



2018 SEP 17 AM 9:48
OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

SEP 17 2018

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration by the Council is proposed resolution entitled the “Eastern Branch Boys & Girls Club Surplus Declaration and Approval Resolution of 2018.”

This proposed resolution, along with the “Eastern Branch Boys & Girls Club Surplus Declaration and Approval Resolution of 2018,” will declare District owned real property located at 261 17th Street, S.E. and identified for taxation and assessment purposes as Lot 0802 in Square 1088 (“Property”), as no longer required for public purposes and approve its disposition pursuant to D.C. Official Code §10-801.

The proposed development program will transform this vacant site, located in the Capitol Hill neighborhood, into an inclusive senior residential building containing 29 for-sale units. The development is set to provide community space that will be available to residents and the public alike. The design includes 30 percent of the units as affordable housing, at both 50 percent and 80 percent of Area Median Income (AMI).

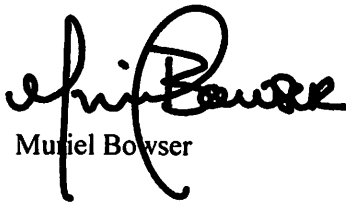
The Property sits at the intersection of Massachusetts Avenue, 17th, and C Streets S.E. in Ward 6. The Property consists of a trapezoidal-shaped lot of 11,125 square feet in total land area, atop which sits the approximately 31,028 square foot Eastern Branch Boys and Girls Club building. The Club closed in August 2007. The District acquired the Property from the Boys and Girls Club of Greater Washington in 2010. Since then the building has remained unoccupied and unused.

In 2017, the Property went through the OurRFP process, a Mayoral initiative that aims to obtain public input for the future use of properties prior to issuing a Request for Proposals. The process involved a series of public engagements conducted by DMPED. Upon review of the proposals from each responsive team to the RFP, and in consideration of the requested criteria from the community and ANC 6B, DMPED selected the development team of Capitol Hill Cohousing, LLC, comprised of Century Associates, LLC, Eco Housing Corporation, and Keystar, LLC (collectively the “Developer”).

Approval of the proposed resolutions will declare surplus and allow for the disposition of the Property to the Developer to create a unique senior housing building with affordable and market rate, for-sale units. The building will provide communal spaces to enhance the atmosphere and sense of community for its residents. The project will return existing building to life and provide maintenance to public space directly surrounding the building.

As always, I am available to discuss any questions you may have regarding these proposed resolutions. I look forward to their prompt and favorable consideration.

Sincerely,



Mufiel Bowser


Chairman Phil Mendelson
at the request of the Mayor

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A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To approve the disposition of District-owned real property, known as the Eastern Branch Boys and Girls Club, located at 261 17th Street S.E. and known for taxation and assessment purposes as Lot 0802 in Square 1088.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the “Eastern Branch Boys and Girls Club Disposition Approval Resolution of 2018”.

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) “Certified Business Enterprise” means a business enterprise or joint venture certified pursuant to the Small, Local and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), as amended.

(2) “First Source Agreement” means an agreement with the District governing certain obligations of the Developer pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), as amended, and Mayor’s Order 83-265, dated November 9,

33 1983, regarding job creation and employment generated as a result of the construction on
34 the Property.

35 (3) "Property" means the real property and improvements located at 261 17th
36 Street S.E., and known for taxation and assessment purposes as Lot 0802 in Square 1088.

37 Sec. 3. Findings.

38 (a) The developer of the Property shall be Capitol Hill Cohousing, LLC, a
39 District of Columbia limited liability company, with a business address of 608 6th Street
40 N.E., Washington, DC 20002, and its successors, assignees, sublessees, or affiliates, as
41 approved by the Mayor (collectively, the "Developer").

42 (b) The Property consists of an 11,125 square foot lot and existing building of
43 approximately 31,028 square feet.

44 (c) The intended use of the Property is a mixed-use development including
45 affordable residential units for seniors, market-rate residential units for seniors,
46 community space that is available to residents and the public, and any ancillary uses
47 allowed under applicable law, and as further described in the term sheet submitted with
48 this resolution (the "Project").

49 (d) The Mayor finds that the disposition shall include the following terms:

50 (1) The Developer will comply with the requirements of An Act
51 Authorizing the sale of certain real estate in the District of Columbia no longer required
52 for public purposes, approved August 5, 1939, as amended (53 Stat. 1211; D.C. Official
53 Code § 10-801 *et seq.*) (the "Act"), including dedicating residential units in the Project
54 as affordable housing units, pursuant to D.C. Official Code § 10-801(b-3).

55 (2) The Developer shall enter into an agreement that shall require the
56 Developer to, at a minimum, contract with Certified Business Enterprises for at least 35%
57 of the contract dollar volume of the Project, and shall require at least 20% equity and
58 20% development participation of Certified Business Enterprises in the Project, in
59 accordance with D.C. Official Code §§ 2-218.49a and 10-801(b)(6).

60 (3) The Developer shall enter into a First Source Agreement with the
61 District that shall govern certain obligations of the Developer regarding job creation and
62 employment as a result of the construction on the Property, pursuant to D.C. Official
63 Code § 2-219.03 and Mayor’s Order 83-265, dated November 9, 1983.

64 (e) Pursuant to D.C. Official Code § 10-801(b)(8)(C), the proposed method of
65 disposition is a fee simple transfer, as further described in the documents submitted with
66 this resolution.

67 (f) The District has satisfied the public hearing requirements of section 1(b-5)
68 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer
69 required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code
70 § 10-801(b-5), as amended by The Land Disposition Transparency Emergency Act of
71 2017, effective March 27, 2017, (D.C. Act 22-25)).

72 (g) The Land Disposition and Development Agreement for the disposition of
73 the real property shall not be inconsistent with the substantive business terms of the
74 transaction submitted by the Mayor with this resolution in accordance with subsection
75 D.C. Official Code § 10-801(b-1)(2), unless revisions to those substantive business terms
76 are approved by the Council.

77 Sec. 4. Approval of disposition.

78 (a) Pursuant to the Act, the Mayor transmitted to the Council a request for
79 approval of the disposition of the Property to the Developer.

80 (b) The Council approves the disposition of the Property.

81 Sec. 5. Fiscal impact statement.

82 The Council adopts the fiscal impact statement in the committee report as the
83 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home
84 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02
85 (c)(3)).

86 Sec. 6. Transmittal of resolution.

87 The Secretary to the Council shall transmit a copy of this resolution, upon its
88 adoption, to the Mayor.

89 Sec. 7. Effective date.

90 This resolution shall take effect immediately.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL




ATTORNEY GENERAL
KARL A. RACINE

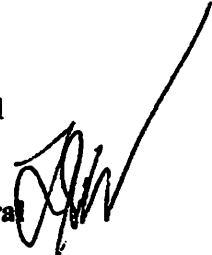


Commercial Division

MEMORANDUM-

TO: Janet Robins
Deputy Attorney General
Legal Counsel Division

THROUGH: David Fisher 
Deputy Attorney General

FROM: Lawrence Wolk 
Assistant Attorney General

DATE: August 10, 2018

SUBJECT: Disposition of Property Located at 261 17th Street, S.E., (Lot 802 in Square 1088) ("261 17th") by the District of Columbia ("District") to Capitol Hill Cohousing LLC ("Developer") Pursuant to D.C. Official Code Sec. 10-801(b)(8)(C) ("Disposition")

This is to Certify that the Commercial Division of the Office of the Attorney General has examined the following documents provided by the Office of the Deputy Mayor for Planning and Economic Development ("DMPED") ("Transaction Documents"):

1. Signed Council Term Sheet - Disposition of 261 17th, dated August 9, 2018;
2. Undated and unsigned Land Disposition and Development Agreement between the District and Developer ("LDDA");
3. Exhibits A, B, F, and J to the LDDA, undated and unsigned; and
4. LDDA Exhibits D, G and M, signed.

After a detailed examination of the Transaction Documents, we conclude that they do not contravene or violate any known legal requirements, obligations or commitments of the District government. Accordingly, in their present form as provided to us, we discern no reason to determine that the Transaction Documents are not legally sufficient, and the Transaction Documents are therefore approved for legal sufficiency. This Office has not reviewed any transactional documentation other than the above Transaction Documents, and provides no legal opinion about any transactional documentation other than the above Transaction Documents.

If you have any questions, please do not hesitate to call me at 202-724-5094.

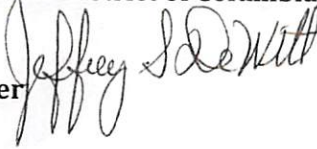
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: August 30, 2018

SUBJECT: Fiscal Impact Statement – Eastern Branch Boys and Girls Club
Disposition Approval Resolution of 2018

REFERENCE: Draft Proposed Resolution as shared with the Office of Revenue
Analysis on August 10, 2018

Conclusion

Funds are sufficient in the fiscal year 2018 budget and the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the proposed resolution.

The resolution approves the disposition of the old Eastern Branch Boys and Girls Club for private development. The developer will pay the District \$100,000 at closing through a fee simple transaction.

The District used tax-exempt bond proceeds for the purchase of the Eastern Branch Boys and Girls Club; therefore, the Chief Financial Officer's general counsel reviewed the disposition of the property to ensure compliance with Internal Revenue Service (I.R.S.) rules related to private business use for tax-exempt bond proceeds. The review indicated that any tax-exempt capital expenditures on the property were de minimis (falling under the five percent I.R.S. allowance per bond issuance).

Background

The proposed resolution approves the District's disposition of the old Eastern Branch Boys and Girls Club property located at 261 17th Street, S.E.¹ to Capitol Hill Cohousing, LLC. The developer plans to reuse the existing building and develop a condominium building. The development will have approximately ten affordable residential units for seniors, 19 market rate residential units, two guest suites for common use by condominium residents, and community space that will also be

¹ Known for tax assessment purposes as Square 1088, Lot 802.

The Honorable Phil Mendelson

FIS: "Eastern Branch Boys and Girls Club Disposition Approval Resolution of 2018," Draft Proposed Resolution as shared with the Office of Revenue Analysis on August 10, 2018

accessible to the public. Capitol Hill Cohousing, LLC will pay the District \$100,000 through a fee simple transaction.

Because the developer is benefitting from the disposition of public property, it must comply with the District's affordable housing requirements.² The developer will meet this requirement through the planned ten affordable residential units for seniors.³

The developer must sign a First Source Agreement⁴ with the District and use Certified Business Enterprises for at least 35 percent of the contract dollar volume of the project, 20 percent of the project's equity financing, and 20 percent of the dollar volume of non-construction development activities.

The District will declare the property as surplus property through the accompanying Eastern Branch Boys and Girls Club Surplus Declaration and Approval Resolution of 2018.

Financial Plan Impact

Funds are sufficient in the fiscal year 2018 budget and the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the proposed resolution. The Deputy Mayor for Planning and Economic Development expects the disposition to close in the middle of 2020 and Capitol Hill Cohousing, LLC will pay the District \$100,000 through a fee simple transaction at that time. The District will deposit the transaction proceeds into the District's General Fund.

The District used approximately \$9.6 million in proceeds from tax-exempt bonds for the purchase of the Eastern Branch Boys and Girls Club property. If tax-exempt bond proceeds remain outstanding on a property, I.R.S. rules limit the bond issuer's ability to transfer the space to a private business. However, the bond issuer may transfer the property if the aggregate amount of bond expenditures related to the subject property, plus any other properties that have been sold or transferred for private use, is less than five percent of the total bond issuance. In this case, the aggregate tax-exempt expenditures on bonds related to the Eastern Branch Boys and Girls Club are de minimis. Thus, in accordance with I.R.S. rules, the District is not required to take any bond related action, such as bond defeasement, before transferring the property.

