginia 23185 during regular business hours.

This notice is published, and the public hearing is being held by or on behalf of the Authority as issuer of the proposed



VIRGINIA
MEDIA

revenue bonds, as required by section
147(f) of the Code and the regulations
promulgated thereunder.

ECONOMIC DEVELOPMENT AU-
THORITY OF JAMES CITY COUNTY,
VIRGINIA

Advertised:

January 4, 2022

January 11, 2022

1/4/22, 1/11/22 7117515

ATTACHMENT C
ELIGIBILITY OPINION OF BOND COUNSEL

(See Attached)

October 18, 2022

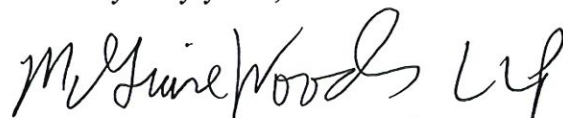
Economic Development Authority of
the County of James City, Virginia
Williamsburg, Virginia

**Economic Development Authority of the County of James City, Virginia
\$8,800,000 Revenue Bonds
Relating to Blaine Landing Phase II**

Ladies and Gentlemen:

We are serving as Bond Counsel in connection with the possible issuance by the Economic Development Authority of the County of James City, Virginia (the "Authority") of its tax-exempt multifamily housing revenue bonds in a principal amount of up to \$8,800,000 (the "Bonds") to assist Blaine Landing Phase II, L.P., a Virginia limited partnership, in financing or refinancing certain (a) costs of acquiring, constructing and equipping a housing project consisting of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, to be known as Blaine Landing Phase II located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia and (b) costs of issuance of the Bonds, required reserves and other financeable expenditures (collectively, the "Project"). It is our opinion that the Project qualifies for private activity bond financing pursuant to Section 142(a)(7) of the Internal Revenue Code of 1986, as amended (the "Code") and that the Bonds are required to be included under the volume limitation for private activity bonds established pursuant to Section 146 of the Code and, therefore, require an allocation of bond issuing authority from the state ceiling (as defined in Section 15.2-5000 of the Code of Virginia of 1950, as amended).

Very truly yours,

A handwritten signature in dark ink, appearing to read "McGuireWoods LLP", is written over the typed name.

ATTACHMENT D

FINANCING/UNDERWRITING COMMITMENT

(See Attached)

ATTACHMENT E
LETTER FROM COUNTY ADMINISTRATOR OF
JAMES CITY COUNTY, VIRGINIA

(See Attached)



Administration
P.O. Box 8784
101-D Mounts Bay Rd.
Williamsburg, VA 23187-8784
P: 757-253-6602
jamescitycountyva.gov

March 4, 2022

Virginia Department of Housing and Community Development
600 East Main Street, Suite 300
Richmond, VA 23219
Attention: Kyle Flanders

RE: Formal Letter of Support for Blaine Landing Phase II

Dear Mr. Flanders:

I am writing in regard to the planned financing and construction of a multifamily residential rental housing facility located in James City County, Virginia (the "Project"). The developer has indicated that the Project will consist of two buildings containing a total of 12 one-bedroom units and 48 two or three-bedroom units, including 125 parking spaces, to be located at 7581 Richmond Road in Williamsburg, VA 23188, in the County of James City, Virginia. On January 18, 2022, the Directors of the Economic Development Authority of James City County, Virginia (the "Authority") approved an inducement resolution to issue its revenue bonds in the amount of up to \$8,000,000 to assist Blaine Landing Phase II, L.P. in financing certain costs of the acquisition, construction and equipping of the Project. The Board of Supervisors of James City County, Virginia resolved to authorize the Authority to issue the bonds at its meeting on February 22, 2022.

The developer has indicated that the Project is expected to provide clean, modern, safe and dignified accommodations to James City County's low and moderate income population. Such accommodations meet the Comprehensive Plan's goal to "develop residential neighborhoods to achieve high quality design and construction, and provide a wide range of choices for both renters and owners in housing types, densities, price ranges, and accessibility that address the needs of the County's residents and workers of all ages and income levels." Accordingly, James City County endorses the allocation of private activity bonds requested by Blaine Landing Phase II, L.P. for the Project.

If you need any additional information, please feel free to contact Christopher Kulp, counsel to the Authority, at 804.788.8742.

Sincerely,

Scott A. Stevens
County Administrator

ATTACHMENT F

**DOCUMENTATION OF PARTICIPATION IN
PROGRAM ENSURING RENT AFFORDABILITY**

(See Attached)



February 22, 2022

Mr. Richard Counselman
Blaine Landing Phase II, L.P.
440 Monticello Ave., Suite 1700
Norfolk, VA 23510

Re: Blaine Landing Apartments Phase II - Section 42(m) Letter

Dear Mr. Counselman:

I am writing in response to the application submitted by Blaine Landing Phase II, L.P. for the new construction of the above-referenced property (the "Project"), located in Williamsburg, Virginia. The development will be occupied by low-income residents as defined by Section 42 of the Internal Revenue Code (IRC) of 1986. According to the application, more than 50% of the aggregate basis of the buildings and land will be financed with tax-exempt bonds.

Pursuant to Section 42(m) of the IRC, we have reviewed the application for Low Income Housing Tax Credits for the Project. As required by Section 42, we have contacted James City County and given the County Administrator an opportunity to comment on the proposed development. We hereby advise you that the deadline for offering such comments has expired. We have preliminarily determined that the Project, subject to final underwriting of the feasible credit amount, satisfies the requirements for the allocation of Low Income Housing Tax Credits under the Qualified Allocation Plan promulgated by the Virginia Housing Development Authority.

Based on a preliminary review, we have also estimated that \$694,432 of credits will not exceed the amount necessary for the financial feasibility of the Project as currently structured. In making this determination, we have considered the sources and uses of funds, the total financing planned for the Project, the proceeds expected to be generated by reason of the tax credits, and the percentage of the housing credit dollar amount used for the project costs other than the costs of intermediaries.



Mr. Richard Counselman

February 22, 2022

Page 2

Building identification numbers will be assigned at issuance of IRS Form(s) 8609. Before these forms are issued, the owner must place the units in service, record the enclosed Extended Use Regulatory Agreement and Declaration of Restrictive Covenants, and submit an Application for IRS Forms 8609. Please note that on Exhibit B to the Extended Use Regulatory Agreement and Declaration of Restrictive Covenants (if attached herein) the lesser of Percentage of Low Income Units or Percentage of Floor Space of Low Income Units must be listed for each building. If you wish to lock in the Applicable Percentage, the attached Election to Fix the Applicable Credit Percentage must be completed, signed, notarized, and returned to VHDA no later than five days after the month in which the tax-exempt bonds are issued. Please note that the Election to Fix the Applicable Credit Percentage form must not be executed prior to the issuance of the bonds. The credit amount allocated to the Project may change from the preliminary feasibility amount if there are changes in interest rates, loan amounts, syndication proceeds, costs, etc., listed in your application for 8609(s). The allocation of credits to the Project will be subject to all of the requirements of Section 42 of the IRC. Finally, IRS Form(s) 8609 will not be issued until all of VHDA's applicable minimum design and construction requirements have been met.

Please call me at (804) 343-5725 if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "John D. Bondurant".

JD Bondurant
Director of LIHTC Programs

Enclosures

**EXTENDED USE REGULATORY AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

THIS AGREEMENT AND DECLARATION dated as of the ____ day of February, 2022, by and between **BLAINE LANDING PHASE II, L.P.**, a Virginia limited partnership, its successors and assigns (the "Owner"), and the **VIRGINIA HOUSING DEVELOPMENT AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("VHDA"), made in order to satisfy a condition to the allocation by VHDA to the Owner of federal low-income housing tax credits (the "Credits") available under Section 42 of the Internal Revenue Code of 1986, as amended, hereby recites and provides as follows:

WITNESSETH:

WHEREAS, the Owner owns or has a leasehold interest in certain real property located in the County of James City, Virginia (the "Property"), which Property is described in Exhibit A attached hereto, upon which a multi-family housing development consisting of 60 residential rental units and called **Blaine Landing Apartments Phase II** is, or is proposed to be, located (which development, including the Property and all assets of whatsoever nature situate, owned or used in or arising out of or otherwise relating to the construction and/or rehabilitation and the ownership or operation of the development, is hereinafter referred to as the "Development"); and

WHEREAS, VHDA has been designated by executive order of the Governor of the Commonwealth, pursuant to Section 42 (hereinafter defined), as amended, as the housing credit agency responsible for allocating the Credits; and

WHEREAS, the Owner has obtained tax-exempt financing for the Development that entitles the Owner to an automatic allocation of Credits; and

WHEREAS, the Owner has made in its application (the "Application") certain representations to VHDA about the Development, upon which representations VHDA relied in determining the amount of Credits necessary to make the Development financially feasible; and

WHEREAS, based upon such representations, VHDA has made the required determination of the amount of Credits needed to make the Development financially feasible to achieve the projected low-income use of the Development; and

WHEREAS, as conditions to any such Allocation (hereinafter defined) of Credits, the Owner must, among other things, (1) enter into this Agreement and Declaration, pursuant to which certain requirements of Section 42 (hereinafter defined), certain of the representations made in the Application and certain other restrictions and requirements relative to the Development shall be enforceable and then (2) must duly record this Agreement and Declaration in the land records of the jurisdiction in which the Property is located.

NOW THEREFORE, the parties do hereby agree as follows:

1. **Definitions.**

A. "Section 42" shall hereinafter mean Section 42 of the Internal Revenue Code of 1986, as amended, and any successor provision and all applicable regulations, rulings, pronouncements or other official communications issued from time to time with respect thereto by the Internal Revenue Service, the U.S. Department of the Treasury or the U.S. Department of Housing and Urban Development.

B. "Allocation" shall hereinafter mean an allocation of Credits made by VHDA to the Owner with respect to the Development and evidenced, in the case of a building which has already been placed in service at the

time of such Allocation, by the issuance by VHDA to the Owner of an IRS Form 8609 executed by VHDA for such building.

C. "Beneficial Party" or "Beneficial Parties" shall hereinafter mean VHDA and/or one or more individuals (whether prospective, present or former occupants of any building of the Development) who meet the income limitations applicable to such building under subsection (g) of Section 42.

D. "Low-Income Unit" shall mean, with respect to the Development, each residential unit therein which is occupied by tenants meeting the income restrictions set forth in Section 5.A. below and is Rent Restricted (as defined in subsection (g)(2) of Section 42).

E. "Rules and Regulations" shall hereinafter mean the rules and regulations, as amended from time to time, of VHDA governing the allocation of the Credits.

2. Covenants to Run With the Land. The Owner intends, declares and covenants, on behalf of itself and its successors and assigns, that throughout the term of this Agreement and Declaration, all of the covenants and restrictions set forth herein shall constitute restrictive covenants encumbering the Development and running with the land, are not merely personal covenants of the Owner, and shall be binding on the Owner and all its successors and assigns, all as provided by and in accordance with §36-55.34:2 of the Code of Virginia of 1950, as amended.

3. Title. The Owner covenants that it has good and marketable title to the Property free and clear of any liens and encumbrances other than those specifically approved by VHDA.

4. General Covenants. The Owner covenants that it will take or cause to be taken all reasonably necessary lawful actions in order to ensure compliance with all of the requirements, terms, provisions, covenants and restrictions of Section 42 (including the requirement that each building of the Development be or become a Qualified Low-Income Building as defined in subsection (c)(2) of Section 42), this Agreement and Declaration, the Allocation and the Rules and Regulations and that it will not take nor permit to be taken any action that would result in a violation of, any of such requirements, terms, provisions, covenants or restrictions; provided, however, that in the event that compliance with any provision of this Agreement and Declaration, the Allocation or the Rules and Regulations would preclude the possibility of compliance with any applicable provision of Section 42, the Owner shall be required to comply with the provision of Section 42 (it being expressly understood that in no event shall the imposition of any restrictions or requirements by VHDA be deemed to preclude compliance with the restrictions of requirements of Section 42).