The disposition will reduce District capital assets by approximately \$984,000, but assets are not included in the budget and financial plan and their loss does not have is not a fiscal impact.

² Disposition of District Land for Affordable Housing Amendment Act of 2014, effective March 10, 2015 (D.C. Law 20-193; D.C. Official Code § 10-801).

³ Fifty percent of the units will be affordable to 50 percent of the area median income (AMI) and fifty percent will be affordable to 80 percent AMI.

⁴ First Source Employment Agreement Act of 1984, effective June 29, 1985 (D.C. Law 5-93; D.C. Official Code § 2-219.03).

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**

**ATTORNEY GENERAL
KARL A. RACINE**

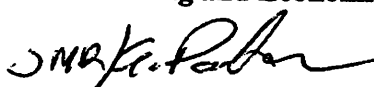


Legal Counsel Division

***PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION***

MEMORANDUM

**TO: Molly Hofsommer
Legislative Director
Office of the Deputy Mayor for Planning and Economic Development**

FROM: Janet M. Robins 
**Deputy Attorney General
Legal Counsel Division**

DATE: August 22, 2018

**RE: Eastern Branch Boys and Girls Club Surplus Declaration and Disposition Approval
Resolutions of 2018
(AE-18-421)**

This responds to an email request we received from your office by which you transmitted proposed legislation entitled the “Eastern Branch Boys and Girls Club Surplus Declaration and Approval Resolution of 2018” and the “Eastern Branch Boys and Girls Club Disposition Approval Resolution of 2018” (together, the Resolutions) to our Office for a legal sufficiency review.

The Resolutions will provide the Council’s surplus declaration and approval for the disposition of the District-owned real property, known as the Eastern Branch Boys and Girls Club, located at 261 17th Street S.E., and known for taxation and assessment purposes as Lot 0802 in Square 1088., pursuant to An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939, 53 Stat. 1211, D.C. Official Code § 10-801 *et seq.* (2012 Repl. and 2017 Supp.) (Act). The Resolutions set forth the required terms and conditions of the proposed property disposition.¹

This Office finds the attached Resolutions to be legally sufficient. The Commercial Division of our Office has reviewed the transactional documents that the Office of the Deputy Mayor for Planning and Economic Development provided to them for review,² and determined that the documents are legally sufficient and

¹ We note that the Surplus Declaration Resolution references the public hearing held on February 16, 2017, at the Friendship Chamberlain Elementary located at 1345 Potomac Avenue S.E., as the public hearing required by the Act.

² The Commercial Division reviewed and approved the following transactional documents for legal sufficiency, in the form presented to the Commercial Division for review:

1. Signed Council Term Sheet – Disposition of 261 17th, dated August 9, 2018;
2. Undated and unsigned Land Disposition and Development Agreement between the District and Developer (“LDDA”);
3. Exhibits A, B, F, and J to the LDDA, unsigned and undated; and
4. LDDA Exhibits D, G and M, signed.

do not contravene or violate any known legal requirements, obligations or commitments of the District government.

I have attached a Certificate of Legal Sufficiency for your use. In addition, please be reminded that you must secure a fiscal impact statement from the Office of the Chief Financial Officer to accompany the Resolution. If you have any questions about this memorandum, please contact either Anne R. Hollander, Assistant Attorney General, at 724-5560, or me at 724-5524.

JMR/arh

Attachments (3)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**



Legal Counsel Division

MEMORANDUM

**TO: Alana Intrieri
Director
Office of Legislative Support**

**FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division**

DATE: August 22, 2018

**RE: Eastern Branch Boys and Girls Club Surplus Declaration and Disposition Approval
Resolutions of 2018
(AE-18-421)**

This is to Certify that this Office has reviewed the legislation entitled the “Eastern Branch Boys and Girls Club Surplus Declaration and Approval Resolution of 2018” and the “Eastern Branch Boys and Girls Club Disposition Approval Resolution of 2018” and found them to be legally unobjectionable. If you have any questions, please do not hesitate to call me at 724-5524.



Janet M. Robins

DISPOSITION ANALYSIS
IN SUPPORT OF DISPOSITION OF REAL PROPERTY

Project Name: 261 17th Street, S.E., known as “Eastern Branch Boys & Girls Club”
Property Description: Square 1088, Lot 0802 (the “Property”)
Size of Property: 11,125 square foot lot
Zoning of Property: RF-1
Ward: Ward 6
Proposed Purchaser: Capitol Hill Cohousing, LLC (the “Developer”)

General Description of the “Development Plan”:

The proposed development consists of the adaptive reuse of the Eastern Branch Boys and Girls Club (“EBBGC”) building, converting it into a senior cohousing building. The building will provide condominiums with affordable and market rate units for seniors, communal areas for residents, and guest suites available for friends and family of the residents. The project will also include a community space that is available to residents and the public (the “Community Space”) and will also create parking for residents and visitors.

1. Proposed Method of Disposition. DC Code §10-801(b)(8).

A public or private sale to the bidder providing the most benefit to the District. DC Official Code §10-801(b)(8)(F).

2. Description of efforts to dispose of Property for a use with a direct public benefit as described in a specific government plan adopted by the Mayor or Council, including the Community Development Plan, the Comprehensive Plan, the Strategic Neighborhood Area Plan, or the Comprehensive Housing Strategy Plan. DC Official Code §10-801(a-2).

a. Public Benefits Requested in Solicitation

OurRFP Process. The Office of the Deputy Mayor for Planning and Economic Development (“DMPED”) underwent the OurRFP process for the surplus and disposition of the Property. The OurRFP initiative was created to understand and incorporate community input early in the process of redeveloping publicly-owned land. Through a series of community engagement efforts, DMPED is able to understand the community’s perspective and priorities in conjunction with the District’s goals when crafting and issuing a Request for Proposal.

The Our RFP process consisted of community engagement through a Public Workshop Meeting, an Online Engagement Forum, a Follow-Up Public Meeting, and surplus and disposition meetings. Through the OurRFP process, community participants had an opportunity to provide their input on topics including residential priorities, public space priorities, and historical value in small discussion groups and then refine their community preferences for redevelopment of the site. The community preferences prioritized and included in the RFP were:

- **Possible Uses:**
 - Residential only;
 - Mixed-use (mostly residential with neighborhood serving retail such as a day care, senior care, community space, etc.); and
 - Institutional (school, etc.).

- **Housing Priorities:**
 - Opportunities for homeownership;
 - Housing reserved for seniors;
 - Family sized units; and
 - Multigenerational housing.

- **Public Space and Sustainability:**
 - Exceed green building requirements (add sustainable elements, maximize energy efficiency);
 - Sustainable landscaping (rain garden, low environmental impact etc.);
 - Public art; and
 - Street furniture.

The District also encouraged respondents to the RFP to consider, in their vision, the District's goals with respect to promoting affordable housing, local business participation, and maximizing community benefits. Respondents were required to achieve or exceed the stated policy goals, maximizing economic development value to the District, improving the quality of life for the surrounding community, and advancing opportunities for local residents and businesses. This includes meeting or exceeding the CBE and First Source requirements which boost local job creation and/or apprenticeship programs for District residents.

The Comprehensive Plan. The Comprehensive Plan's Future Land Use Map designates the property as moderate density residential, and the Generalized Policy Map designates the Property as a neighborhood conservation area. The Comprehensive Plan's Capitol Hill Area Element includes the following policies related to the Property:

- Within the Planning and Development Priorities section, the following guidance is provided: "Historically, Capitol Hill has had a large number of older schoolhouses and public works buildings. Some of these facilities, like the Bryan School on Independence Avenue and the streetcar barn on East Capitol Street,

have been adaptively reused for housing. Such reuse has preserved important architectural landmarks; however, there are concerns that surplus schools and public buildings will be demolished and replaced with much higher-density housing in the future. Residents at Comp Plan meetings were clear that any future development on surplus public property should conform to the prevailing density and architectural fabric of the surrounding community.”

- Policy CH-1.1.2 (Renovation of Housing Stock) provides that the District should “encourage the rehabilitation and renovation of the building stock throughout the Capitol Hill Planning Area, taking steps to preserve and restore important historic features. Where infill development occurs, its scale and character should be compatible with prevailing neighborhood densities and its design should contribute to neighborhood continuity and quality.”
- Policy CH-1.1.9 (Conversion of Non-Residential Structures) provides that the District should: “allow the conversion of obsolete or vacant non-residential structures (including schools, churches, warehouses, and institutional uses) to housing, provided that important architectural resources are conserved, and the resulting development is consistent in density with surrounding uses.”
- Policy CH-1.2.1 (Recognition of Historic Resources) provides that the District should “protect and preserve historic structures, places, and landmarks on Capitol Hill, including Congressional Cemetery. Seek greater recognition of the neighborhood’s defining physical features—including the L’Enfant street plan—as important and nationally-significant cultural resources.”
- Policy CH-1.2.4 (Community Facilities) provides that the District should “promote continued investment, maintenance, and modernization of important community public facilities in the Capitol Hill Planning Area, including schools, libraries, and social service facilities. Particular attention should be given to sustaining Eastern High School as a community anchor, and to maintaining Friendship House and the local Boys and Girls Club as social service organizations.”

The above Comprehensive Plan considerations support maintaining the existing building and providing dwelling units with community accessible areas as the most viable and reasonable future uses for the Property.

b. Public Benefits in proposed Developer’s Development Plan.

The Developer has proposed to meet the community’s preferences as established in the OurRFP by rehabilitating the building envelope, providing opportunities for homeownership, setting aside 30% of affordable housing for seniors, including guest suites for visiting family or friends of residents, adding approximately 17 parking spaces, including a green roof, and meeting the CBE and First Source requirements. Additionally, the Developer has committed to include a Community Space inside the

building that will be made available to residents and the public (together known as the “Development Plan”).

The Development Plan also provides for a unique opportunity to:

- preserve the Property as a legacy to the once prominent Boys and Girls Club;
- create a senior facility inside the Capitol Hill neighborhood; and
- anticipate the reduction of residents’ expenses through the cohousing or shared spaces residential building model.

The Development Plan is set to retain the particular exterior character of the Eastern Branch Boys and Girls Club while modifying atypical interior spaces to create a residential building. The existing floor layouts will be rehabilitated, and additional floors will be inserted to maximize the efficiency of the building. The interior and exterior will be upgraded to meet current ADA standards, allowing for ease of access for senior services. With its prominent location, the rehabilitation of this building will help the surrounding neighborhood by welcoming senior residents and will be available to host public community meetings for the benefit of the public.

Attainment of District Policy Goals. Teams were asked to maximize District policy goals at part of the RFP. Both of the solicitation respondents’ proposals fell within a competitive range; however, the selected Developer maximized the value to the District through a competitive level of affordable housing, compliance with CBE requirements, and financially feasible development project. Additionally, the Developer has experience in sustainable community projects, including the Eastern Village Cohousing project completed in 2005 and the TakomaVillage Cohousing project completed in 2001.

The Development Plan is aligned with the District’s affordable housing goals by providing 30% affordable housing for seniors at both the 50% and 80% of the Area’s Median Income (AMI). There has been support for the proposed development plan from neighborhood residents that have lived in the Capitol Hill area for years and are ready to downsize their living spaces and reduce expenses. This reduction in space requirements was reiterated in several neighborhood meetings, including the Public Disposition Meeting and the meeting in which the Development team presented their proposals. The majority of residents supported a senior mixed-income condominium building.

Development Vision. The Developer has committed to bringing a collaborative design process to the residents of Capitol Hill and deliver an inclusive senior residential building. The building will provide communal spaces to enhance the atmosphere and sense of community for its residents. The development will also rejuvenate the existing building and provide maintenance to public space surrounding the building. The development is set to provide Community Space that will be available to residents and the public alike. The design includes an affordable housing component that provides 30% affordable housing for seniors. Finally, the green building requirements will be integral to the design of the exterior spaces and provide a green roof to help create additional community gathering spaces and help reduce the stormwater runoff.

c. Public Uses included in proposed Developer's Development Plan (such as public parks, construction of roads, sidewalks, and other public amenities).

The Development Plan to renovate the existing structure to a condominium building will allow for the revitalization of the building and continued maintenance of the surrounding landscape. The Development Plan will provide a Community Space that would be of benefit to the neighborhood by allowing the public and residents to host community meetings and events. Currently, the Property consists of a vacant structure that remains unutilized. The Property is located on a unique intersection and currently creates an uninviting feel and public safety concern.

d. The chosen method of disposition, and how competition was maximized. DC Official Code § 10-801(b-1)(1)(A).

The proposed method of disposition is a public or private sale to the respondent providing the most benefit to the District (*DC Official Code § 10-801(b)(8)(f)*). DMPED conducted a solicitation process to select a team that is capable of (a) providing a residential use plan that conforms to the community requirements, (b) adding affordable housing to district residents, (c) giving opportunities for homeownership, (d) agreeing to the District's CBE and First Source requirements, (e) proposing senior or multifamily serving housing, (f) and providing a design that meets or exceeds the green building requirements.

The formation and posting of the RFP was an extensive process. DMPED underwent the OurRFP process that includes community engagement before, during, and after the RFP is posted. The OurRFP process consisted of a Public Workshop Meeting, an Online Engagement Forum, and a Follow-Up Public Meeting. DMPED also hosted an informational tour of the building for engaged residents in collaboration with ANC commissioners, stakeholders, and civic organizations in the area. DMPED coordinated with ANC commissioners in outreach efforts and invited residents to provide their priorities for the Property through multiple input opportunities.

DMPED presented the RFP during its 2017 March Madness event, posted the solicitation on the DMPED website, and made a public announcement of the RFP release on April 26, 2017. Two development teams submitted proposals to DMPED for review (the "solicitation respondents"). The solicitation respondents participated in community meetings to present their proposals and to seek input from the community. Meetings were conducted at a local school, St. Coletta of Greater Washington (1901 Independence Ave S.E., Washington, D.C. 20003), near the Property and inside the Hill East neighborhood. ANC 6B was initially presented solicitation respondents' proposals at the Hill East Task Force on November 2, 2017. The solicitation respondents also presented their proposals to ANC 6B in the Planning and Zoning meeting on November 7, 2017, and then again to the full ANC 6B meeting on November 14, 2017. After the full ANC meeting, the ANC presented DMPED with a letter highlighting key elements in each of the solicitation respondents' proposals and noted the strong support from the community for the Capitol Hill Cohousing, LLC development plan.

Prior to award, a multidisciplinary panel of agency representatives deliberated the solicitation respondents' proposals and provided feedback on the respondent's proposals. The community also discussed the proposals and provided a letter stating, "ANC 6B voted to communicate to DMPED a finding that the proposal from the Century Associates team is more compatible with the Comprehensive Plan than is the Morningstar proposal." With support for a senior condominium building, DMPED selected Century Associates, LLC, Eco Housing Corporation, and Keystar, LLC to exclusively negotiate for the disposition and development of the Property. Century Associates, LLC, Eco Housing Corporation, and Keystar, LLC partners formalized itself as Capitol Hill Cohousing, LLC.

- e. The manner in which economic factors were weighted and evaluated, including estimates of the monetary benefits and costs to the District that will result from the disposition. The benefits shall include revenues, fees, and other payments to the District, as well as the creation of jobs. DC Code § 10-801(b-1)(1)(B).**

The following were considered in evaluating the economic factors associated with the disposition— analysis of an independent appraisal of the Property, evaluation of the solicitation respondents' proposals, estimated jobs that could be produced from the proposed Development Plan, and potential tax revenue to the District.

Appraisal. An independent appraisal was completed in August 2018 by Newmark Knight Frank of Washington, D.C. The report indicated that the as-is market value of the District-owned property without any encumbrances could potentially be \$900,000. This value assumes that the building is razed and rebuilt as townhomes or 2 dwelling unit flats to achieve the highest and best use. However, with the proposed Development Plan and requirement to maintain the building the value drops to \$1.

OurRFP Evaluation. The District sought responses that satisfied the following criteria: demonstration that the respondent possessed the financial resources to execute the project requirements with no District-based subsidy; provided funding plans, including sources and uses tables and multi-year pro-forma development budgets; displayed a willingness to provide the District with fair consideration for its real property assets; demonstrated significant investments of "at risk" capital during the pre-development and development process; and exhibited a willingness to provide the District with a meaningful guarantee regarding payment and performance through final project completion.

The Developer will provide a one-time purchase payment to the District in the amount of \$100,000 for a fee simple transfer of the Property.

The project is estimated to generate 48 temporary jobs through construction and 1 job is anticipated to be permanent. The project is anticipated to generate approximately \$472,312 in construction period tax revenues and approximately \$4,598,579 in permanent tax revenues over 30 years.

- f. Please describe all disposition methods considered and provide a narrative of the proposed disposition method that contains comparisons to the other methods**

and shows why the proposed method was more beneficial for the District than the others in the areas of return on investment, subsidies required, revenues paid to the District, and any other relevant category, or why it is being proposed despite it being less beneficial to the District in any of the measured categories.
DC Official Code §10-801(b-1)(1)(C).

Disposition Methods Considered. The proposed disposition of the Property is through a public or private sale to the respondent providing the most benefit to the District. This method of disposition was chosen because it most strongly aligns with community and District goals, specifically the 30% affordable housing for seniors, opportunity for homeownership, and the preservation of the building of the former EBBGC. The other dispositions methods that were considered were a public sale to the highest bidder and a lease for a period greater than 15 years.

Benefits of Disposition Method. The options to lease the Property for a period greater than 15 years or combination of leaseback and sale did not align with the goal of providing homeownership to District residents. The straight sale, negotiated sale, and exchange in interest for a specifically designated purpose also did not provide the maximum benefit to the District. By going through the OurRFP process, the District was able to understand the community's goals and incorporate them into the solicitation. The solicitation responses included the specifically designated purposes and met District policy goals.

The RFP was published by DMPED with flexible purchasing options but with maximum community and District benefits. The current proposal transfers fee-simple ownership to Capitol Hill Cohousing, LLC for a one-time payment of \$100,000. The Development Plan will require no District subsidy or other government assistance. The disposition will include restrictions to uphold community requirements including creating a Community Space open to District residents, establishing a minimum of 30% affordable housing units, providing homeownership opportunities, preserving the EBBGC legacy, and building a senior housing facility.

Through this method of disposition, the revenues paid to the District will be as follows; (1) purchase price to be \$100,000, (2) approximate \$472,312 in construction period tax revenues, and (3) approximately \$4,598,579 in permanent tax revenues over 30 years.

g. A pre-disposition economic impact statement in the form of a quantitative analysis that estimates the economic benefits, including revenues, tax receipts, and job creation, that will result from the disposition, including the anticipated benefits of any development project to be undertaken at the property and any offsite property, including direct, indirect, or induced outcomes *(DC Official Code § 10-801(b-1)(1)(D)*

A pre-disposition economic impact statement in the form of a quantitative analysis that estimates the economic benefits was performed. The economic benefits measured include

revenues, tax receipts, and job creation, that will result from the disposition, as well as the anticipated benefits of any development project to be undertaken at the property and any offsite property, including direct, indirect, or induced outcomes. The pre-disposition economic impact statement estimates the economic benefits to be the following:

- The project is anticipated to generate approximately \$472,312 in construction period tax revenues.
- The project is anticipated to generate approximately \$4,598,579 in permanent tax revenues over 30 years.
- 48 temporary jobs are anticipated to be created through the construction period.
- 1 job is anticipated to be created by the condominium association.

Exhibit L – COUNCIL TERM SHEET

Disposition of the former Eastern Branch Boys and Girls Club

Date	August 9, 2018
Seller	District of Columbia (the “ District ”), acting by and through the Deputy Mayor for Planning and Economic Development (“ DMPED ”).
Buyer	CAPITOL HILL COHOUSING, LLC, and its successors, assigns, or affiliates (the “ Developer ”), as approved by DMPED or permitted under the LDDA (defined below).
Property	The real property located at 261 17TH STREET SE, known for tax and assessment purposes as Lot 0802 in Square 1088 (the “ Property ”).
The Project	The project will be an adaptive reuse of a currently vacant structure that will provide approximately 10 affordable residential condominium units for seniors, approximately 2 guest suites available as a common element of the condominium association, and approximately 19 market rate residential condominium units also for seniors. The project will also include community space that is available to residents and the public and approximately 17 parking spaces.
Land Disposition Agreement	All of the terms and conditions of the sale and purchase of the Property will be governed by the terms of a Land Disposition and Development Agreement (“ LDDA ”) by and between the District and the Developer.
Method of Disposition	The Property will be conveyed in fee simple by the District to the Developer pursuant to D.C. Official Code §10-801(b).
Consideration	Purchase Price – At closing, the Developer shall pay to the District \$100,000.00 for fee simple conveyance of the property.
Affordable Housing	The Project will comply with the affordable housing requirements of D.C. Code 10-801 <i>et seq.</i>
Conditions of Closing	The District’s obligation to convey the Property to the Developer shall be conditioned on the conditions to closing, subject to waiver in District’s sole discretion, as set forth in the LDDA and summarized as follows: <ul style="list-style-type: none"> • The District’s approval of the Developer’s design, budget and project financing plan; • Developer’s obtaining financing and equity to fund 100% of the development; • Developer’s providing the District development and completion guaranties to the District’s satisfaction;

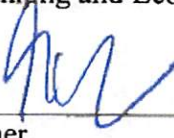
	<ul style="list-style-type: none"> • Developer having received all necessary zoning approvals or any zoning relief deemed necessary to accomplish the Project. Developer having received all necessary permits and other approvals required for commencing construction of the project.
Green Building Requirements	The Developer shall construct the Project in compliance with the <i>Green Building Act of 2006</i> , D.C. Official Code § 6-1451.01 <i>et seq.</i> , as amended, and the regulations promulgated therewith.
Schedule of Performance	<p>The following is the Schedule of Performance with estimated dates, which may be amended and extended with the approval of DMPED in accordance with the terms of the LDDA:</p> <ul style="list-style-type: none"> • Execution of the LDDA – within 60 days after Council approval of the disposition. • Closing – within 18 months of Council approval • Commencement of Construction – within 60 days after Closing • Substantial Completion – within 1 year of Commencement of Construction • Final Completion – within 60 days from Substantial Completion
Post-Closing Requirements	As required under the LDDA, the Developer shall execute at Closing the Construction and Use Covenant and Affordable Housing Covenant and shall be bound to comply with the requirements of the same for the applicable durations identified therein. As required under the LDDA, the Developer shall deliver to the District at Closing a Development and Completion Guaranty executed by a guarantor approved by DMPED.
Certified Business Enterprise	The Developer shall execute a SBE Subcontracting, and Equity and Development Participation, Statutory Requirements Acknowledgement Form in which the Developer acknowledges and agrees to be bound to the Certified Business Enterprise contracting, equity and development requirements applicable to the Project.
First Source Requirements	The Developer shall enter into a First Source Agreement with the Department of Employment Services that shall govern obligations of the Developer pursuant to D.C. Official Code §§ 2-219.03, as amended, and Mayor’s Order 83-265 (November 9, 1983) regarding job creation and employment generated as a result of the construction of the Project.