5. Occupancy Restrictions. The Owner represents, warrants and covenants that, commencing on the applicable dates specified below and continuing for each taxable year thereafter until the end of the Extended Use Period (defined below) for each building:

A. Commencing with respect to each building in the Development not later than the close of the first year of the Credit Period (as defined in subsection (f)(1) of Section 42) for such building, the Applicable Fraction (as defined in subsection (c)(1) of Section 42), expressed as a percentage, for such building shall be not less than 100%; and, by way of clarification and not of limitation or amendment, each unit upon which the Owner relies in order to satisfy the foregoing requirement of this subsection A, but in no event less than 100% of the units in each building of the Development (or such higher percentage as may be necessary in order to satisfy the Floor Space Fraction requirement of subsection (c)(1)(D) of Section 42), shall be subject to the income limitation applicable under subsection (g)(1) of Section 42; in this case, the maximum percentage of Area Median Gross Income (as described in Section 142(d)(2)(B) of the Internal Revenue Code of 1986, as amended) applicable under the income limitation provisions of such subsection (g)(1) shall be in accordance with the average income election added to the Section 42(g)(1) minimum set-aside requirements by the Consolidated Appropriations Act of 2018 (the "Average Income Test"). Under the Average Income Test, forty percent (40%) or more (25% or more in the case of a project described in Section 142(d)(6)) of the residential units in the project must be both rent restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by

the taxpayer with respect to the respective unit. The average of the imputed income limitations designated must not be more than 60% of the area median gross income. The designated imputed income limitation of a unit can only be 20%, 30%, 40%, 50%, 60%, 70%, or 80% of the area median gross income and must be as designated with VHDA in writing.

B. Commencing on the date hereof, each unit upon which the Owner relies in order to meet the income restrictions described in the preceding subsection A shall also be Rent Restricted in accordance with the Average Income Test, as described in the preceding subsection A above.

C. Commencing on the date hereof, there shall be no (i) eviction or termination of tenancy (other than for good cause) of an existing tenant of any Low-Income Unit or (ii) increase in the gross rent with respect to such Low-Income Unit not otherwise permitted under §42.

D. Commencing on the date hereof, no applicant for occupancy in the Development can be denied occupancy because the applicant holds a voucher or certificate under Section 8 of the Housing Act of 1937.

E. Commencing on the date hereof, Owner shall not require an annual minimum income requirement that exceeds the greater of \$3,600 or 2.5 times the portion of rent to be paid by tenants receiving rental assistance.

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

G. Attached hereto as Exhibit B is an EUA Enhancement Addendum memorializing elections that Owner made in its reservation application. Not later than the last day of the first year of the Credit Period (as defined in § 42(f) of the Code) for the last building of the Development which is placed in service and continuing to the end of the Extended Compliance period, the Development shall contain all of the amenities, building materials and energy efficient features described in Exhibit B, unless waived in writing by the Authority.

H. Commencing on the date hereof, preference shall be given to individuals and families with children for occupancy in the Low-Income Units of the Development.

6. Extended Use Period/Term of Agreement.

A. The Extended Use Period (as defined in subsection (h)(6)(D) of Section 42) shall, with respect to each building in the Development, commence on the first day in the Compliance Period (as defined in subsection (i)(1) of Section 42) on which such building is part of a Qualified Low-Income Housing Project (as defined in subsection (g)(1) of Section 42) and, except for those provisions set forth in subsection 6.D. below, shall end on the Termination Date (defined below) of this Agreement and Declaration.

B. The term of this Agreement and Declaration commences, with respect to each building of the Development, on the date hereof.

C. The term of this Agreement and Declaration shall, with respect to each building in the Development, terminate on the date (the "Termination Date") which is fifteen (15) years after the close of the Compliance Period; provided, however, that notwithstanding the foregoing, this Agreement and Declaration shall, with respect to each building in the Development, terminate prior to such date in accordance with subsection (h)(6)(E) of Section 42:

(1) on the date such building is acquired by foreclosure or instrument in lieu thereof, unless a determination is made pursuant to subsection (h)(6)(E)(i)(I) of Section 42 that such acquisition is part of an agreement with the taxpayer, a purpose of which is to terminate the Extended Use Period; or

~~(2) on the last day of the one year period beginning on the date (after the fourteenth (14th) year after the commencement of the Compliance Period) that the Owner submits a written request to VHDA to find a person to present a Qualified Contract (as defined in subsection (h)(6)(F) of Section 42) to acquire the Owner's interest in the Low-Income Portion (as defined in subsection (h)(6)(H) of Section 42) of such building, provided that VHDA has not complied with such request by such date.~~

D. For a period of three (3) years after (i) the Termination Date or (ii) the date this Agreement and Declaration is terminated with respect to a building prior to the Termination Date for such building pursuant to subsection C(1) ~~or C(2)~~ hereof, the following restrictions shall apply to each Low-Income Unit (as defined in subsection (i)(3) of Section 42) in the Development or in any such building subject to early termination:

(1) there shall be no eviction or termination of tenancy (other than for good cause) of an existing tenant of any Low-Income Unit; and

(2) the gross rent with respect to any such Low-Income Unit shall not be increased to an amount in excess of the then current maximum rent limits applicable under Section 42 to such Low-Income Unit.

7. Books/Records/Inspections. The books, contracts, records, computerized data, documents and other papers relating to (i) compliance by the Owner, with respect to the Property and the Development, with Section 42 and with this Agreement and Declaration, (ii) to the eligibility of the Owner to claim Credits with respect to the Property and the Development and (iii) to any transfers of all or any part of the Development or of any ownership interest in the Owner shall at all times be maintained at the Development (or such other place as VHDA shall approve) in reasonable condition for proper audit and shall be subject to examination and inspection and copying at any reasonable time by VHDA or its authorized agents. VHDA shall also have the right to enter onto and make inspection of the Property and all improvements thereon constituting the Development. It is understood and agreed that any such inspections by VHDA shall be for the sole benefit and protection of VHDA, and neither the Owner nor any other party shall be entitled to rely upon such inspection or the results therefrom for any purpose whatsoever, including without limitation the assertion of (a) any claim or defense with respect to any failure by the Owner to perform in accordance with the terms of this Agreement and Declaration or (b) any waiver or other modification of the rights of VHDA or the obligations of the Owner hereunder.

8. Reports. The Owner shall promptly prepare and deliver to VHDA, in a format acceptable to VHDA, such information as VHDA shall from time to time request with respect to the Development's physical, operational and financial condition and its compliance with all of the terms and provisions hereof.

9. Transfers.

A. The Owner shall notify VHDA, in advance, of any sale, assignment, transfer or exchange of all or any part of the Development or of any ownership interest in the Owner (other than limited partnership interests or investor member interests, as applicable).

B. Notwithstanding anything herein to the contrary, with respect to each building of the Development, no disposition of any portion of any such building may be made to any entity unless all of such building is so transferred to such entity, as required by subsection (h)(6)(B)(iii) of Section 42.

10. Event of Default. A violation of any provision of this Agreement and Declaration shall constitute a default hereunder.

11. Enforcement of Terms. The benefits of all of the covenants and restrictions hereof shall inure to the Beneficial Parties hereto, including VHDA. In the event of a default, any Beneficial Party or Parties shall have the

right, in addition to all other remedies provided by law or in equity, to apply to any court of competent jurisdiction within the Commonwealth of Virginia to enforce specific performance by the Owner of its obligations hereunder, or to obtain an injunction against any violations hereof, or to obtain such other relief as may be appropriate.

12. Waiver and Forbearance by VHDA. VHDA shall, to the extent permitted by Section 42, have the right to waive at its option, any of the rights granted to it hereunder to enforce the terms hereof, provided that VHDA's election not to pursue a particular remedy in the event of a default shall not be construed to preclude or be a waiver of VHDA's right to pursue any of the other remedies with respect to the violation for which such remedy was pursued or with respect to any other violation prior or subsequent thereto. In addition, any forbearance by VHDA in exercising any of its rights hereunder shall not constitute a waiver or preclude the exercise of such rights.

13. Monitoring/Fees.

A. Upon the request of VHDA, the Owner shall submit to VHDA each year following a year in the Extended Use Period for each building in the Development, a written certification with respect to each such building which states that the applicable fraction during the previous year was not less than that required by subsection 5.A. hereof. Such certification shall, at the option of VHDA, also contain such other information and certifications as VHDA shall, by notice to the Owner, require in order to confirm compliance by the Owner and the Development with §42.

B. The Owner agrees to take or cause to be taken all other and further actions required of the Owner by VHDA in order to monitor the compliance by the Owner or the Development with the requirements of Section 42, which actions shall be designated in writing by VHDA to the Owner not less than ten (10) days (or such other period as may be required by law) prior to the date by which such actions must first be taken. In addition, the Owner agrees to pay to VHDA such fees in such amounts and at such times as VHDA shall, in its sole discretion, reasonably require the Owner to pay in order to reimburse VHDA for the costs of such monitoring.

14. Severability. The invalidity of any clause, part or provision of this Agreement and Declaration shall not affect the validity of the remaining portions hereof.

15. Notices. All notices to be given pursuant to this Agreement and Declaration shall be in writing and shall be deemed given when mailed by first class mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

TO VHDA: Virginia Housing Development Authority
601 South Belvidere Street
Richmond, Virginia 23220

ATTN: Multi-Family Development Division
Re: Tax Credits

TO THE OWNER: Blaine Landing Phase II, L.P.
440 Monticello Avenue, Suite 1700
Norfolk, Virginia 23510

ATTN: Mr. Richard T. Counselman

VHDA and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices shall be sent.

16. Amendment. This Agreement and Declaration may not be altered, modified or amended except in writing signed on behalf of the Owner and VHDA; provided, however, that the Owner agrees that it will take all

actions necessary to effect amendment of this Agreement and Declaration as VHDA may determine to be necessary to comply with Section 42.

17. Governing Law. This Agreement and Declaration shall be governed by the laws of the Commonwealth of Virginia and, as applicable, the laws of the United States of America.

18. Survival of Obligations. The obligations of the Owner as set forth herein shall survive the Allocation and shall not be deemed to merge with or be terminated by the making of such Allocation.

[Signatures on following page]

IN WITNESS WHEREOF, the Owner and VHDA have caused this Agreement and Declaration to be signed by their duly authorized representatives as of the day and year first written above.

BLAINE LANDING PHASE II, L.P.
(the "Owner")

By: _____

Its: _____

OF _____
of _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____
on behalf of Blaine Landing Phase II, L.P., a Virginia limited partnership.

My notary seal is affixed below:

Notary Public

My commission expires: _____

My notary registration number is: _____

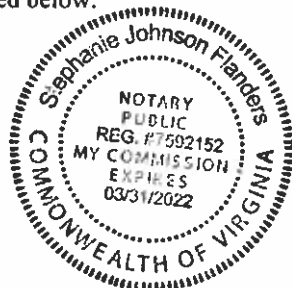
VIRGINIA HOUSING DEVELOPMENT AUTHORITY
("VHDA")

By: John P. Bondurant
Its: Authorized Officer

COMMONWEALTH OF VIRGINIA,
COUNTY OF HENRICO, To-Wit:

The foregoing instrument was acknowledged before me this 22nd day of February, 2022,
by John P. Bondurant, the Authorized Officer of the Virginia Housing Development Authority.