INTENTION AND LIMITATIONS OF THIS TERM SHEET

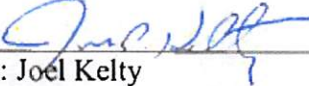
1. The Developer and DMPED acknowledge that they have prepared and signed this Term Sheet for the sole purpose of obtaining the approval of the Council of the District of Columbia (the "Council") to the proposed transaction. The Developer acknowledges that DMPED's negotiation of the LDDA and the preparation of this Term Sheet, DMPED's signature on this Term Sheet, and submission of this Term Sheet and supporting documents to the Council shall not bind the District to execute the LDDA or to convey the Property to the Developer. The Developer further acknowledges that, notwithstanding Council authorizing the conveyance of the Property, the District has no obligation to do so absent the District and the Developer duly executing the LDDA and the satisfaction of the conditions contained therein. In the event DMPED or the Mayor determine, in their sole and absolute discretion, to withhold submission of this Term Sheet and supporting documents to the Council or to otherwise decline to secure Council authorization for the conveyance, DMPED may terminate negotiations with the Developer and the District shall not be responsible for the Developer's costs and expenses incurred in relation to the Property or the Project.
2. The Developer acknowledges that all approvals required of the Council will be granted or withheld in the sole and absolute discretion of the Council and that, absent Council approval of the proposed transaction, DMPED has no authority to convey the Property to the Developer. The Developer acknowledges that it is signing this Term Sheet prior to obtaining all necessary Council approvals. In the absence of such approvals and execution of the LDDA, the Developer proceeds at its sole risk and expense with no recourse whatsoever against the District.
3. The Developer and DMPED agree that upon receipt of all necessary Council approvals, the Developer and DMPED intend to finalize and execute the LDDA governing all of the terms and conditions of the conveyance of the Property.
4. Until the Developer and the District enter into the binding LDDA, both the Developer and the District reserve the right to proceed with the proposed transaction in their sole and absolute discretion. Upon the execution of the LDDA, the Developer and DMPED shall proceed in accordance with the terms of the LDDA; provided, however, that the Developer and DMPED acknowledge and agree that any substantive change in the terms set forth in this Term Sheet shall be subject to further Council review and approval in accordance with D.C. Official Code §10-801(b-4).

The District and the Developer have caused this Term Sheet to be signed and acknowledged by their respective duly authorized representatives as of the date identified above.

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: 
Brian T. Kenner
Deputy Mayor for Planning and Economic Development

CAPITOL HILL COHOUSING, LLC,
a District of Columbia limited liability company

By: 
Name: Joel Kelty
Title: Member



Institutional Property

APPRAISAL REPORT

Eastern Branch Boys and Girls Club (EBBGC)

261 17th Street SE
Washington, District of Columbia 20003

NKF Job No.: 741-2018-0026
Client Reference: RFQ DCEB-2018-Q-0006/ PO577356

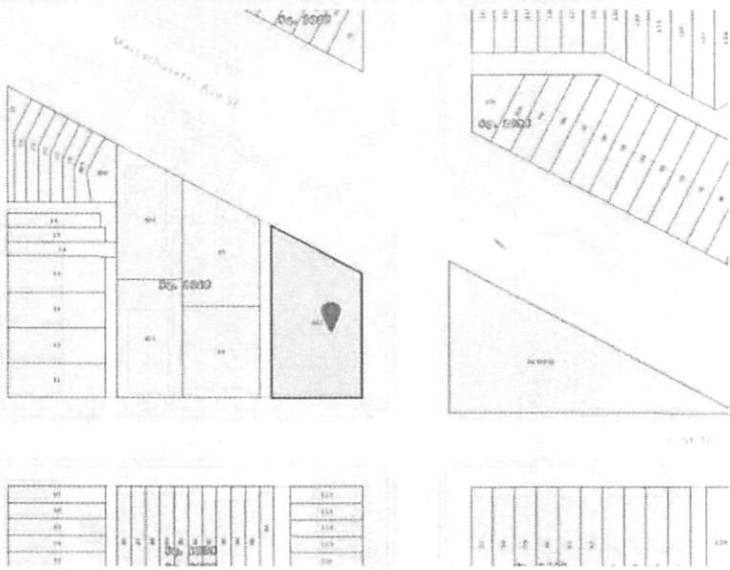
Prepared For:

Miguel Garcia
Project Manager
Government of the District of Columbia
1350 Pennsylvania Ave. NW
Washington, DC 20004

Prepared By:

Newmark Knight Frank
Valuation & Advisory
840 First Street NE, Suite 460
Washington, DC 20002

**Newmark
Knight Frank**



Eastern Branch Boys and Girls Club (EBBGC)
261 17th Street SE
Washington, District of Columbia

Appraisal Transmittal and Certification

August 15, 2018

Miguel Garcia
Project Manager
Government of the District of Columbia
1350 Pennsylvania Ave. NW
Washington, DC 20004

RE: Appraisal of Institutional Property known as Eastern Branch Boys and Girls Club (EBBGC)
located at 261 17th Street SE, Washington, District of Columbia 20003

NKF Job No.: 741-2018-0026
Client Reference: RFQ DCEB-2018-Q-0006/ PO577356

Newmark Knight Frank – Valuation & Advisory has prepared an appraisal of the market value of the referenced property presented in the following Appraisal Report.

Summary of the Subject Property

The subject is an existing institutional property, built in 1937, that was most recently used as a Boys and Girls Club (athletic and community center). It has been vacant since 2007, and was acquired by the District of Columbia in 2009. Currently, a development team has been selected to proceed with a renovation of the property into 29 for-sale age-restricted condominium units, 30% of which would be designated as affordable dwelling units (ADUs) and available to households earning not more than 50% or 80% of Area Median Income.

Extraordinary Assumptions and Hypothetical Conditions

The value conclusions are subject to the following extraordinary assumptions that may affect the assignment results. An extraordinary assumption is uncertain information accepted as fact. If the assumption is found to be false as of the effective date of the appraisal, we reserve the right to modify our value conclusions.

1. Our valuation of the subject property assuming PUD approvals (Scenario 2) assumes 1) that the purchaser is legally required to retain the existing improvements and 2) that the subject will be approved for a Planned Unit Development and that the PUD approvals waive the underlying zoning requirement that limits density to 1 multifamily unit per 900 SF of lot area.
2. Our valuation of the property assuming a special exception (Scenario 3) assumes 1) that the purchaser is legally required to retain the existing improvements and 2) that the BZA will grant a special exception waiving the underlying zoning requirement that limits density to 1 multifamily unit per 900 SF of lot area.
3. Our valuation of the property subject to the Development Program (Scenario 4) assumes that the property would convey with a deed restriction or similar legally binding instrument requiring that the property be put to the specific use proposed, as further described herein.

The value conclusions are based on the following hypothetical conditions that may affect the assignment results. A hypothetical condition is a condition contrary to known fact on the effective date of the appraisal but is supposed for the purpose of analysis.

1. None.
-

The use of these extraordinary assumptions and/or hypothetical conditions may have affected assignment results.



Based on the analysis contained in the following report, our opinions of value for the subject are concluded as follows:

Value Conclusions			
Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
Market Value	Fee Simple	August 7, 2018	\$900,000
Market Value Under PUD	Fee Simple	August 7, 2018	\$1
Market Value With Special Exception	Fee Simple	August 7, 2018	\$1
Market Value Under Development Program	Fee Simple	August 7, 2018	\$1

The intended use and user of our report are specifically identified in our report as agreed upon in our contract for services and/or reliance language found in the report. No other use or user of the report is permitted by any other party for any other purpose. Dissemination of this report by any party to non-client, non-intended users does not extend reliance to any other party and Newmark Knight Frank will not be responsible for unauthorized use of the report, its conclusions or contents used partially or in its entirety.

The appraisal was developed based on, and this report has been prepared in conformance with the guidelines and recommendations set forth in the Uniform Standards of Professional Appraisal Practice (USPAP) and the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

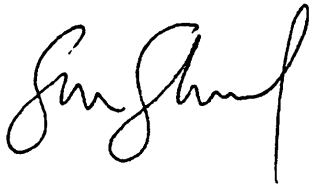
Certification

We certify that, to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial and unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and no personal interest in with respect to the parties involved.
4. We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. This appraisal assignment was not based upon a requested minimum valuation, a specific valuation, or the approval of a loan.
8. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice, as well as the requirements of the District of Columbia.



9. The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute
10. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
11. As of the date of this report, Samuel D. Sherwood, MAI and Patrick C. Kerr, MAI, FRICS, SRA, have completed the continuing education program for Designated Members of the Appraisal Institute.
12. Samuel D. Sherwood, MAI, made a personal inspection of the property that is the subject of this report. Patrick C. Kerr, MAI, FRICS, SRA, has not personally inspected the subject.
13. Significant real property appraisal assistance was provided by Laura Spence, who has not signed this certification.
14. Valuation & Advisory operates as an independent economic entity within NKF. Although employees of other NKF divisions may be contacted as a part of our routine market research investigations, absolute client confidentiality and privacy were maintained at all times with regard to this assignment without conflict of interest.
15. Within this report, "Newmark Knight Frank", "NKF Valuation & Advisory", "NKF, Inc.", and similar forms of reference refer only to the appraiser(s) who have signed this certification and any persons noted above as having provided significant real property appraisal assistance to the persons signing this report.
16. We have not performed any services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.



Samuel D. Sherwood, MAI
First Vice President
Certified General Appraiser
District of Columbia Certificate # GA12136
Telephone: 202-774-9044
Email: Sam.Sherwood@ngkf.com



Patrick C. Kerr, MAI, FRICS, SRA
Senior Managing Director
Certified General Real Estate Appraiser
District of Columbia Certificate # GA10274
Telephone: 202-774-9040
Email: Pat.Kerr@ngkf.com



Executive Summary

Property Name	Eastern Branch Boys and Girls Club (EBBGC)		
Address	261 17th Street SE Washington, District of Columbia 20003		
Property Type	Institutional		
Owner of Record	District of Columbia		
Tax ID	Square 1088, Lot 0802		
Land Area	0.26 acres; 11,125 SF		
Number of Units (Proposed)	29		
Gross Building Area (Proposed)	47,476 SF		
Rentable Floor Area	26,175 SF		
Year Built; Year Renovated	1937; 2018/2019 (proposed)		
Zoning Designation	RF-1, Residential Flats		
Highest and Best Use - As if Vacant	Subdivision and development of rowhouses (single-family or flats)		
Highest and Best Use - As Improved	Demolition and subdivision		
Exposure Time; Marketing Period	6 to 12 months; 6 to 12 months		
Date of the Report	August 15, 2018		
Value Conclusions			
Appraisal Premise	Interest Appraised	Date of Value	Conclusion
Market Value	Fee Simple	August 7, 2018	\$900,000
Market Value Under PUD	Fee Simple	August 7, 2018	\$1
Market Value With Special Exception	Fee Simple	August 7, 2018	\$1
Market Value Under Development Program	Fee Simple	August 7, 2018	\$1
The values reported above are subject to the definitions, assumptions, and limiting conditions set forth in the accompanying report of which this summary is a part. No party other than Government of the District of Columbia may use or rely on the information, opinions, and conclusions contained in the report. It is assumed that the users of the report have read the entire report, including all of the definitions, assumptions, and limiting conditions contained therein.			

[SEE EXTRAORDINARY ASSUMPTIONS ON FOLLOWING PAGE]



Extraordinary Assumptions and Hypothetical Conditions

The value conclusions are subject to the following extraordinary assumptions that may affect the assignment results. An extraordinary assumption is uncertain information accepted as fact. If the assumption is found to be false as of the effective date of the appraisal, we reserve the right to modify our value conclusions.

1. Our valuation of the subject property assuming PUD approvals (Scenario 2) assumes 1) that the purchaser is legally required to retain the existing improvements and 2) that the subject will be approved for a Planned Unit Development and that the PUD approvals waive the underlying zoning requirement that limits density to 1 multifamily unit per 900 SF of lot area.
2. Our valuation of the property assuming a special exception (Scenario 3) assumes 1) that the purchaser is legally required to retain the existing improvements and 2) that the BZA will grant a special exception waiving the underlying zoning requirement that limits density to 1 multifamily unit per 900 SF of lot area.
3. Our valuation of the property subject to the Development Program (Scenario 4) assumes that the property would convey with a deed restriction or similar legally binding instrument requiring that the property be put to the specific use proposed, as further described herein.

The value conclusions are based on the following hypothetical conditions that may affect the assignment results. A hypothetical condition is a condition contrary to known fact on the effective date of the appraisal but is supposed for the purpose of analysis.

1. None.
-



Table of Contents

Appraisal Transmittal and Certification	1	Discounted Cash Flow	67
Certification	2	Construction Costs	69
Executive Summary	4	Alternative Adaptive Re-Use Scenarios (Scenarios 2 & 3)	75
Introduction	7	Highest and Best Use Valuation (Scenario 1)	78
Sale History	7	Reconciliation and Conclusion of Value	82
Pending Transactions	7	Exposure Time	83
Description of the Appraisal and Appraisal Report	7	Assumptions and Limiting Conditions	84
Intended Use and User	7	Addenda	
Purpose of the Appraisal	8	A. Appraiser Qualifications	
Definition of Value	8	B. Financials and Property Information	
Interest Appraised	9		
Scope of Work	9		
Appraisal Methodology	10		
Economic Analysis	12		
District of Columbia Analysis	12		
Surrounding Area Analysis	18		
For-Sale Residential Market Analysis	24		
National Housing Market	24		
Regional Condominium Market	30		
Multifamily Market Analysis	36		
Property Analysis	41		
Land Description and Analysis	41		
Improvements Description and Analysis	48		
Real Estate Taxes	58		
Highest and Best Use	59		
Valuation	61		
Development Program Valuation	61		
Condominium Unit Valuation	61		



Introduction

Sale History

The most recent closed sale of the subject is summarized as follows:

Sale Date	December 31, 2009
Seller	Boys & Girls Clubs of Greater Washington, DC
Buyer	District of Columbia
Sale Price	Subject property was purchased along with two other assets of the Boys and Girls Clubs of Greater Washington for reported total consideration of \$20 million; this portfolio purchase price was not specifically allocated to the individual properties.
Recording Instrument Number	2010001183

To the best of our knowledge, no sale or transfer of ownership has taken place within a three-year period prior to the effective appraisal date.

Pending Transactions

The District of Columbia is currently considering a disposition of the subject property. The Office of the Deputy Mayor for Planning and Economic Development (DMPED) issued a Request for Proposals to develop the property in February 2017, and ultimately selected the development team of Century Associates, Eco Housing Corporation and Keystar Real Estate.

However, to the best of our knowledge, the property is not subject to an agreement of sale or an option to buy, nor is it listed for sale, as of the effective appraisal date.

Description of the Appraisal and Appraisal Report

Intended Use and User

The intended use of the appraisal is for possible property disposition purposes and no other use is permitted.

The client and intended user is the Government of the District of Columbia.

Intended Users - the intended user is the person (or entity) who the appraiser intends will use the results of the appraisal. The client may provide the appraiser with information about other potential users of the appraisal, but the appraiser ultimately determines who the appropriate users are given the appraisal problem to be solved. Identifying the intended users is necessary so that the appraiser can report the opinions and conclusions developed in the appraisal in a manner that is clear and understandable to the intended users. Parties who receive or might receive a copy of the appraisal are not necessarily intended users. The appraiser's responsibility is to the intended users identified in the report, not to all readers of the appraisal report.



Source: Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 6th ed. (Chicago: Appraisal Institute, 2015)

Purpose of the Appraisal

The purpose of the appraisal is to develop an opinion of the market value of the property under four different scenarios:

- Scenario 1: The market value of the fee simple interest in the property, under “by right” zoning, subject to current zoning and all applicable laws and regulations, including but not limited to the Disposition of District Land for Affordable Housing Act of 2014 (a/k/a “ADU Act”).
- Scenario 2: The market value of the fee simple interest in the property under an assumed Planned Unit Development (PUD). More specifically, this scenario assumes that such a PUD would 1) require that the existing improvements be retained, and repurposed for multifamily use 2) allow for a unit density in excess of the 1 unit per 900 square feet of land area allowed in the underlying RF-1 zone, and 3) provide for expansion of the existing improvements, in a manner consistent with the Comprehensive Plan (Moderate Density Residential, per Future Land Use Map).
- Scenario 3: The market value of the fee simple interest in the property under by-right zoning, but assuming that a special exception is granted by the Board of Zoning Adjustment (BZA) to allow for a unit density in excess of the 1 unit per 900 square feet of land area allowed in the underlying RF-1 zone; this valuation scenario also assumes that the existing improvements would be required to be retained/adaptively re-used as a condition of said approval.
- Scenario 4: The market value of the fee simple interest in the property, assuming the property is required to be developed as currently proposed by the Century Associates development team. This development proposal, hereafter referred to as the Development Program, would entail development of the subject property into 29 for-sale senior housing units, with these units being subject to the income/sale price limits described herein.

The effective date of all of the above value opinions is the date of our most recent inspection of the property, August 7, 2018. The date of the report is August 15, 2018.

Definition of Value

Market value is defined as:

“The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- Buyer and seller are typically motivated;



- Both parties are well informed or well advised, and acting in what they consider their own best interests;
- A reasonable time is allowed for exposure in the open market;
- Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.”

(Source: Code of Federal Regulations, Title 12, Chapter I, Part 34.42[g]; also Interagency Appraisal and Evaluation Guidelines, Federal Register, 75 FR 77449, December 10, 2010, page 77472)

Interest Appraised

We have appraised the fee simple interest of the subject property.

Fee Simple Estate - Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.

Source: Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 6th ed. (Chicago: Appraisal Institute, 2015)

Scope of Work

This appraisal is presented in the form of an appraisal report, which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of USPAP. This report incorporates practical explanation of the data, reasoning and analysis that were used to develop the opinion of value.

Extent to Which the Property is Identified

The property is identified through various sources such as:

- ☒ Postal address
- ☒ Assessor's records
- ☒ Legal description

Extent to Which the Property is Inspected

Samuel D. Sherwood, MAI, conducted an interior and exterior inspection of the property on January 11, 2017, and more recently conducted an exterior inspection on August 7, 2018 for purposes of establishing a more current effective date of value. Patrick C. Kerr, MAI, FRICS, SRA, has not personally inspected the subject property.



Type and Extent of the Data Researched

- ⌘ Exposure and marking time;
- ⌘ Neighborhood and land use trends;
- ⌘ Demographic trends;
- ⌘ Market trends relative to the subject property type;
- ⌘ Flood zone status;
- ⌘ Zoning requirements and compliance;
- ⌘ Real estate tax data;
- ⌘ Cost data via Marshall Valuation Service and local comparables;
- ⌘ Comparable listing and sales data;
- ⌘ Comparable rental data; and
- ⌘ Comparable income and expense data.

Type and Extent of Analysis Applied

We analyzed the property and market data gathered through the use of appropriate, relevant, and accepted market-derived methods and procedures. Further, we employed the appropriate and relevant approaches to value, and correlated and reconciled the results into an estimate of market value, as demonstrated within the appraisal report.

Appraisal Methodology

Cost Approach - The cost approach is based on the proposition that the informed purchaser would pay no more for the subject than the cost to produce a substitute property with equivalent utility. This approach is particularly applicable when the property being appraised involves relatively new improvements that represent the highest and best use of the land, or when it is improved with relatively unique or specialized improvements for which there exist few sales or leases of comparable properties.

Sales Comparison Approach - The sales comparison approach utilizes sales of comparable properties, adjusted for differences, to indicate a value for the subject. Valuation is typically accomplished using physical units of comparison such as price per square foot, price per unit, price per floor, etc., or economic units of comparison such as gross rent multiplier. Adjustments are applied to the physical units of comparison derived from the comparable sale. The unit of comparison chosen for the subject is then used to yield a total value.

Income Capitalization Approach - The income capitalization approach reflects the subject's income-producing capabilities. This approach is based on the assumption that value is created by the expectation of benefits to be derived in the future. Specifically estimated is the amount an investor would be willing to pay to receive an income stream plus reversion value from a property over a period of time. The two common valuation techniques associated with the income capitalization approach are direct capitalization and the discounted cash flow (DCF) analysis.

The income approach is inapplicable because properties of this type would not typically be leased "as is" in the open market. Furthermore, the subject property is impacted by unique development requirements that make the sales comparison approach and cost approaches



inapplicable. Specifically, due to the ownership of the site by the District of Columbia, the ADU Act requires that any disposition of the property would require that:

- 1) 30% of any for-rent multifamily residential units developed on the property be set aside as affordable dwelling units (ADUs) for households earning not more than 30% or 50% of Area Median Income (AMI, a/k/a Median Family Income or MFI), with 25% of the ADUs restricted at the 30% AMI level and the remaining 75% restricted at the 50% AMI level; or
- 2) 30% of any for-sale multifamily residential units developed be set aside as ADUs for households earning not more than 50% or 80% of AMI, with 50% of the ADUs restricted at the 50% AMI level and the remaining 50% restricted at the 80% AMI level.

We have therefore valued the property on a residual basis, using a technique known as the development approach. The development approach (a/k/a subdivision approach) is the only applicable methodology that both captures the impact of the affordable unit requirements on the value of the property and models the value of the potential for-sale units to a single purchaser, based on the value of the expected future revenues from unit sales and the projected costs to complete the proposed project.



Economic Analysis

District of Columbia Analysis

Introduction

An analysis of demographic and economic trends for the District of Columbia and the broader metropolitan area has been performed using data provided by ESRI and U.S. government agencies.

Moody's Analytics / Précis® Metro and Moody's Analytics' Economy.com provides the following Washington-Arlington-Alexandria metro area (Washington, DC MSA) economic summary as of May 2018.