My notary seal is affixed below:



Stephanie Johnson Flanders
Notary Public

My commission expires: 03/31/2022

My notary registration number is: 7592152

EXHIBIT A
to
**Extended Use Regulatory Agreement
and Declaration of Restrictive Covenants**

Legal Description

EXHIBIT B
to
**Extended Use Regulatory Agreement
and Declaration of Restrictive Covenants**

EUA Enhancement Addendum

Exhibit B: EUA Enhancement Addendum

VHDA Deal #: 2968
Deal Name: Blaine Landing Apartments Phase

Cycle Year: 2021 4% Tax Exempt
Total Units: 60

The Owner has agreed to provide the following enhancements to the Development, as indicated below:

<u>FALSE</u>	a. A community/meeting room with a minimum of 749 square feet is provided.
<u>59.17%</u>	b. Percentage of brick or other similar low-maintenance material approved by the Authority covering the exterior walls. Community buildings are to be included in percentage calculations.
<u>FALSE</u>	c. Water expense is sub-metered (the tenant will pay monthly or bi-monthly bill).
<u>FALSE</u>	d. All faucets, toilets and showerheads in each bathroom are WaterSense labeled products.
<u>TRUE</u>	e. Each unit is provided with the necessary infrastructure for high-speed internet/broadband service.
<u>FALSE</u>	f. Free WiFi access will be provided in community room for usage by resident-only.
OR	<u>FALSE</u> g. Each unit is provided free individual high speed internet access.
	<u>FALSE</u> h. Each unit is provided free individual WiFi access.
OR	<u>FALSE</u> i. Full bath fans are wired to primary light with delayed timer or has continuous exhaust by ERV/DOAS.
	<u>FALSE</u> j. Full bath fans are equipped with a humidistat.
OR	<u>FALSE</u> k. Cooking surfaces are equipped with fire prevention features.
	<u>FALSE</u> l. Cooking surfaces are equipped with fire suppression features.
OR	<u>FALSE</u> m. Rehab only: Each unit has dedicated space, drain and electrical hook-ups to accept a permanently installed dehumidification system.
	<u>FALSE</u> n. All Construction types: each unit is equipped with a permanent dehumidification system.
<u>FALSE</u>	o. All interior doors within units are solid core.
<u>FALSE</u>	p. Every kitchen, living room and bedroom contains, at minimum, one USB charging port.
<u>TRUE</u>	q. All kitchen light fixtures are LED and meet VHDA's Minimum Design and Construction Requirements lighting guidelines.
<u>FALSE</u>	r. Each unit has a shelf or ledge outside any primary entry door located in an interior hallway.
<u>TRUE</u>	s. New construction only: Each unit to have balcony or patio with a minimum depth of 5 feet clear from face of building and a minimum size of 30 square feet.

For all developments exclusively serving elderly tenants:

<u>FALSE</u>	a. All cooking ranges have front controls.
<u>FALSE</u>	b. All bathrooms have an independent or supplemental heat source.
<u>FALSE</u>	c. All entrance doors have two eye viewers, one at 42" inches and the other at standard height.

Universal Design - Units Meeting Universal Design Standards (units must be shown on Plans)

<u>0</u>	UD Units	0% % of Total Units

ITEM SUMMARY

DATE: 11/15/2022

TO: The Economic Development Authority

FROM: Jeffrey Wiggins - EDA Fiscal Agent

SUBJECT: Annual EDA Auditor's Report

ATTACHMENTS:

	Description	Type
📎	Audited Financial Statements FY22	Exhibit
📎	Auditor's Report to the EDA	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Economic Development Authority Clerk	Sipes, Kate	Approved	11/10/2022 - 1:02 PM

**Economic Development Authority
of James City County, Virginia**

(A Component Unit of the County of James City, Virginia)



Financial Statements and Supplemental Information
(With Independent Auditor's Report Thereon)

June 30, 2022

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)

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Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)

Authority Officials

June 30, 2022

Board Members

Vince Campana III, Chair

Lynn Meredith, Vice Chair

Brandon Nice

Carlton Stockton

Joseph Stanko

Ellen Smith Gajda

William Turner

Other Officials

P. Sue Sadler, Board of Supervisor Liaison

Christopher Johnson, Secretary

Jennifer Tomes, Treasurer

Adam Kinsman, Legal Counsel

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors of
Economic Development Authority of James City County, Virginia
Williamsburg, Virginia

Report on the Audit of the Financial Statements

Opinion

We have audited the accompanying financial statements of the business-type activities of the Economic Development Authority of James City County, Virginia (the "Authority"), a component unit of the County of James City, Virginia, as of and for the year ended June 30, 2022, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements, as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the business-type activities of the Economic Development Authority of James City County, Virginia as of June 30, 2022, and the respective changes in financial position and cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and *Specifications for Audits of Authorities, Boards and Commissions* issued by the Auditor of Public Accounts of the Commonwealth of Virginia. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Authority, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Change in Accounting Principles

As described in Notes 1, 8 and 10 to the financial statements, in 2022, the Authority adopted new accounting guidance, GASB Statement No. 87, *Leases*. Our opinion is not modified with respect to this matter.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Authority's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Authority's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

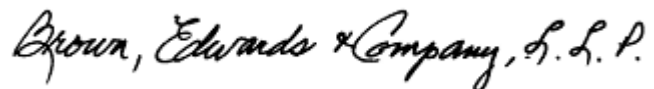
Other Information

Management is responsible for the other information included in the annual report. The other information comprises the introductory section and other information section as listed in the table of contents but does not include the basic financial statements and our auditor's report thereon. Our opinion on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated October 27, 2022, on our consideration of the Economic Development Authority of James City County, Virginia's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Economic Development Authority of James City County, Virginia's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Economic Development Authority of James City County, Virginia's internal control over financial reporting and compliance.



CERTIFIED PUBLIC ACCOUNTANTS

Newport News, Virginia
October 27, 2022

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Management's Discussion and Analysis
June 30, 2022

This section of the **Economic Development Authority of James City County, Virginia's** (Authority) annual financial report presents our discussion and analysis of the Authority's financial performance during the fiscal year ended June 30, 2022.

Financial Highlights

The Authority had an increase in net position of \$108,435 for fiscal year 2022, primarily as a result of bond application and fee revenue. In addition, the Authority restated its beginning net position by (\$32,360) to reflect adjustments related to the adoption of a new accounting standard on leases. Additional information on this restatement can be found in Note 10 to the basic financial statements. Comparative prior year information, to the extent presented here, has not been restated because the necessary information is not available.

Overview of the Financial Statements

The financial section of this report has two components - Management's Discussion and Analysis (this section) and the basic financial statements. The basic financial statements are comprised of the Statement of Net Position, Statement of Revenues, Expenses, and Changes in Net Position, Statement of Cash Flows, and Notes to the Financial Statements. The Statement of Net Position presents information on the Authority's assets and deferred outflows of resources, and liabilities and deferred inflows of resources, with the difference between these two reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Authority is improving or deteriorating. However, it is also important to consider other nonfinancial factors, such as changes in economic conditions, population and service area growth, and new or changed legislation. The Statement of Revenues, Expenses, and Changes in Net Position presents information showing how net position changed during the fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will result in cash flows in future fiscal periods. Notes to the financial statements are an integral part of the statements and should be read in conjunction with the financial statements and Management's Discussion and Analysis.

The Authority is a self-supporting entity and follows enterprise fund accounting; accordingly, the financial statements are presented using the economic resources measurement focus and the accrual basis of accounting. Enterprise fund statements offer short and long-term financial information about the activities and operations of the Authority.

Financial Analysis

Summary of Statement of Net Position		
	6/30/2022	6/30/2021
Current and other assets	\$ 1,486,576	\$ 659,090
Capital assets, net of accumulated depreciation	1,336,810	1,362,288
Total assets	\$ 2,823,386	\$ 2,021,378
Current liabilities	\$ 2,096	\$ -
Deferred inflow of resources	\$ 723,837	\$ -
Net position		
Net investment in capital assets	1,336,810	1,362,288
Unrestricted	760,643	659,090
Total net position	2,097,453	2,021,378
Total liabilities and net position	\$ 2,823,386	\$ 2,021,378

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Management's Discussion and Analysis
June 30, 2022

Total assets experienced an increase of \$802,008 in 2022. For fiscal year 2022, the increase was primarily due to the implementation of Governmental Accounting Standards Board (GASB) Statement No. 87, *Leases*, which resulted in the recording of a lease receivable related to the marina.

Current liabilities experienced an increase of \$2,096 in fiscal year 2022 due to invoices outstanding related to the fiscal year that were not paid until after June 30, 2022.

During fiscal year 2022, the Authority recorded deferred inflows of resources related to the implementation of GASB 87. This deferred inflow of resources reflects the value of the marina lease and will be recognized as revenue over the term of the lease.

At June 30, 2022, assets exceeded liabilities and deferred inflows of resources by \$2,097,453.

Summary of Statements of Revenues, Expenses and Changes in Net Position for the Year Ended

	6/30/2022	6/30/2021
Intergovernmental - County contribution	\$ 16,009	\$ 49,767
Other operating revenues	171,901	103,087
Total operating revenues	187,910	152,854
Community development & Launchpad	59,173	93,636
Other expenses	62,493	64,416
Total operating expenses	121,666	158,052
Operating income (loss)	66,244	(5,198)
Net nonoperating revenues (expenses)	42,191	(162,599)
Change in net position	108,435	(167,797)
Net position - beginning of year, as restated	1,989,018	2,189,175
Net position - end of year	\$ 2,097,453	\$ 2,021,378

Revenues represent the County's contribution to the Authority and other operating revenues from bond fees and lease revenue from the marina property. In fiscal year 2022, the County contribution decreased by (\$33,758) as a result of a decrease in payments for performance based agreements made by the Authority for which the County provides funding. In 2022, other operating revenues increased by \$68,814 primarily as a result of unanticipated bond applications and fees.

Community development and Launchpad consists primarily of contributions toward local business efforts, grants awarded to local businesses for exceeding certain investment figures, performance agreements, and costs associated with Launchpad, while other expenses include costs such as advertising and professional fees. Community development and Launchpad expenses reflect a decrease of 36.8% for fiscal year 2022, mainly because of a decrease in payments related to performance based agreements.

For fiscal year 2022, other expenses decreased by (\$1,923) primarily due to a decrease in promotion costs.

Net nonoperating revenues (expenses) consist of interest income, loss on the disposal of capital assets, and capital contributions. In 2022, the Authority recognized \$42,191 of revenue related to interest on the marina lease payments.

Total net position increased by \$108,435 in 2022. The increase in 2022 primarily resulted from bond applications and fees.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Management's Discussion and Analysis
June 30, 2022

Capital Assets

	6/30/2022	6/30/2021
Nondepreciable	\$ 744,995	\$ 744,995
Depreciable	591,815	617,293
Capital assets, net	\$ 1,336,810	\$ 1,362,288

During fiscal year 2022, net capital assets decreased as a result of depreciation.

Additional information can be found in Note 6 to the basic financial statements.

Debt Administration

The Authority has issued Economic Revenue Bonds to provide financial assistance to private-sector entities for the acquisition and construction of industrial and commercial facilities deemed to be in the public interest. It should be noted this represents conduit debt and although conduit debt obligations bear the name of the governmental issuer, which is the Authority, the issuer has no obligation for such debt beyond the resources provided by a lease or loan with the third party on whose behalf they are issued. Additional information can be found in the Other Information section on the Schedules of Revenue Bonds Outstanding – Conduit Debt (Unaudited).

Requests for Financial Information

This financial report is designed to provide our citizens, taxpayers, customers, investors and creditors with a general overview of the Authority's finances and to demonstrate the Authority's accountability for the money it receives. Questions concerning this report or requests for additional information should be directed to the James City County Department of Financial and Management Services, 101-F Mounts Bay Road, P.O. Box 8784, Williamsburg, Virginia 23187-8784.