Washington-Arlington-Alexandria, DC-VA-MD-WV													
2012	2013	2014	2015	2016	2017	INDICATORS	2018	2019	2020	2021	2022	2023	
319.8	317.9	320.3	325.8	331.2	338.8	Gross metro product (C09\$ bil)	348.8	356.9	359.9	368.0	377.9	385.3	
0.6	-0.6	0.8	1.7	1.7	2.3	% change	2.9	2.3	0.8	2.3	2.7	2.0	
2,496.8	2,519.8	2,532.0	2,581.9	2,637.7	2,683.5	Total employment (ths)	2,726.0	2,760.5	2,766.3	2,767.7	2,793.4	2,811.6	
1.5	0.9	0.5	2.0	2.2	1.7	% change	1.6	1.3	0.2	0.1	0.9	0.7	
5.9	5.7	5.2	4.5	4.0	3.8	Unemployment rate (%)	3.5	3.3	3.7	4.3	4.4	4.5	
4.1	-0.6	4.4	4.8	3.0	3.0	Personal income growth (%)	3.9	4.2	2.7	2.9	3.9	3.6	
88.5	89.1	90.5	92.9	95.4	98.5	Median household income (\$ ths)	100.8	103.1	104.7	106.4	108.6	110.8	
4,625	4,702	4,756	4,807	4,854	4,906	Population (ths)	4,951	4,995	5,039	5,084	5,128	5,174	
1.7	1.7	1.1	1.1	1.0	1.1	% change	0.9	0.9	0.9	0.9	0.9	0.9	
38.4	37.2	13.3	11.1	11.0	16.5	Net migration (ths)	10.5	9.8	9.6	9.9	10.7	11.4	
9,241	11,124	10,164	10,531	11,114	11,588	Single-family permits (#)	12,106	13,113	14,217	16,707	17,166	16,341	
8,343.0	8,399.0	9,490.0	9,093.0	10,497.0	10,677.6	Multifamily permits (#)	8,328.5	8,279.0	9,297.4	10,407.5	10,937.1	10,632.1	
na	na	na	na	na	na	FHFA house price (1995Q1=100)	na	na	na	na	na	na	

Recent Performance

Superior job growth, low unemployment, and firming wage growth point to a robust Washington MSA economy. The pace of job growth has reaccelerated in the last six months. Private services, especially professional/business services, are the labor market's workhorse. The jobless rate dropped to a cycle low of 3.6% in March and the Employment Cost Index shows wage pressures rising more vigorously than those nationally, indicating that the labor market is tight. Steady, albeit slow, house price increases and rising home sales have yet to stir a pickup in homebuilding.

Population

	Population			Compound Ann. % Chng	
	2010 Census	2017 Estimate	2022 Projection	2010 - 2017	2017 - 2022
District of Columbia	601,723	688,642	740,127	1.9%	1.5%
Washington, DC MSA	5,636,232	6,196,188	6,558,844	1.4%	1.1%

Source: ESRI

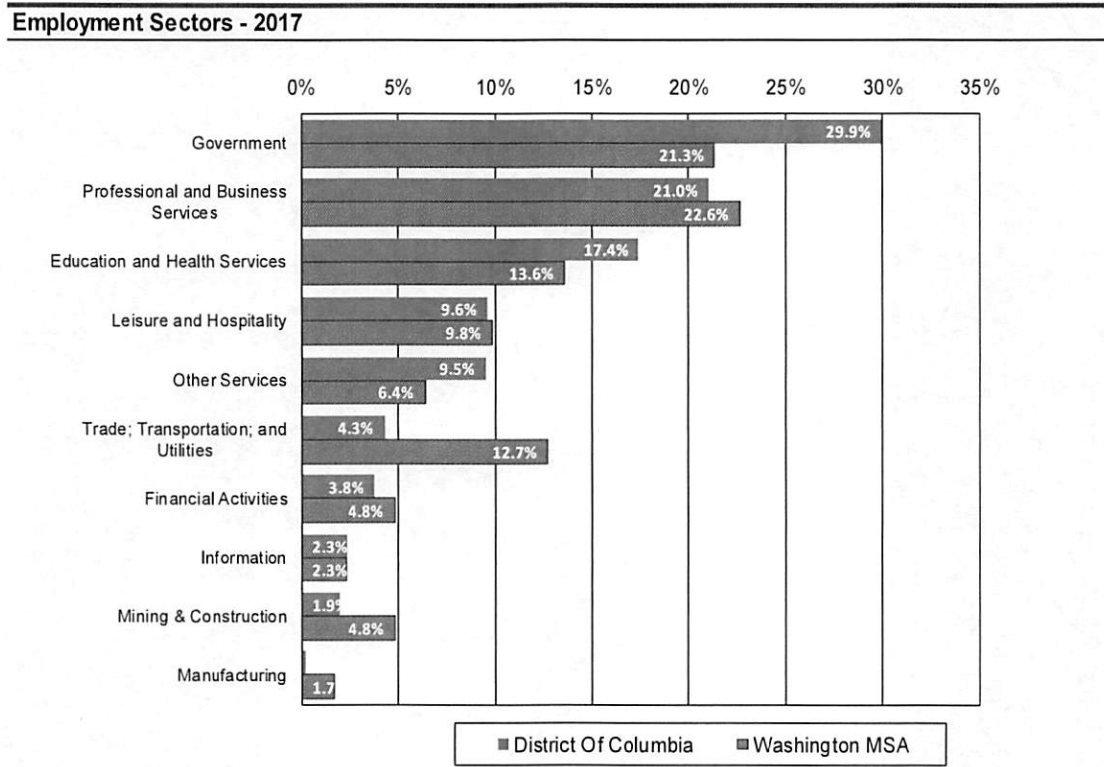


Employment

Year	Total Employment (Year End)				Unemployment Rate (Ann. Avg.)	
	District Of	%	Washington	%	District Of	Washington
	Columbia	Change	MSA	Change	Columbia	MSA
2007	701,800		3,046,900		5.5%	3.0%
2008	704,500	0.4%	3,024,100	-0.7%	6.5%	3.7%
2009	705,600	0.2%	2,986,700	-1.2%	9.3%	6.0%
2010	717,300	1.7%	3,024,000	1.2%	9.4%	6.4%
2011	729,100	1.6%	3,059,400	1.2%	10.2%	6.2%
2012	744,700	2.1%	3,105,500	1.5%	9.1%	5.8%
2013	756,500	1.6%	3,112,400	0.2%	8.5%	5.6%
2014	763,500	0.9%	3,145,100	1.1%	7.8%	5.1%
2015	784,000	2.7%	3,219,200	2.4%	6.9%	4.4%
2016	789,400	0.7%	3,272,400	1.7%	6.1%	3.8%
2017	797,100	1.0%	3,310,200	1.2%	6.1%	3.7%
Overall Change 2007-2017	95,300	13.6%	263,300	8.6%		
Avg Unemp. Rate 2007-2017					7.7%	4.9%
Unemployment Rate - January 2018					5.5%	3.8%

Source: Bureau of Labor Statistics and Economy.com. Employment figures are from the Current Employment Survey (CES). Unemployment rates are from the Current Population Survey (CPS). The figures are not seasonally adjusted.

Employment Sectors



Source: Bureau of Labor Statistics and Economy.com



Major Employers

Major Employers - District of Columbia	
	Name
1	Georgetown University
2	George Washington University
3	Children's National Medical Center
4	American University
5	Georgetown University Hospital
6	Booz Allen & Hamilton, Inc.
7	Howard University
8	Catholic University of America
9	Red Coats
10	Allied Barton Security Services
11	George Washington University Hospital
12	Howard University Hospital
13	Sibley Memorial Hospital
14	Corporate Advisory Board Co.

Source: District of Columbia 2017 Comprehensive Annual Financial Report (CAFR)

Analysis

Federal government

Federal government payrolls will rise this year and next thanks to more federal spending. However, federal employment will remain below the peak reached at the end of 2016. The federal government has been stymied by budgetary uncertainty and employment reductions over the last year. For much of fiscal 2017, the federal government was operating on a short-term funding bill. This caused agencies to delay hiring and contracts because of uncertainty over their final appropriations and the need to restrict their spending to the close confines of the stopgap budget measure. Federal contractors were forced to delay hiring and investment as well. However, spending will receive a boost this year and next. The Bipartisan Budget Act of 2018 and the omnibus bill promise an upswing in spending, and increased budget certainty will loosen the contracting spigot. Local defense contractors stand to gain from higher Department of Defense outlays under the Trump administration. Professional/business services will also benefit as increased government spending facilitates the outsourcing of various services.

Technology

The Washington, DC MSA's tech industry is primed for further growth and will be an important source of high-wage jobs in 2018 and 2019. A breadth of talent, high living standards, and proximity to the nation's decision-makers make Washington, DC MSA ideal for headquarters expansions and investments. High-tech payrolls have grown in line with the national average over the past year, but recent decisions by tech companies to invest in the region point to stronger gains in the near term. Appian, a business management platform provider, and MicroStrategy, a provider of enterprise analytics, are both expanding in Fairfax County, creating hundreds of jobs over the coming years. EverFi, an education technology company,



is also expanding its headcount and footprint in the District. More jobs in knowledge-based industries will open up new job possibilities for educated workers outside the federal government and bolster income growth and consumer spending.

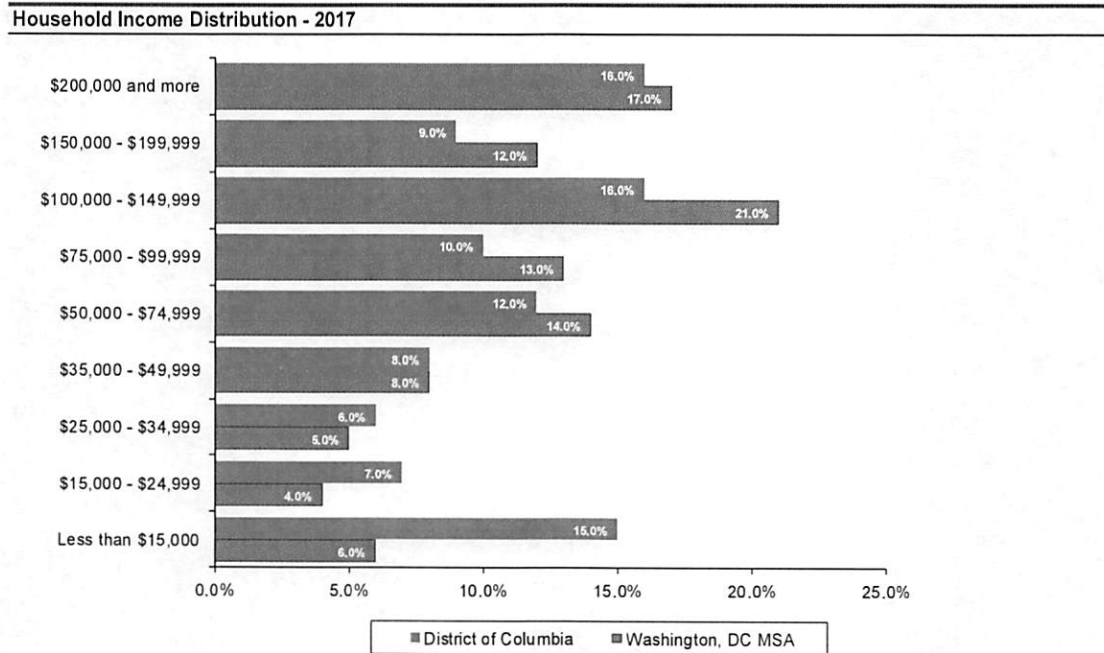
Workforce

Favorable demographics will be an important support to growth. Driven by positive net migration, population growth easily outpaces that nationally and in other major Northeast metro areas and divisions. The Washington, DC MSA’s concentration of prime working-age residents and its percentage of adults with at least a bachelor’s degree both rank in the top 5% nationally. In addition to the MSA’s business-friendly environment, numerous opportunities for public-private partnerships, and highly ranked academic institutions, a young and skilled population will draw investment in knowledge-based industries. Improved private sector job prospects will boost in-migration and reduce the Washington, DC MSA’s reliance on the public sector.