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Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)

Statement of Net Position

	<u>6/30/2022</u>	<u>6/30/2021*</u>
Assets		
Current assets		
Cash and short-term investments (Note 2)	\$ 687,342	\$ 545,407
Current portion of lease receivable (Note 8)	28,392	-
Bond fee receivable	32,045	2,882
Lease interest receivable (Note 8)	3,462	-
Due from James City County	-	49,767
Rent receivable	-	40,396
Total current assets	<u>751,241</u>	<u>638,452</u>
Non-current assets		
Notes receivable (Note 5)	20,638	20,638
Lease receivable in more than one year (Note 8)	714,697	-
Capital assets (Note 6)		
Nondepreciable	744,995	744,995
Depreciable, net	591,815	617,293
Capital assets, net	<u>1,336,810</u>	<u>1,362,288</u>
Total non-current assets	<u>2,072,145</u>	<u>1,382,926</u>
Total assets	<u>\$ 2,823,386</u>	<u>\$ 2,021,378</u>
Liabilities, Deferred Inflow of Resources, and Net Position		
Current liabilities		
Accounts payable	\$ 2,096	\$ -
Deferred inflow of resources		
Deferred inflow-leases (Note 8)	<u>\$ 723,837</u>	<u>\$ -</u>
Net position		
Net investment in capital assets	1,336,810	1,362,288
Unrestricted	760,643	659,090
Total net position	<u>2,097,453</u>	<u>2,021,378</u>
Total liabilities, deferred inflow of resources, and net position	<u>\$ 2,823,386</u>	<u>\$ 2,021,378</u>

*The prior fiscal year is presented for comparative purposes only.

See accompanying notes to financial statements.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)

Statement of Revenues, Expenses, and Changes in Net Position

	Years Ended	
	6/30/2022	6/30/2021*
Operating revenues		
Lease revenue (Note 8)	\$ 47,726	\$ -
Rental income	-	85,798
Intergovernmental - County contribution (Note 4)	16,009	49,767
Bond fees	124,175	17,289
Total operating revenues	187,910	152,854
Operating expenses		
Community development & Launchpad	59,173	93,636
Depreciation	25,478	25,478
Promotion	20,339	22,207
Professional fees	16,676	16,581
Other	-	150
Total operating expenses	121,666	158,052
Operating income (loss)	66,244	(5,198)
Nonoperating revenue (expenses)		
Interest income	42,191	3,911
Loss on disposal of capital assets	-	(166,510)
Total nonoperating revenue (expenses), net	42,191	(162,599)
Change in net position	108,435	(167,797)
Net position, beginning of year, as restated (Note 10)	1,989,018	2,189,175
Net position, end of year	\$ 2,097,453	\$ 2,021,378

*The prior fiscal year is presented for comparative purposes only.

See accompanying notes to financial statements.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)

Statement of Cash Flows

	Years Ended	
	6/30/2022	6/30/2021*
Cash flows from operating activities		
Receipts from County and customers	\$ 197,298	\$ 143,012
Payments to suppliers	(94,092)	(185,913)
Net cash provided by (used in) operating activities	103,206	(42,901)
Cash flows from investing activities		
Interest received	38,729	3,911
Net increase (decrease) in cash	141,935	(38,990)
Cash and short-term investments, beginning of year	545,407	584,397
Cash and short-term investments, end of year	\$ 687,342	\$ 545,407
Reconciliation of operating income (loss) to net cash provided by (used in) operating activities		
Operating income (loss)	\$ 66,244	\$ (5,198)
Adjustments to reconcile operating income (loss) to cash provided by (used in) operating activities:		
Depreciation	25,478	25,478
Changes in assets and liabilities:		
Due from James City County	49,767	3,572
Lease receivable	28,473	-
Deferred inflow - leases	(47,725)	-
Rent receivable	8,036	(13,865)
Bond fee receivable	(29,163)	91
Accounts receivable	-	360
Accounts payable	2,096	(53,339)
Net cash provided by (used in) operating activities	\$ 103,206	\$ (42,901)

See accompanying notes to financial statements.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Notes to Financial Statements
June 30, 2022

1) Summary of Significant Accounting Policies

The Economic Development Authority of James City County, Virginia (the Authority) was created as a political subdivision of the Commonwealth of Virginia by ordinance of the governing body of James City County (County) on July 9, 1979, pursuant to the provisions of the Economic Development and Revenue Bond Act (Chapter 33, Section 15.1-1373, et seq., of the *Code of Virginia* (1950), as amended). The Authority is governed by a seven-member board appointed by the Board of Supervisors of James City County, Virginia. The essential purpose of the Authority is to promote industrial and commercial development in the County.

The Reporting Entity

The Authority has been determined to be a component unit of the County in accordance with Governmental Accounting Standards Board (GASB) Statement No. 14, *The Financial Reporting Entity*, as amended by GASB Statement No. 39, *Determining Whether Certain Organizations Are Component Units* and GASB Statement No. 61, *The Financial Reporting Entity: Omnibus*. Component units are legally separate entities for which a primary government is financially accountable. The County is financially accountable given the significance of the Authority's fiscal dependence on and financial relationship with the County. As a result of the County's financial accountability for the Authority, the information included in these financial statements is included in the financial statements of the County.

Implementation of these reporting requirements in no way infringes upon the independence of the Authority nor otherwise impairs the Authority's power to perform its functions under state law.

Basis of Accounting and Presentation

The Authority utilizes the economic resources measurement focus and the accrual basis of accounting as an enterprise fund. Accordingly, revenues are recognized in the period earned and expenses are recognized when they are incurred. Enterprise funds are used to account for the ongoing activities that are financed and operated similar to those often found in the private sector. Enterprise funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from the Authority's ongoing operations. Operating revenues include revenue from the County, bond fees, and lease income. Operating expenses include the costs related to promoting and developing the County and administrative expenses. All revenues and expenses not meeting these definitions are reported as nonoperating revenues and expenses.

The Authority generally first uses restricted net position for expenses incurred for which both restricted and unrestricted net position are available. The Authority may defer the use of restricted net position based on a review of the specific transaction.

Cash Equivalents

For purposes of the Statements of Cash Flows, cash equivalents are defined as short-term, highly liquid investments that are both (a) readily convertible to known amounts of cash and (b) so near maturity that they present insignificant risk of changes in value because of changes in interest rates. The Authority considers all certificates of deposits, regardless of their maturity, and other investments with original maturities of three months or less to be cash equivalents.

Capital Assets

The Authority's policy is to capitalize assets with a cost basis or acquisition value at time of donation of \$5,000 or greater. The costs of major improvements are capitalized, while the costs of maintenance and repairs, which do not improve or extend the life of an asset, are expensed. When appropriate, the Authority provides for depreciation of capital assets using the straight-line method at amounts estimated to amortize the cost or other basis of the assets over their estimated useful lives.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Notes to Financial Statements
June 30, 2022

1) Summary of Significant Accounting Policies, Continued

The Authority's capital assets consist of land, land improvements, buildings and improvements, and infrastructure. Depreciation is taken over the capital assets estimated useful lives as follows:

	<u>No. of Years</u>
Land improvements	20
Building and improvements	40
Infrastructure	25-30

Pass-Through Financing Arrangements

Some activities of the Authority represent pass-through financing arrangements. The Authority is authorized to issue revenue bonds for the purpose of obtaining and constructing facilities within the County. These agreements provide for periodic rental payments in amounts, which are equal to the principal and interest payments due to project bondholders. The Authority has assigned all rights to the rental payments to the trustees of the bondholders, and the borrowers have assumed responsibility for all operating costs, such as utilities, repairs, and property taxes. In such cases, the Authority neither receives nor disburses funds.

Although title to these properties rests with the Authority, bargain purchase options or other provisions eliminate any equity interest that would otherwise be retained. Deeds of trust secure outstanding obligations, and title will revert to the borrowers when the bonds are fully paid.

Therefore, while the Authority provides a conduit to execute such transactions, it does not retain either the benefits of asset ownership or the liability for bond liquidation. Accordingly, the Authority does not recognize associated assets, liabilities, deferred inflows or outflows of resources, rental income, or interest expense in its financial statements.

Advertising Costs

Advertising costs (promotion expenses) are expensed in the period in which they are incurred.

Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates and assumptions.

Deferred Inflows of Resources

In addition to assets and liabilities, the statement of net position reports a separate section for deferred inflows of resources. Deferred inflows represent an acquisition of net position that is applicable to a future reporting period and, therefore, will not be recognized as an inflow of resources until that time.

The Authority recognizes a deferred inflow of resources for the value of lease receivables plus any payments received at or before the commencement of the lease term that relate to future periods

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Notes to Financial Statements
June 30, 2022

1) Summary of Significant Accounting Policies, Continued

Adoption of New Accounting Statement

For fiscal year 2022, the Authority implemented GASB Statement No. 87, *Leases* (GASB 87). The objective of this Statement is to better meet the information needs of financial statement users by improving accounting and financial reporting for leases by governments. This Statement increases the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources and outflows of resources based on the payment provisions of the contract. It establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. Under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources, thereby enhancing the relevance and consistency of information about governments' leasing activities. The implementation of this pronouncement had the effect of restating net position at July 1, 2021 from \$2,021,378 to \$1,989,018. Further information on this restatement is provided in note 10, and additional details on the Authority's leases can be found in note 8.

2) Cash and Short-Term Investments

The Authority's cash and short-term investments consisted of:

	<u>6/30/2022</u>
Bank deposits	\$ 687,342

Deposits with banks are covered by the Federal Deposit Insurance Corporation (FDIC) or collateralized in accordance with the Virginia Security for Public Deposits Act, Section 2.2-4400 et. seq. of the *Code of Virginia*.

The Authority had no investments as of June 30, 2022.

The Authority utilizes the Investment Policy (Policy) of the County, which is enforced by the James City County Treasurer. In accordance with the *Code of Virginia* and other applicable law, including regulations, the Authority's Policy permits investments in U.S. government obligations, municipal obligations, commercial paper, and certain corporate notes, bankers' acceptances, repurchase agreements, negotiable certificates of deposit, bank deposit notes, mutual funds that invest exclusively in securities specifically permitted under the Policy, and the State Treasurer's Local Government Investment Pool (the Virginia LGIP, which measures its investments at amortized cost). The Treasury Board of the Commonwealth of Virginia has regulatory oversight of the LGIP.

The Policy establishes limitations on the holdings of non-U.S. government obligations. The maximum percentage of the portfolio (book value at the date of acquisition) permitted in each eligible security is as follows:

U.S. Treasury obligations	100% maximum
Federal Agency obligations	100% maximum
Registered money market mutual funds	100% maximum
Commonwealth of Virginia LGIP	100% maximum
Bank deposits	100% maximum
Repurchase agreements	50% maximum
Bankers' acceptances	40% maximum
Commercial paper	35% maximum
Negotiable certificates of deposit/bank notes	20% maximum
Municipal obligations	20% maximum
Corporate notes	15% maximum

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Notes to Financial Statements
June 30, 2022

2) Cash and Short-Term Investments, Continued

Credit Risk

As required by state statute, the Policy requires commercial paper have a short-term debt rating of no less than “A-1” (or its equivalent) from at least two of the following: Moody’s Investors Service, Standard & Poor’s, Fitch Investor’s Service, and Duff and Phelps. Corporate notes must have a minimum of “Aa” long-term debt rating by Moody’s Investors Service and a minimum of “AA” long-term debt rating by Standard & Poor’s. Negotiable certificates of deposit and bank deposit notes maturing in less than one year must have a short-term debt rating of at least “A-1” by Standard & Poor’s and “P-1” by Moody’s Investors Service. Notes having a maturity of greater than one year must be rated “AA” by Standard & Poor’s and “Aa” by Moody’s Investors Service. Although state statute does not impose credit standards on repurchase agreement counterparties, bankers’ acceptances, or money market mutual funds, the Authority has established stringent credit standards for these investments to minimize portfolio risk.

Concentration of Credit Risk

The Policy establishes limitations on portfolio composition by issuer in order to control concentration of credit risk. No more than 5% of the Authority’s portfolio will be invested in the securities of any single issuer with the following exceptions:

U.S. Treasury	100% maximum
Commonwealth of Virginia LGIP	100% maximum
Each bank deposit institution	100% maximum
Each money market mutual fund	50% maximum
Each federal agency	35% maximum
Each repurchase agreement counterparty	25% maximum

Interest Rate Risk

As a means of limiting exposure to fair value losses arising from rising interest rates, the Authority’s Policy limits the investment of short-term operating funds to an average weighted maturity of no more than 180 days, with a portion of the portfolio continuously invested in readily available funds. The operating fund core portfolio will be invested in permitted investments with a stated maturity of no more than five years from the date of purchase. To control the volatility of the core portfolio, the Treasurer will determine a duration target, not to exceed three years.

Custodial Credit Risk

The Policy requires all investment securities purchased by the Authority or held as collateral on deposits or investments shall be held by the Authority or by a third-party custodial agent who may not otherwise be counterparty to the investment transaction.

3) Conduit Debt Obligations

From time to time, the Authority has issued Economic Revenue Bonds (the Bonds) to provide financial assistance to private-sector entities for the acquisition and construction of industrial and commercial facilities deemed to be in the public interest. The Bonds are secured by the property financed and are payable solely from payments received on the underlying mortgage loans. Upon repayment of the Bonds, ownership of the acquired facilities transfers to the private-sector entity served by the bond issuance. Neither the County, the Commonwealth, nor any political subdivision thereof is obligated in any manner for repayment of the Bonds. Accordingly, the Bonds are not reported as liabilities in the accompanying financial statements. As of June 30, 2022, there were 10 series of Economic Revenue Bonds outstanding, with an aggregate principal amount payable of approximately \$210 million.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Notes to Financial Statements
June 30, 2022

4) Transactions with Related Parties

Certain financial management and accounting services are provided to the Authority by the County. Services were provided at no charge during the fiscal year ending June 30, 2022. In addition, certain personnel costs in 2022 were incurred by the County for the benefit of the Authority at no charge to the Authority.

Certain legal services are provided to the Authority by the County. The charges for these services amounted to \$6,000 for the fiscal year ending June 30, 2022, and are included in professional fees in the accompanying statement of revenues, expenses, and changes in net position.

The Authority has a resolution with the County where Renwood Farms, Inc. would pay the County annual rent of \$14,725 for use of farm property owned by the County and then pass that revenue through to the Authority. The County passed \$14,725 to the Authority in fiscal year 2022.

The Authority negotiates tax abatements as part of the Enterprise Zone Grant Program, the purpose of which is to bring new commercial and industrial businesses to the County. The County provided \$1,284 to the Authority to cover the costs of these payments in fiscal year 2022.

An Authority Board member serves as the Vice President of Construction for a local contractor that performs construction at the marina property for its tenant, Billsburg Brewery (the "Brewery"). Any major improvements on the property, of a structural nature or costing over \$5,000, require the Authority's prior written consent per the lease agreement with the Brewery. Additional information on the lease agreement is provided in Note 8.

5) Notes Receivable

A summary of notes receivable for fiscal year 2022 is below.

	<u>6/30/2022</u>
MODU System America, LLC	\$ 20,638
Total notes receivable	<u>\$ 20,638</u>
Reconciliation to Statements of Net Position:	
Notes receivable, current	\$ -
Notes receivable, non-current	20,638
Total notes receivable	<u>\$ 20,638</u>

On October 13, 2010, the Authority entered into a loan forgiveness agreement with Regina Enterprises, LLC for \$5,000, and the term of the agreement was later extended to March 31, 2019 at 0% interest. During fiscal year 2018, Regina Enterprises, LLC closed, at which time the full balance of the loan became payable, and during fiscal year 2019, the Authority collected \$2,500 of the remaining balance due, and the remaining \$73 balance was included in the Authority's receivables with a corresponding allowance for doubtful accounts of the same amount. At June 30, 2022, the remaining \$73 receivable and allowance were written off, and there is no longer a balance for this agreement.

On May 24, 2016, the Authority entered into an agreement with MODU System America, LLC and OKS International, LLC, in which the Authority made a one-time grant of \$25,000 to the businesses in exchange for specified performance. Per the agreement, the grant was in the form of a zero-interest loan to be forgiven at the end of seven years if the terms were satisfied in full. On May 10, 2019, the Authority entered into a supplemental agreement with these businesses to cure defaults that had occurred in the original agreement and provide a method to cure potential future defaults. During fiscal year 2022, MODU System America, LLC ceased operations and was absorbed by 888Brands, LLC. The Authority intends to collect the remaining balance on the loan at June 30, 2022, in the amount of \$20,638 and is in the process of determining whether this amount will be recovered through a new agreement with 888Brands, LLC or if the promissory note included in the original loan will be acted upon.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Notes to Financial Statements
June 30, 2022

6) Capital Assets

A summary of the capital asset activity for fiscal year 2022 is below.

	Balance 7/1/2021	Additions	Reductions	Balance 6/30/2022
Capital assets, nondepreciable:				
Land	\$ 710,795	\$ -	\$ -	\$ 710,795
Land improvements	34,200	-	-	34,200
Total capital assets, nondepreciable	744,995	-	-	744,995
Capital assets, depreciable:				
Land improvements	237,988	-	-	237,988
Buildings and improvements	290,095	-	-	290,095
Infrastructure	182,379	-	-	182,379
Total capital assets, depreciable	710,462	-	-	710,462
Less accumulated depreciation:				
Buildings and improvements	26,608	7,269	-	33,877
Land improvements	43,689	11,957	-	55,646
Infrastructure	22,872	6,252	-	29,124
Total accumulated depreciation	93,169	25,478	-	118,647
Total capital assets, depreciable, net	617,293	(25,478)	-	591,815
Total capital assets, net	\$ 1,362,288	\$ (25,478)	\$ -	\$ 1,336,810

7) Commitment of Operating Subsidies

The following operating subsidy agreement was in effect for fiscal year 2022.

- In fiscal year 2017, the Authority along with the Economic Development Authority of the City of Williamsburg, Virginia (EDA-WMSBG) and the Economic Development Authority of York County, Virginia (EDA-YORK), transferred regional economic development initiatives to the Greater Williamsburg Partnership, including the operation of a regional business incubator, referred to as "Launchpad." The Authority, EDA-WMSBG, and EDA-YORK agreed that \$103,500 was a reasonable estimate of the annual costs to operate Launchpad and that each party would be responsible for one-third of those annual costs. During fiscal year 2022, the Authority made a contribution to Launchpad of \$34,500 which is included in community development and Launchpad expenses on the statement of revenues, expenses, and changes in net position.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Notes to Financial Statements
June 30, 2022

8) Leases

The Authority is a lessor for a noncancellable lease of property at a marina with Billsburg Brewery (the "Brewery"). The Authority recognizes a lease receivable and deferred inflow of resources on the statement of net position related to this lease.

With the adoption of GASB 87, *Leases*, the Authority initially measures lease receivables at the present value of payments expected to be received during the lease term. Subsequently, the lease receivable is reduced by the principal portion of lease payments received. The deferred inflow of resources is initially measured as the initial amount of the lease receivable, adjusted for lease payments received at or before the lease commencement date. Subsequently, the deferred inflow of resources is recognized as revenue on a straight-line basis over the life of the lease term in the amount of \$47,725, annually. During the year of the implementation, any leases entered into prior to the beginning of that fiscal year are recorded at their present value as of the implementation date, July 1, 2021, if there were no prepayments or initial incentive payments, which was the case with the Brewery lease.

The lease with the Brewery has an initial term of ten years and will automatically renew for up to two additional five-year terms. The lease commenced in September 2017, and the rent amount paid for the first year was \$60,000. Per the agreement, rent would increase the first five subsequent years by 3% annually and will remain an annual rent of \$70,000 for the last four years of the initial term. Rent will increase by 5% for each renewal term.

The assessed value of the leasehold property at the marina is \$798,500. A warehouse and renovations at the site were capitalized by the Authority at a cost of \$710,462. Depreciation expense on these assets was \$25,478 during 2022. This resulted in accumulated depreciation of \$118,647 at June 30, 2022.

The Authority entered into a supplemental agreement with the Brewery on June 18, 2020, due to Executive Orders 53 and 55 issued by the Governor of Virginia that set restrictions for brewery retail operations. This supplemental agreement abated 100% of rent owed by the Brewery for the month of April 2020. Additionally, the Authority agreed to defer rent owed by the Brewery for the months of July, August, and September 2020 until October 10, 2021. The remaining \$8,036 of rent deferrals was recognized as a receivable by the Authority in fiscal year 2021 and was repaid by the Brewery in fiscal year 2022.

Prior to the implementation of GASB 87, the Authority also recognized a rent receivable of \$32,360 for the difference between rent revenue calculated under the straight-line method and actual rent payments under the agreement. In fiscal year 2022, this rent receivable was written off, and a lease receivable was recognized in accordance with GASB 87. Additional information on restatements to prior year amounts related to the implementation of this accounting standard is provided in Note 10.

Key estimates and judgments include how the Authority determines (1) the discount rate it uses to discount the expected lease receipts to present value, (2) lease term, and (3) lease receipts.

- The Authority uses the interest rate implicit in the lease as the discount rate for the lease for those leases where the Authority does not specify an interest rate within the lease. The discount rate being used is 5.59%.
- The lease term includes the initial ten-year term of the lease and the two additional five-year renewal terms.
- Lease receipts included in the measurement of the lease receivable is composed of fixed payments from the lessee.

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)
Notes to Financial Statements
June 30, 2022

8) Leases, Continued

The balances of the lease receivable and lease interest receivable were \$743,089 and \$3,462, respectively, as of June 30, 2022. The present value of future annual lease payments from the Brewery are anticipated as follows:

<u>Fiscal Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2023	\$ 28,392	\$ 40,826	\$ 69,218
2024	30,753	39,173	69,926
2025	32,594	37,406	70,000
2026	34,464	35,536	70,000
2027	36,440	33,560	70,000
2028-2032	235,426	131,491	366,917
2033-2037	332,247	53,016	385,263
2038	12,773	89	12,862
Total	<u>\$ 743,089</u>	<u>\$ 371,097</u>	<u>\$ 1,114,186</u>

9) COVID-19

During fiscal year 2022, the novel coronavirus disease (COVID-19) affected the operations of the Authority as well as the local business environment. The financial activities of the Authority through June 30, 2022, reflect these impacts resulting from COVID-19.

As discussed in Note 8, Executive Orders issued by the Governor of Virginia placed restrictions on brewery operations, and in response, the Authority provided its tenant with a rent abatement in the amount of \$5,305 for the month of April 2020 and rent deferrals for the months of July, August, and September 2020 until October 10, 2021. At the end of fiscal year 2022, the remaining rent deferrals of \$8,036 had been paid back in full.

The extent to which COVID-19 may impact the Authority's operations and financial condition in subsequent fiscal years will depend on future developments, which remain uncertain and cannot be predicted due to the evolving nature of this situation. As a result, the Authority cannot reasonably estimate the future impact of COVID-19 at this time.