Household Income

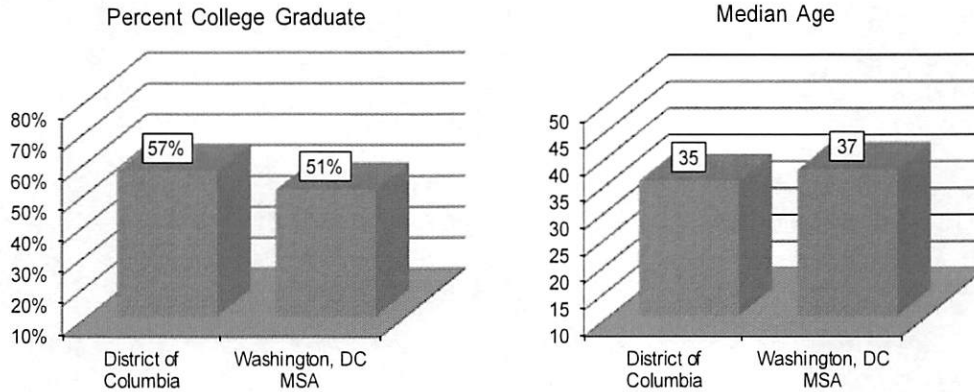
Median Household Income - 2017	
	Median
District of Columbia	\$77,686
Washington, DC MSA	\$99,481
Comparison of District of Columbia to Washington, DC MSA	- 21.9%

Source: ESRI



Education and Age

Education & Age - 2017



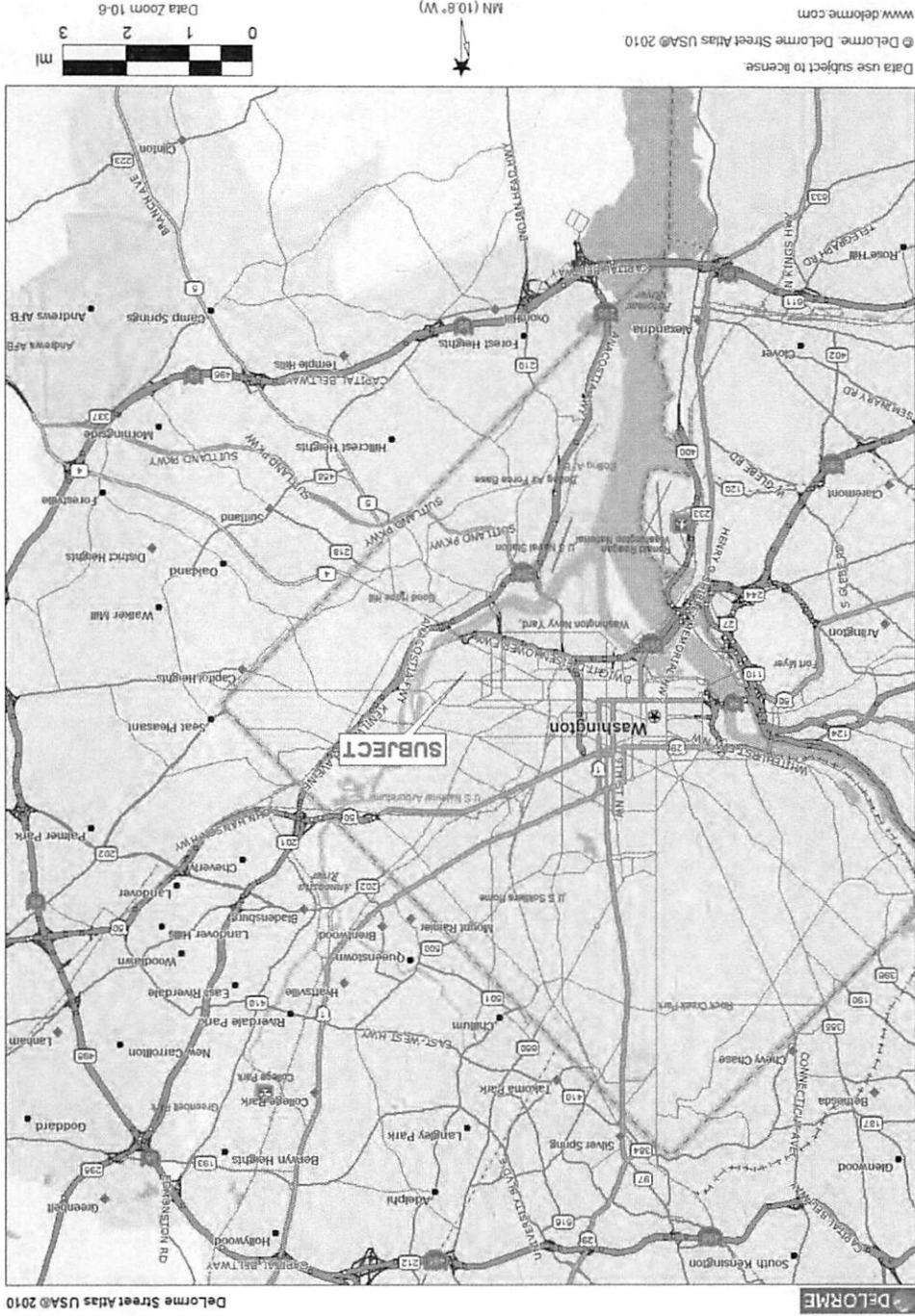
Source: ESRI

Conclusion

The Washington metro area will keep pace with the U.S. in the near term thanks to hard-charging private services. More federal spending will benefit contractors and boost federal payrolls. Longer term, strong population trends and an expanding tech cluster will help keep Washington, DC MSA an average performer despite federal government weakness.

Going forward, the District of Columbia economy will be affected by a growing population base and a higher level of educational attainment. The District experienced growth in the number of jobs over the past decade, and it is reasonable to assume that employment growth will occur in the future. We anticipate that the Washington, DC economy will continue to improve and that employment will grow, strengthening the demand for real estate.





Area Map

Surrounding Area Analysis

Boundaries

The subject is located in the southeast quadrant of Washington, DC in an area known as Hill East. The boundaries of the neighborhood are generally delineated as follows:

North	East Capitol Street
South	Pennsylvania Avenue SE
East	Anacostia Park/Anacostia River
West	15 th Street SE

A map identifying the location of the property follows this section.

Access and Linkages

Primary access to the area is provided by the Anacostia Freeway (DC Route 295), a freeway that runs north/south through Washington, DC and connects to Prince George's County (Maryland) to the northeast and northern Virginia (via I-95/395/695) to the southwest. The Anacostia Freeway is situated on the opposite (east) side of the Anacostia River from the subject; access over the river is provided by either Benning Road or East Capitol Street. Benning Road essentially splits into H Street NE and Florida Avenue NE west of 15th Street NE. Both of these roads are major arterials providing access to downtown and other destinations to the west. H Street is also the area's primary commercial corridor. 19th and 21st Streets run one-way north and south, respectively, and are the major north/south routes through the neighborhood.

Public transportation is provided by the Washington Metropolitan Area Transit Authority's (WMATA) Metrorail and Metrobus systems. The Stadium-Armory Metro station is located about 0.4 miles northeast of the subject on 19th Street SE, and the Potomac Avenue Metro is located about 0.5 miles to the southwest on Pennsylvania Avenue SE. Both of these stations serve the Orange, Blue and Silver Lines. The Orange and Blue Lines Both lines terminate in Prince George's County, MD and Fairfax County, VA, while the Silver Line will eventually extend to Dulles Airport in Loudoun County. All three lines travel through downtown Washington, DC (from Stadium-Armory to Rosslyn) on the same route, and offer connections to the Green, Yellow and Red Lines at L'Enfant Plaza and Metro Center. In addition to the Metrorail subway system, WMATA provides bus service along major roads in the market area such as Massachusetts Avenue, 18th Street and East Capitol Street. Several bus stops are located immediately adjacent to the subject along Massachusetts Avenue SE & 17th Street SE.

Finally, the DC Streetcar runs along H Street and Benning Road. The H Street Streetcar runs along H Street from Union Station, continuing along Benning Road and terminating shortly after Oklahoma Avenue NE (on the west side of the Anacostia River). A second phase, which has not yet started construction, would extend the line east across the river further along Benning Road, and potentially west as far as Georgetown. Streetcar stops are situated on Benning Road at 15th and 19th Streets, about one mile north of the subject.



Area residents currently rely primarily on a mixture of foot travel, Metro, bus, and the streetcar for day-to-day activities, though about 50% of households own at least one automobile.

Ronald Reagan National Airport (DCA) is located about 6 miles southwest of the property, on the bank of the Potomac River in Virginia. Washington-Dulles (IAD) and Baltimore-Washington (BWI) International airports are each about 30 miles from the neighborhood. The Washington, DC CBD, the economic and cultural center of the region, is approximately 3.5 miles northwest of the property.

Demographics

A demographic profile of the surrounding area, including population, households, and income data, is presented in the following table.

Surrounding Area Demographics					
2017 Estimates	0.25-Mile Drive Distance	0.5-Mile Drive Distance	0.75-Mile Drive Distance	District of Columbia	Washington MSA
Population 2010	3,238	13,044	23,977	601,723	5,636,232
Population 2017	3,549	14,157	26,045	674,875	6,146,460
Population 2022	3,865	15,018	27,649	726,356	6,539,875
Compound % Change 2010-2017	1.3%	1.2%	1.2%	1.7%	1.2%
Compound % Change 2017-2022	1.7%	1.2%	1.2%	1.5%	1.2%
Households 2010	1,477	4,471	9,517	266,707	2,094,033
Households 2017	1,612	4,980	10,467	301,528	2,271,072
Households 2022	1,754	5,389	11,216	326,072	2,411,398
Compound % Change 2010-2017	1.3%	1.6%	1.4%	1.8%	1.2%
Compound % Change 2017-2022	1.7%	1.6%	1.4%	1.6%	1.2%
Median Household Income 2017	\$95,550	\$112,973	\$106,912	\$76,405	\$95,156
Average Household Size	2.2	2.1	2.1	2.1	2.7
College Graduate %	64%	55%	61%	58%	50%
Median Age	38	36	36	35	37
Owner Occupied %	55%	53%	50%	36%	58%
Renter Occupied %	36%	39%	42%	55%	36%
Median Owner Occupied Housing Value	\$600,394	\$644,880	\$663,763	\$573,204	\$413,762
Median Year Structure Built	1940	1940	1940	1951	1979

Source: ESRI

As shown above, the current population within a 0.5-mile drive distance of the subject is 14,157, and the average household size is 2.1. Population in the area has grown since the 2010 Census, and this trend is projected to continue over the next five years. Compared to the District of Columbia overall, the population within a 0.5-mile drive distance is projected to grow at a slower rate, though population and household growth in the immediate vicinity (0.25-mile distance) is expected to match or exceed the District-level trend.

Median household income is \$112,973, which is higher than the median income level for the District as a whole. Residents within a 0.5-mile drive distance have a similar level of educational attainment compared to the District overall, though median owner occupied home values are considerably higher. Also notable is the above-average share of owner-occupied homes in the market area and a somewhat higher median age.



Services and Amenities

The nearest major shopping facility serving the area is the Hechinger Mall, a 190,000 square foot shopping center located 1.3 miles north of the property. Tenants include a Safeway grocery store, Modell's Sporting Goods, Ross, Dollar Tree, Starbucks, and Subway. An Aldi is located immediately east of the Hechinger Mall. However, as in most areas of the District, the bulk of retail space is located along the street level of mixed-use commercial corridors, rather than in shopping centers/malls. Over the past decade both, 8th Street SE (Barracks Row) and H Street NE have emerged as major commercial corridors. Both of these neighborhoods are home to a wide array of retail users including personal services providers, fast-casual dining, high-end restaurants, nightlife venues, and convenience and specialty goods retailers.

This revitalization has included the opening of retail shops, restaurants, and service businesses further east along the Pennsylvania Avenue corridor as well. A Yes! Organic Market opened in 2012. More recently, 2017 saw the opening of a Trader Joe's as part of the Hine School redevelopment (a mixed-use project occupying a full city block just north of the Eastern Market Metro), as well as a Whole Foods located on the ground floor of the 600 block of H Street (in the Apollo apartment building).