10) Restatement

The net position as of the beginning of fiscal year 2022 was restated to reflect an adjustment to related to the Authority's implementation of GASB 87. More information regarding the adjustment can be found in Note 8 and the related balance has been adjusted as follows:

	<u>6/30/2021</u> <u>Previously</u> <u>Reported</u>	<u>Restatement</u>	<u>7/1/2021</u> <u>As</u> <u>Restated</u>
Rent receivable	\$ 40,396	\$ (32,360)	\$ 8,036
Lease receivable	\$ -	\$ 771,562	\$ 771,562
Deferred Inflow of resources	\$ -	\$ (771,562)	\$ (771,562)
Net position - unrestricted	\$ (659,090)	\$ 32,360	\$ (626,730)
Total net position	\$ 2,021,378	\$ (32,360)	\$ 1,989,018

* * * * *

Compliance Section

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL
OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER
MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED
IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

To the Board of Directors of

Economic Development Authority of James City County, Virginia
Williamsburg, Virginia

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and the *Specifications for Audits of Authorities, Boards, and Commissions*, issued by the Auditor of Public Accounts of the Commonwealth of Virginia, the financial statements of the Economic Development Authority of James City County, Virginia (the "Authority") as of and for the year ended June 30, 2022, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements, and have issued our report thereon dated October 27, 2022.

Report on Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Authority's internal control over financial reporting (internal control) as a basis for designing the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control. Accordingly, we do not express an opinion on the effectiveness of the Authority's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Economic Development Authority of James City County, Virginia's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Economic Development Authority of James City County, Virginia's internal control and compliance. Accordingly, this communication is not suitable for any other purposes.



CERTIFIED PUBLIC ACCOUNTANTS

Newport News, Virginia
October 27, 2022

As more fully described in the Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*, we performed tests of the Authority's compliance with certain provisions of the laws, regulations, contracts, and grants shown below.

STATE COMPLIANCE MATTERS

Code of Virginia

- Cash and Investment Laws
- Conflicts of Interest Act
- Local Retirement Systems
- Procurement Laws
- Uniform Disposition of Unclaimed Property Act

Other Information

Economic Development Authority of James City County, Virginia
(A Component Unit of the County of James City, Virginia)

Schedules of Revenue Bonds Outstanding - Conduit Debt (Unaudited)

Bond	Issue Date	6/30/2022	6/30/2021*
Lease Revenue Bonds, Series 2011 - James City County	2011	\$ -	\$ 667,000
Lease Revenue Refunding Bonds, Series 2014 - James City County	2014	5,190,000	6,375,000
Lease Revenue Refunding Bonds, Series 2015 - James City County	2016	17,715,000	22,185,000
Lease Revenue Bonds, Series 2016 - James City County	2016	20,645,000	21,760,000
Lease Revenue Bonds, Series 2018 - James City County	2018	18,110,000	19,125,000
Lease Revenue Refunding Bonds, Series 2021 - James City County	2021	10,355,000	11,030,000
Economic Development Revenue Bond - Christopher Newport University Educational Foundation	2001	2,198,119	2,270,119
Revenue Bond, Series B 2003 - Williamsburg Landing Inc.	2003	-	5,590,000
Revenue and Refunding Bond, Residential Care Facility - Williamsburg Landing Inc.	2005	-	17,715,000
Revenue Refunding Bond, William and Mary Foundation, Series 2011 (Refunding Variable Rate Revenue Bond - William and Mary Foundation, Series 2006, issued 12/1/2006)	2012	8,090,000	8,090,000
Virginia United Methodist Homes of Williamsburg, Inc., Series 2013A Senior	2013	-	29,040,000
Virginia United Methodist Homes of Williamsburg, Inc., Series 2013A Subordinated	2013	-	9,897,733
Virginia United Methodist Homes of Williamsburg, Inc., Series 2013B Senior	2013	-	6,500,000
Virginia United Methodist Homes of Williamsburg, Inc., Series 2013C Senior	2013	-	1,480,000
Virginia United Methodist Homes of Williamsburg, Inc., Series 2016	2016	-	6,547,777
Virginia United Methodist Homes of Williamsburg, Inc., Series 2021A	2021	26,800,000	-
Virginia United Methodist Homes of Williamsburg, Inc., Series 2021B	2021	29,365,000	-
Williamsburg Landing Inc., Series 2021	2021	71,330,000	-
		\$ 209,798,119	\$ 168,272,629

*The prior fiscal year is presented for comparative purposes only.

See accompanying independent auditors' report.

**Report to the
Members of
the Board**

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA**

June 30, 2022

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COMMUNICATION WITH THOSE CHARGED WITH GOVERNANCE

To the Members of the Board of

Economic Development Authority of James City County, Virginia
Williamsburg, Virginia

We have audited the financial statements of Economic Development Authority of James City County, Virginia (the “Authority”) for the year ended June 30, 2022, and have issued our report thereon dated October 27, 2022. Professional standards require that we provide you with information about our responsibilities in accordance with auditing standards generally accepted in the United States of America, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated August 16, 2022. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Matters

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by Economic Development Authority of James City County, Virginia, are described in Note 1 to the financial statements. As described in Note 1, 8 and 10 to the financial statements, the Economic Development Authority of James City County, Virginia adopted a new accounting standard for 2022: GASB Statement No. 87, *Leases*. We are in agreement with the effects of this implementation as presented in the financial statements and the additional related disclosures. Otherwise, the application of existing policies was not changed during 2022. We noted no transactions entered into by the Authority during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management, and are based on management’s knowledge and experience about past and current events, and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the financial statements were:

- Management’s estimate of the depreciable lives is based on the James City County’s policy.
- Management’s assumptions used in the calculation of lease receivables and deferred inflows which are based on an estimated discount rate and currently known facts and circumstances used in determining total lease terms.

We evaluated the key factors and assumptions used to develop these estimates in determining that it is reasonable in relation to the financial statements taken as a whole.

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosure affecting the financial statements include those related to:

- Note 7 - Commitment of Operating Subsidiaries

The financial statements are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. There were no uncorrected misstatements of the financial statements. The schedule in Appendix B summarizes adjusting journal entries that were posted during audit procedures.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter included in Appendix A.

Management Consultations with Other Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Authority's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Authority's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to the management's discussion and analysis, which is required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

We were not engaged to report on the Schedules of Revenue Bonds Outstanding – Conduit Debt, which accompany the financial statements but are not RSI. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

Restriction on Use

This information is intended solely for the use of the Members of the Board and management of the Economic Development Authority of James City County, Virginia , and is not intended to be, and should not be, used by anyone other than these specified parties.

Sincerely,

A handwritten signature in black ink that reads "Brown, Edwards & Company, L.L.P." in a cursive script.

CERTIFIED PUBLIC ACCOUNTANTS

Newport News, Virginia
October 27, 2022

ACCOUNTING AND OTHER MATTERS

NEW GASB PRONOUNCEMENTS

June 30, 2022

In this section, we would like to make you aware of certain confirmed and potential changes that are on the horizon that may affect your financial reporting and audit. The effective dates below are updated based on **Statement No.95, *Postponement of the Effective Dates of Certain Authoritative Guidance*** due to the COVID-19 pandemic.

The GASB issued **Statement No. 94, *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*** in March 2020. The primary objective of this Statement is to improve financial reporting by addressing issues related to public-private and public-public partnership arrangements (PPPs). As used in this Statement, a PPP is an arrangement in which a government (the transferor) contracts with an operator (a governmental or nongovernmental entity) to provide public services by conveying control of the right to operate or use a nonfinancial asset, such as infrastructure or other capital asset (the underlying PPP asset), for a period of time in an exchange or exchange-like transaction. Some PPPs meet the definition of a service concession arrangement (SCA), which the Board defines in this Statement as a PPP in which (1) the operator collects and is compensated by fees from third parties; (2) the transferor determines or has the ability to modify or approve which services the operator is required to provide, to whom the operator is required to provide the services, and the prices or rates that can be charged for the services; and (3) the transferor is entitled to significant residual interest in the service utility of the underlying PPP asset at the end of the arrangement.

ACCOUNTING AND OTHER MATTERS

NEW GASB PRONOUNCEMENTS

June 30, 2022

This Statement also provides guidance for accounting and financial reporting for availability payment arrangements (APAs). As defined in this Statement, an APA is an arrangement in which a government compensates an operator for services that may include designing, constructing, financing, maintaining, or operating an underlying nonfinancial asset for a period of time in an exchange or exchange-like transaction.

This Statement requires that PPPs that meet the definition of a lease apply the guidance in Statement No. 87, *Leases*, as amended, if existing assets of the transferor that are not required to be improved by the operator as part of the PPP arrangement are the only underlying PPP assets and the PPP does not meet the definition of an SCA. This Statement provides accounting and financial reporting requirements for all other PPPs: those that either (1) meet the definition of an SCA or (2) are not within the scope of Statement 87, as amended (as clarified by this Statement). The PPP term is defined as the period during which an operator has a noncancellable right to use an underlying PPP asset, plus, if applicable, certain periods if it is reasonably certain, based on all relevant factors, that the transferor or the operator either will exercise an option to extend the PPP or will not exercise an option to terminate the PPP.

A transferor generally should recognize an underlying PPP asset as an asset in financial statements prepared using the economic resources measurement focus. However, in the case of an underlying PPP asset that is not owned by the transferor or is not the underlying asset of an SCA, a transferor should recognize a receivable measured based on the operator's estimated carrying value of the underlying PPP asset as of the expected date of the transfer in ownership. In addition, a transferor should recognize a receivable for installment payments, if any, to be received from the operator in relation to the PPP. Measurement of a receivable for installment payments should be at the present value of the payments expected to be received during the PPP term. A transferor also should recognize a deferred inflow of resources for the consideration received or to be received by the transferor as part of the PPP. Revenue should be recognized by a transferor in a systematic and rational manner over the PPP term.

This Statement requires a transferor to recognize a receivable for installment payments and a deferred inflow of resources to account for a PPP in financial statements prepared using the current financial resources measurement focus. Governmental fund revenue would be recognized in a systematic and rational manner over the PPP term.

This Statement also provides specific guidance in financial statements prepared using the economic resources measurement focus for a government that is an operator in a PPP that either (1) meets the definition of an SCA or (2) is not within the scope of Statement 87, as amended (as clarified in this Statement). An operator should report an intangible right-to-use asset related to an underlying PPP asset that either is owned by the transferor or is the underlying asset of an SCA. Measurement of the right-to-use asset should be the amount of consideration to be provided to the transferor, plus any payments made to the transferor at or before the commencement of the PPP term, and certain direct costs. For an underlying PPP asset that is not owned by the transferor and is not the underlying asset of an SCA, an operator should recognize a liability measured based on the estimated carrying value of the underlying PPP asset as of the expected date of the transfer in ownership. In addition, an operator should recognize a liability for installment payments, if any, to be made to the transferor in relation to the PPP. Measurement of a liability for installment payments should be at the present value of the payments expected to be made during the PPP term. An operator also should recognize a deferred outflow of resources for the consideration provided or to be provided to the transferor as part of the PPP. Expense should be recognized by an operator in a systematic and rational manner over the PPP term.

This Statement also requires a government to account for PPP and non-PPP components of a PPP as separate contracts. If a PPP involves multiple underlying assets, a transferor and an operator in certain cases should account for each underlying PPP asset as a separate PPP. To allocate the contract price to different components, a transferor and an operator should use contract prices for individual components as long as they do not appear to be unreasonable based on professional judgment or use professional judgment to determine their best estimate if there are no stated prices or if stated prices appear to be unreasonable. If determining the best estimate is not practicable, multiple components in a PPP should be accounted for as a single PPP.

ACCOUNTING AND OTHER MATTERS

NEW GASB PRONOUNCEMENTS

June 30, 2022

This Statement also requires an amendment to a PPP to be considered a PPP modification, unless the operator's right to use the underlying PPP asset decreases, in which case it should be considered a partial or full PPP termination. A PPP termination should be accounted for by a transferor by reducing, as applicable, any receivable for installment payments or any receivable related to the transfer of ownership of the underlying PPP asset and by reducing the related deferred inflow of resources. An operator should account for a termination by reducing the carrying value of the right-to-use asset and, as applicable, any liability for installment payments or liability to transfer ownership of the underlying PPP asset. A PPP modification that does not qualify as a separate PPP should be accounted for by remeasuring PPP assets and liabilities.

An APA that is related to designing, constructing, and financing a nonfinancial asset in which ownership of the asset transfers by the end of the contract should be accounted for by a government as a financed purchase of the underlying nonfinancial asset. This Statement requires a government that engaged in an APA that contains multiple components to recognize each component as a separate arrangement. An APA that is related to operating or maintaining a nonfinancial asset should be reported by a government as an outflow of resources in the period to which payments relate.

The requirements of this Statement are effective for reporting periods beginning after June 15, 2022.

The GASB issued **Statement No. 96, *Subscription-Based Information Technology Arrangements*** in May 2020. This Statement provides guidance on the accounting and financial reporting for subscription-based information technology arrangements (SBITAs) for government end users (governments). This Statement (1) defines a SBITA; (2) establishes that a SBITA results in a right-to-use subscription asset—an intangible asset—and a corresponding subscription liability; (3) provides the capitalization criteria for outlays other than subscription payments, including implementation costs of a SBITA; and (4) requires note disclosures regarding a SBITA. To the extent relevant, the standards for SBITAs are based on the standards established in Statement No. 87, *Leases*, as amended.

A SBITA is defined as a contract that conveys control of the right to use another party's (a SBITA vendor's) information technology (IT) software, alone or in combination with tangible capital assets (the underlying IT assets), as specified in the contract for a period of time in an exchange or exchange-like transaction.

The subscription term includes the period during which a government has a noncancellable right to use the underlying IT assets. The subscription term also includes periods covered by an option to extend (if it is reasonably certain that the government or SBITA vendor will exercise that option) or to terminate (if it is reasonably certain that the government or SBITA vendor will *not* exercise that option).

Under this Statement, a government generally should recognize a right-to-use subscription asset—an intangible asset—and a corresponding subscription liability. A government should recognize the subscription liability at the commencement of the subscription term, —which is when the subscription asset is placed into service. The subscription liability should be initially measured at the present value of subscription payments expected to be made during the subscription term. Future subscription payments should be discounted using the interest rate the SBITA vendor charges the government, which may be implicit, or the government's incremental borrowing rate if the interest rate is not readily determinable. A government should recognize amortization of the discount on the subscription liability as an outflow of resources (for example, interest expense) in subsequent financial reporting periods.

The subscription asset should be initially measured as the sum of (1) the initial subscription liability amount, (2) payments made to the SBITA vendor before commencement of the subscription term, and (3) capitalizable implementation costs, less any incentives received from the SBITA vendor at or before the commencement of the subscription term. A government should recognize amortization of the subscription asset as an outflow of resources over the subscription term.

ACCOUNTING AND OTHER MATTERS

NEW GASB PRONOUNCEMENTS

June 30, 2022

Activities associated with a SBITA, other than making subscription payments, should be grouped into the following three stages, and their costs should be accounted for accordingly:

- Preliminary Project Stage, including activities such as evaluating alternatives, determining needed technology, and selecting a SBITA vendor. Outlays in this stage should be expensed as incurred.
- Initial Implementation Stage, including all ancillary charges necessary to place the subscription asset into service. Outlays in this stage generally should be capitalized as an addition to the subscription asset.
- Operation and Additional Implementation Stage, including activities such as subsequent implementation activities, maintenance, and other activities for a government's ongoing operations related to a SBITA. Outlays in this stage should be expensed as incurred unless they meet specific capitalization criteria.

In classifying certain outlays into the appropriate stage, the nature of the activity should be the determining factor. Training costs should be expensed as incurred, regardless of the stage in which they are incurred.

If a SBITA contract contains multiple components, a government should account for each component as a separate SBITA or nonsubscription component and allocate the contract price to the different components. If it is not practicable to determine a best estimate for price allocation for some or all components in the contract, a government should account for those components as a single SBITA.

This Statement provides an exception for short-term SBITAs. Short-term SBITAs have a maximum possible term under the SBITA contract of 12 months (or less), including any options to extend, regardless of their probability of being exercised. Subscription payments for short-term SBITAs should be recognized as outflows of resources.

This Statement requires a government to disclose descriptive information about its SBITAs other than short-term SBITAs, such as the amount of the subscription asset, accumulated amortization, other payments not included in the measurement of a subscription liability, principal and interest requirements for the subscription liability, and other essential information.

The requirements of this Statement are effective for reporting periods beginning after June 15, 2022.

ACCOUNTING AND OTHER MATTERS

CURRENT GASB PROJECTS

June 30, 2022

GASB currently has a variety of projects in process. Some of these projects discussed below.

Conceptual Framework – Recognition. The project’s objective is to develop recognition criteria for *whether* information should be reported in state and local governmental financial statements and *when* that information should be reported. This project ultimately will lead to a Concepts Statement on recognition of elements of financial statements. The project is currently in the exposure draft comment period, with an estimated completion of February 2021.

Conceptual Framework – Disclosure. The project’s objective is to develop concepts related to a framework for the development and evaluation of notes to financial statements for the purpose of improving the effectiveness of note disclosures in government financial reports. The framework will establish criteria for the Board to use in evaluating potential note disclosure requirements during future standards-setting activities and in reexamining existing note disclosure requirements. Those concepts also will provide governments a basis for considering the essentiality of information items for which the GASB does not specifically provide authoritative disclosure guidance. This project is currently in exposure draft comment period.

Financial Reporting Model. The objective of this project is to make improvements to the financial reporting model, including Statement No. 34, *Basic Financial Statements – and Management’s Discussion and Analysis – for State and Local Governments*, and other reporting model-related pronouncements (Statements No. 35, *Basic Financial Statements – and Management’s Discussion and Analysis – for Public Colleges and Universities*, No. 37, *Basic Financial Statements – and Management’s Discussion and Analysis – for State and Local Governments: Omnibus*, No. 41, *Budgetary Comparison Schedules – Perspective Differences*, and No. 46, *Net Assets Restricted by Enabling Legislation, and Interpretation No. 6, Recognition and Measurement of Certain Liabilities and Expenditures in Governmental Fund Financial Statements*). The objective of these improvements would be to enhance the effectiveness of the model in providing information that is essential for decision-making and enhance the ability to assess a government’s accounting and address certain application issues, based upon the results of the pre-agenda research on the financial reporting model. The project is currently in the exposure draft comment period, with an estimated completion of February 2021.

Revenue and Expense Recognition. The objective of this project is to develop a comprehensive application model for the classification, recognition, and measurement of revenues and expenses. The purpose for developing a comprehensive model is (1) to improve the information regarding revenues and expenses that users need to make decisions and assess accountability, (2) to provide guidance regarding exchange and exchange-like transactions that have not been specifically addressed, (3) to evaluate revenue and expense recognition in the context of the conceptual framework, and (4) to address application issues identified in practice, based upon the results of the pre-agenda research on revenue for exchange and exchange-like transactions. The project is currently in the preliminary views comment period, with an estimated completion of February 2021.

Appendix A

Management Representation Letter



Economic Development Authority
101-D Mounts Bay Rd.
P.O. Box 8784
Williamsburg, VA 23187
757-253-6607
yesjamescitycountyva.com

October 26, 2022

Brown, Edwards & Company, L.L.P.
701 Town Center Drive, Suite 700
Newport News, VA 23606-4295

This representation letter is provided in connection with your audit of the financial statements of the Economic Development Authority of James City County, Virginia (the Authority), which comprise the respective financial positions as of June 30, 2022, and the related statements of changes in net position and cash flows for the year then ended, and the related notes to the financial statements, for the purpose of expressing an opinion as to whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP).

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. An omission or misstatement that is monetarily small in amount could be considered material as a result of qualitative factors.

We confirm, to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves as of the date of this letter:

Financial Statements

1. We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter dated June 8, 2022, including our responsibility for the preparation and fair presentation of the financial statements in accordance with U.S. GAAP.
2. The financial statements referred to above are fairly presented in conformity with U.S. GAAP and include all properly classified funds and other financial information required by generally accepted accounting principles to be included in the financial reporting entity.
3. We acknowledge our responsibility for the design, implementation, and maintenance of internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.
4. We acknowledge our responsibility for the design, implementation, and maintenance of internal controls to prevent and detect fraud.
5. Significant assumptions we used in making accounting estimates, including those measured at fair value, are reasonable.
6. Related party relationships and transactions, including revenues, expenditures/expenses, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties have been appropriately accounted for and disclosed in accordance with the requirements of U.S. GAAP.
7. We are in agreement with the adjusting journal entries. There are no uncorrected misstatements. Further, there were no omitted disclosures.
8. The effects of all known actual or possible litigation, claims, and assessments have been accounted for and disclosed in accordance with U.S. GAAP.
9. Guarantees, whether written or oral, under which the Authority is contingently liable, if any, have been properly recorded or disclosed.

10. We have provided the planning communication letter to all members of those charged with governance as requested.

Information Provided

11. We have provided you with:
- a. Access to all information, of which we are aware, that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters.
 - b. Additional information that you have requested from us for the purpose of the audit.
 - c. Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
 - d. Minutes of the meetings of the Authority or summaries of actions of recent meetings for which minutes have not yet been prepared.
12. All material transactions have been recorded in the accounting records and are reflected in the financial statements.
13. We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
14. We have no knowledge of any fraud or suspected fraud that affects the Authority and involves:
- a. Management,
 - b. Employees who have significant roles in internal control,
 - c. Service organizations used by the entity, or
 - d. Others where the fraud could have a material effect on the financial statements.
15. We have no knowledge of any allegations of fraud or suspected fraud affecting the Authority's financial statements communicated by employees, former employees, regulators, or others.
16. We have no knowledge of instances of noncompliance or suspected noncompliance with provisions of laws, regulations, contracts, or grant agreements, or waste or abuse, whose effects should be considered when preparing financial statements.
17. We have disclosed to you all known actual or possible litigation, claims, and assessments, whose effects should be considered when preparing the financial statements. Also, the Authority has not contacted an attorney concerning litigation, claims or assessments during fiscal year 2022 or subsequent to year-end through the date of this letter.
18. We have disclosed to you the identity of the Authority's related parties and all the related party relationships and transactions of which we are aware.

Government—specific

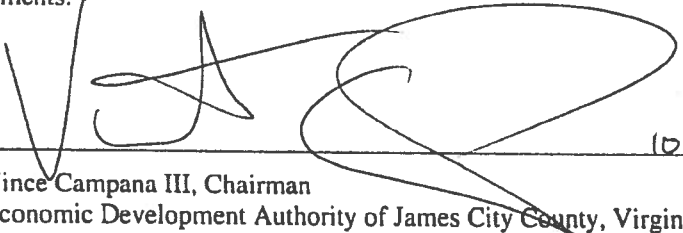
19. We have made available to you all financial records and related data.
20. There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.
21. We have taken timely and appropriate steps to remedy fraud, noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that you have reported to us.
22. We have a process to track the status of audit findings and recommendations.
23. We have identified to you any previous audits, attestation engagements, and other studies related to the audit objectives and whether related recommendations have been implemented.
24. The Authority has no plans or intentions that may materially affect the carrying value or classification of assets, liabilities, or equity.

25. We are responsible for compliance with the laws, regulations, and provisions of contracts and grant agreements applicable to us, including tax or debt limits and debt contracts; and legal and contractual provisions for reporting specific activities in separate funds.
26. We have identified and disclosed to you all instances, which have occurred or are likely to have occurred, of fraud and noncompliance with provisions of laws and regulations that we believe have a material effect on the financial statements or other financial data significant to the audit objectives, and any other instances that warrant the attention of those charged with governance. There were none.
27. We have identified and disclosed to you all instances, which have occurred or are likely to have occurred, of noncompliance with provisions of contracts and grant agreements that we believe have a material effect on the determination of financial statement amounts or other financial data significant to the audit objectives. There were none.
28. We have identified and disclosed to you all instances that have occurred or are likely to have occurred, of abuse that could be quantitatively or qualitatively material to the financial statements or other financial data significant to the audit objectives. There were none.
29. There are no violations or possible violations of budget ordinances, laws and regulations (including those pertaining to adopting, approving, and amending budgets), provisions of contracts and grant agreements, tax or debt limits, and any related debt covenants whose effects should be considered for disclosure in the financial statements, or as a basis for recording a loss contingency, or for reporting on noncompliance.
30. As part of your audit, you advised management about appropriate accounting principles, assisted with preparation of the financial statements and related notes as well as certain nonaudit journal entries, maintenance of capital asset and depreciation schedules, and assisted with the implementation of GASB 87, *Leases*. We acknowledge our responsibility as it relates to those nonaudit services, including that we assume all management responsibilities; oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of the services performed; and accept responsibility for the results of the service; and ensured that the Authority's data and records are complete and received sufficient information to oversee the services. We have reviewed, approved, and accepted responsibility for those financial statements and related notes.
31. The Authority has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral.
32. The Authority has complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.
33. We have followed all applicable laws and regulations in adopting, approving, and amending budgets.
34. Components of net position (net investment in capital assets; restricted; and unrestricted) are properly classified and, if applicable, approved.
35. Provisions for uncollectible receivables have been properly identified and recorded.
36. Expenses have been appropriately classified or allocated to functions and programs, and allocations have been made on a reasonable basis.
37. Revenues are appropriately classified.
38. Deposits and investment securities and derivative instruments are properly classified as to risk and are properly disclosed.
39. Capital assets, including infrastructure and intangible assets, are properly capitalized, reported, and, if applicable, depreciated.
40. We have not completed the process of evaluating the impact that will result from adopting new Governmental Accounting Standards Board Statements (GASBS) that are not yet effective, as discussed in the notes to financial statements. The entity is therefore unable to disclose the impact that adopting these Statements will have on its financial position and the results of its operations when the Statements are adopted.

41. We have appropriately disclosed the Authority's policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position is available and have determined that net position is properly recognized under the policy.
42. We acknowledge our responsibility for the required supplementary information (RSI). The RSI (Management's Discussion and Analysis) is measured and presented within prescribed guidelines and the methods of measurement and presentation have not changed from those used in the prior period. We have disclosed to you any significant assumptions and interpretations underlying the measurement and presentation of the RSI.
43. We are aware that the Schedule of Revenue Bonds Outstanding is unaudited information and take full responsibility for the accuracy of the information.
44. Other than as disclosed in Note 9 to the financial statements, no other impacts from the COVID-19 outbreak are necessary to be reflected in those financial statements.

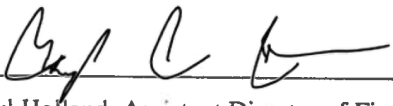
We have evaluated subsequent events through the date of this letter, which is the date the financial statements were available to be issued. No events, including instances of noncompliance, have occurred subsequent to the balance sheet date and through the date of this letter that would require adjustment to or disclosure in the aforementioned financial statements.

Signature: _____


Vince Campana III, Chairman
Economic Development Authority of James City County, Virginia

10/27/2022

Signature: _____


Cheryl Holland, Assistant Director of Financial & Management Services
James City County, Virginia

Appendix B

Audit Adjustments

Client: **1646939.001 - Economic Development Authority of James City County, Virginia**
Engagement: **22 AUD - ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA**
Period Ending: **6/30/2022**
Trial Balance: **3005 - TBD**
Workpaper: **3705 - Adjusting Journal Entries Report**

Account	Description	W/P Ref	Debit	Credit
Adjusting Journal Entries JE # 1		3720		
To reverse and correct GASB 87 entries.				
300-305-3513	Lease-Interest Revenue		289.00	
300-305-3513	Lease-Interest Revenue		348.00	
300-305-3513	Lease-Interest Revenue		4,160.00	
300-309-3970	Marina Property		3,559.00	
300-309-3970	Marina Property		8,036.00	
300-309-3970	Marina Property		63,644.00	
300-309-3970	Marina Property		66,673.00	
300-413-5921	Marina Property Rent Receivabl		8,036.00	
300-413-5921	Marina Property Rent Receivabl		32,360.00	
300-415-8275	Lease Receivable		63,042.00	
300-415-8275	Lease Receivable		1,118,830.00	
300-415-8276	Lease Interest Receivable		289.00	
300-415-8276	Lease Interest Receivable		298.00	
300-415-8276	Lease Interest Receivable		338.00	
300-585-0920	Deferred Inflow-Leases		69,206.00	
300-585-0920	Deferred Inflow-Leases		1,077,885.00	
300-601-6138	Net Position - Restatement		338.00	
300-601-6138	Net Position - Restatement		30,356.00	
300-601-6138	Net Position - Restatement		32,360.00	
300-305-3513	Lease-Interest Revenue			298.00
300-305-3513	Lease-Interest Revenue			338.00
300-305-3513	Lease-Interest Revenue			3,559.00
300-309-3970	Marina Property			4,160.00
300-309-3970	Marina Property			8,036.00
300-309-3970	Marina Property			63,042.00
300-309-3970	Marina Property			69,206.00
300-413-5921	Marina Property Rent Receivabl			8,036.00
300-413-5921	Marina Property Rent Receivabl			32,360.00
300-415-8275	Lease Receivable			63,644.00
300-415-8275	Lease Receivable			1,108,241.00
300-415-8276	Lease Interest Receivable			289.00
300-415-8276	Lease Interest Receivable			338.00
300-415-8276	Lease Interest Receivable			348.00
300-585-0920	Deferred Inflow-Leases			66,673.00
300-585-0920	Deferred Inflow-Leases			1,118,830.00
300-601-6138	Net Position - Restatement			289.00
300-601-6138	Net Position - Restatement			32,360.00
Total			2,580,047.00	2,580,047.00
Adjusting Journal Entries JE # 2		3721		
correct lease balances and amounts				
300-413-5921	Marina Property Rent Receivabl		32,360.00	
300-415-8275	Lease Receivable		771,562.00	
300-585-0920	Deferred Inflow-Leases		1,118,830.00	
300-601-6138	Net Position - Restatement		289.00	
300-601-6138	Net Position - Restatement		32,360.00	
300-413-5921	Marina Property Rent Receivabl			32,360.00
300-415-8275	Lease Receivable			1,118,830.00
300-415-8276	Lease Interest Receivable			289.00
300-585-0920	Deferred Inflow-Leases			771,562.00
300-601-6138	Net Position - Restatement			32,360.00
Total			1,955,401.00	1,955,401.00
Adjusting Journal Entries JE # 3		3722		
to correct lease balances and amounts				
300-305-3513	Lease-Interest Revenue		298.00	
300-305-3513	Lease-Interest Revenue		3,559.00	
300-309-3970	Marina Property		8,036.00	
300-309-3970	Marina Property		28,474.00	
300-309-3970	Marina Property		38,729.00	
300-309-3970	Marina Property		69,206.00	
300-413-5921	Marina Property Rent Receivabl		8,036.00	
300-415-8275	Lease Receivable		63,644.00	
300-415-8276	Lease Interest Receivable		289.00	
300-415-8276	Lease Interest Receivable		3,462.00	
300-585-0920	Deferred Inflow-Leases		47,726.00	
300-305-3513	Lease-Interest Revenue			289.00
300-305-3513	Lease-Interest Revenue			3,462.00
300-305-3513	Lease-Interest Revenue			38,729.00
300-309-3970	Marina Property			3,559.00
300-309-3970	Marina Property			8,036.00
300-309-3970	Marina Property			47,726.00
300-309-3970	Marina Property			63,644.00
300-413-5921	Marina Property Rent Receivabl			8,036.00
300-415-8275	Lease Receivable			28,474.00
300-415-8276	Lease Interest Receivable			298.00
300-585-0920	Deferred Inflow-Leases			69,206.00
Total			271,459.00	271,459.00

ITEM SUMMARY

DATE: 11/15/2022

TO: The Economic Development Authority

FROM: Christopher Johnson- EDA Secretary

SUBJECT: Director's Report

ATTACHMENTS:

	Description	Type
	Director's Report	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Economic Development Authority Clerk	Sipes, Kate	Approved	11/10/2022 - 1:02 PM

MEMORANDUM

DATE: November 15, 2022

TO: The Economic Development Authority

FROM: Christopher M. Johnson, Director of Economic Development

SUBJECT: Director's Report, October-November 2022

Small Business Relief Grant Program - Staff received a contract amendment agreement from the Virginia Department of Housing and Community Development (DHCD) for an additional \$200,000 in funding which will allow staff to fund 14 additional businesses. To date, the program has processed over 90 applications for \$885,878 in funding requests. Checks totaling \$696,730 have been distributed to 56 local small businesses. Businesses approved for funding include 16 minority-owned businesses and 29 woman-owned businesses. The number of full-time equivalent positions employed at businesses receiving funding is 358.

James River Commerce Center - The broker for the contract purchaser updated staff on the remaining engineering issues that must be resolved to receive site plan approval and continues to anticipate closing on the property by the end of 2022.

Virginia Business Ready Sites Program - Staff participated in a virtual site visit on Oct. 25 with staff from Virginia Economic Development Partnership's Real Estate Solutions and Economic Competitiveness teams and sector suitability consultant KPMG to discuss our Virginia Business Ready Sites Program grant application to complete and update due diligence studies and prepare design and engineering for utility extensions from the Stonehouse Commerce Park to the Hazelwood Farms Enterprise Center property on Route 30 and Old Stage Road.

Alliance Site Visits - One of the businesses that our Hampton Roads Alliance delegation visited on the recent marketing mission to Germany, Austria, and Switzerland visited Hampton Roads and met with a public safety leadership from James City County, York County, and the City of Williamsburg on Oct. 19 to explore potential locations for future manufacturing sites and potential partnerships. Staff also participated in a follow-up meeting with a second manufacturing company to discuss a potential site visit next month.

Regional Events/Initiatives:

- Staff held Manufacturing Day for Warhill High School on Oct. 21 at Nicewood Enterprises and Greystone of Virginia.
- Staff attended the Williamsburg Health Foundation Breakfast for Local Government Officials on Oct. 24.
- Staff attended the Greater Williamsburg Chamber of Commerce State of Greater Williamsburg meeting on Oct. 27.
- Staff attended a Peninsula Economic Development Directors meeting on Oct. 31 at the Peninsula Chamber of Commerce.
- Staff held Manufacturing Day for Jamestown High School on Nov. 4 at George Nice & Sons and Printpack.
- Staff attended a Williamsburg Area Transit Authority Stakeholder meeting on Nov. 9.
- Staff attended the START Peninsula Championship Pitch competition on Nov. 10.

Upcoming Dates of Interest:

- **Manufacturing Day:** Friday, Nov. 18 - Lafayette High School (Black Creek Workshop and Anheuser-Busch).
- **Celebration of Business Event:** Thursday, Nov. 17, from 4:30-6:30 p.m. at The Maine of Williamsburg, 2580 John Tyler Highway.
- **Shop Local Boost:** Wednesday, Nov. 30, from 12-2 p.m. in New Town.
- **2022 Williamsburg Christmas Parade:** Sunday, Dec. 4 at 5 p.m.

CMJ/md

DirRptOct-Nov22-mem