The nearest fire and EMS station is located just one block west of the subject, while the nearest police station is about 1 mile to the west. There are several elementary school schools within a mile of the subject, including a few public charter schools. In contrast, there are only two middle schools within a mile of the subject, Eliot-Hine Middle School and Kingsman Academy Public Charter School. High schools in the area include Spingarn High School, Eastern High School, and Phelps Architecture, Construction, and Engineering High School.

Proximity to parks, open space and other passive recreation is average. The Congressional Cemetery is located 0.3 miles south from the subject, and Lincoln Park is a half-mile to the northwest. Two major sport and entertainment venues, the DC Armory (a 10,000 seat multipurpose arena) and RFK Stadium, are located less than one mile east of the subject. TRFK Stadium was home to DC United, the District's Major League Soccer team; however, the team is currently in the process of relocating to a new stadium in Buzzard Point in 2018. Currently, Events D.C. has not decided the next steps for RFK Stadium.

Land Use

In the immediate vicinity of the subject, predominant land uses are low-rise apartments and single-family rowhouses. Other land use characteristics are summarized as follows:



Surrounding Area Land Uses	
Character of Area	Urban
Predominant Housing Age (Both Ownership and Rental)	50 to 80 years
Predominant Quality and Condition	Average
Approximate Percent Developed	95% (excluding parkland and floodplain)
Percent Developed by Land use	40% Single Family; 40% Apartments; 10% Commercial, 10% Institutional
Infrastructure/Planning	Average
Prevailing Direction of Growth	West to East

Subject's Immediate Surroundings	
North	Single-family rowhouses
South	Single-family rowhouses
East	Green space with playground
West	Multifamily apartment buildings

Outlook and Conclusions

The area is a mature urban community that is generally characterized as being in the stability stage of its life cycle. The surrounding neighborhoods of Capitol Hill and Carver/Langston are in various stages of revitalization, but this activity has thus far penetrated Hill East to a more limited degree (primarily in the form of one-off renovations of existing rowhouses). However, given the history of the area and the growth trends, it is anticipated that property values will increase in the near future.

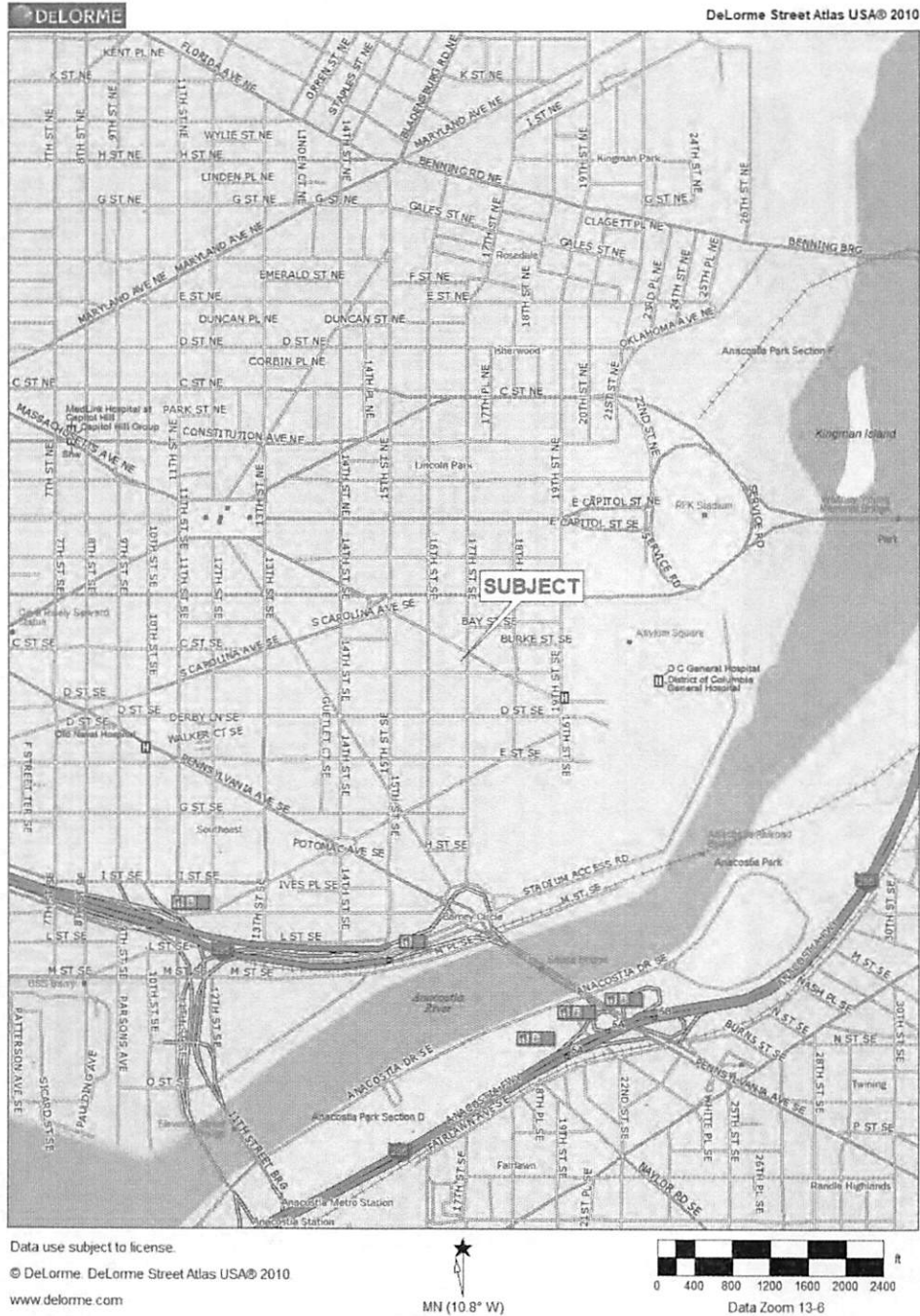


In comparison to other areas in the region, the area is rated as follows:

Surrounding Area Attribute Ratings	
Highway Access	Above Average
Demand Generators	Average
Convenience to Support Services	Average
Convenience to Public Transportation	Average
Employment Stability	Average
Police and Fire Protection	Average
Property Compatibility	Average
General Appearance of Properties	Average overall; variable from fair to very good
Appeal to Market	Average
Barriers to Competitive Entry	Above Average
Price/Value Trend	Average



Surrounding Area Map



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www.delorme.com

MN (10 8° W)

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Data Zoom 13-6



For-Sale Residential Market Analysis

National Housing Market

S&P/Case-Shiller Home Price Index

One measure of the health of the national housing market is the S&P/Case-Shiller Home Price Index. This index tracks housing prices for 20 U.S. metro areas going back to 1890, and is based on existing, not new, construction. The most recent index is based on data for July 2018.

S&P CoreLogic Case-Shiller's home price indices for July 2018 show that home prices continued their rise across the country over the past year, with the 10-City Composite, 20-City Composite, and National indices showing year-over-year increases of 6.22%, 6.55%, and 6.41%, respectively.

Index Name	MTD	QTD	YTD	1 Year	3 Years	5 Years	10 Years
<ul style="list-style-type: none"> S&P CoreLogic Case-Shiller 10-City Composite Home Price NSA Index 	0.61%	0.61%	2.42%	6.22%	5.27%	6.23%	2.01%
<ul style="list-style-type: none"> S&P CoreLogic Case-Shiller 20-City Composite Home Price NSA Index 	0.8%	0.8%	2.8%	6.55%	5.9%	6.66%	2.15%
<ul style="list-style-type: none"> S&P CoreLogic Case-Shiller U.S. National Home Price NSA Index 	1.01%	1.01%	2.39%	6.41%	5.71%	5.87%	1.84%

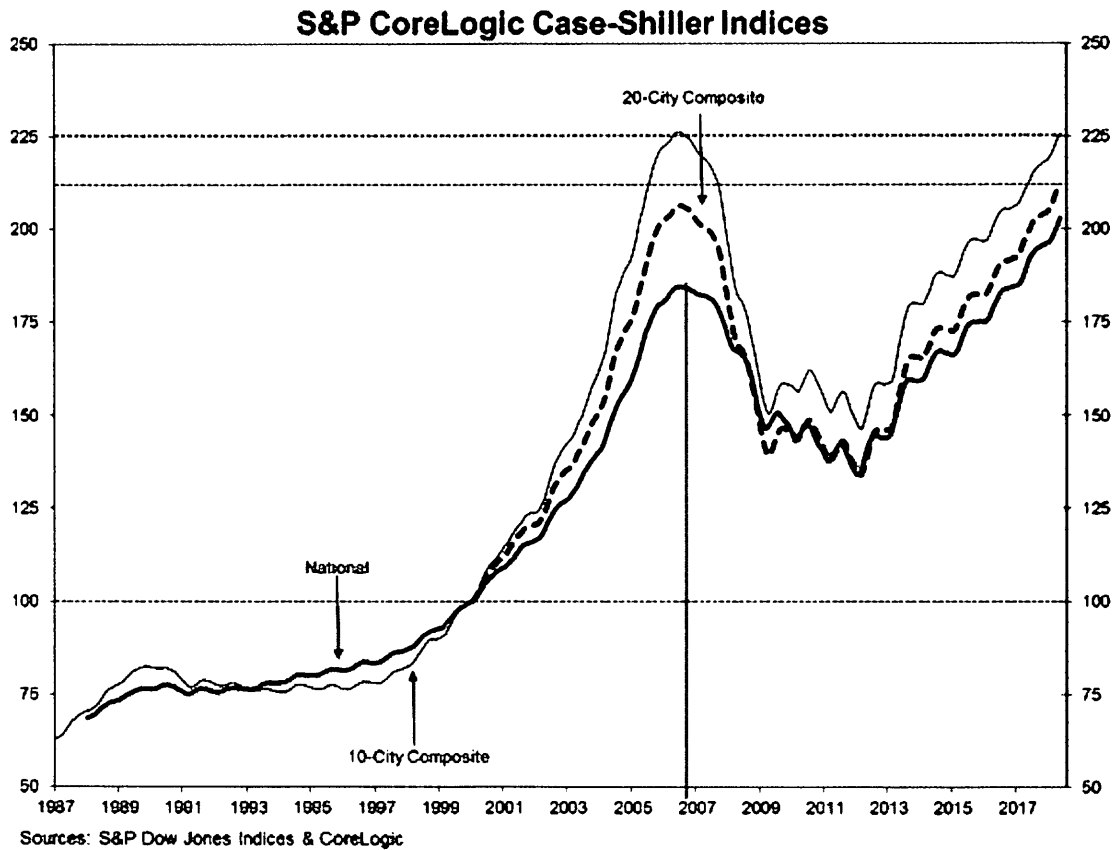
These composites can be compared to the historical rates in Washington, DC, presented as follows.

<ul style="list-style-type: none"> S&P CoreLogic Case-Shiller Washington, D.C. Home Price NSA Index 	1.14%	1.14%	2.15%	3.16%	2.56%	3.09%	1.17%
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This data indicates that while residential pricing in the Washington market continues to increase, the growth rate has lagged the national market in recent years. It should be noted, however, that this data reflects metro-level pricing, and the District proper has been outpacing the broader region in home price increases for some time.



An illustration showing long-term historical changes in S&P CoreLogic Case-Shiller's HPI is shown below. Although this index shows positive price appreciation over the past five years, the national housing market has only recently fully recovered from the national economic downturn that started circa 2007, and the 10-City and 20-City indices are still slightly below pre-recession peak levels.

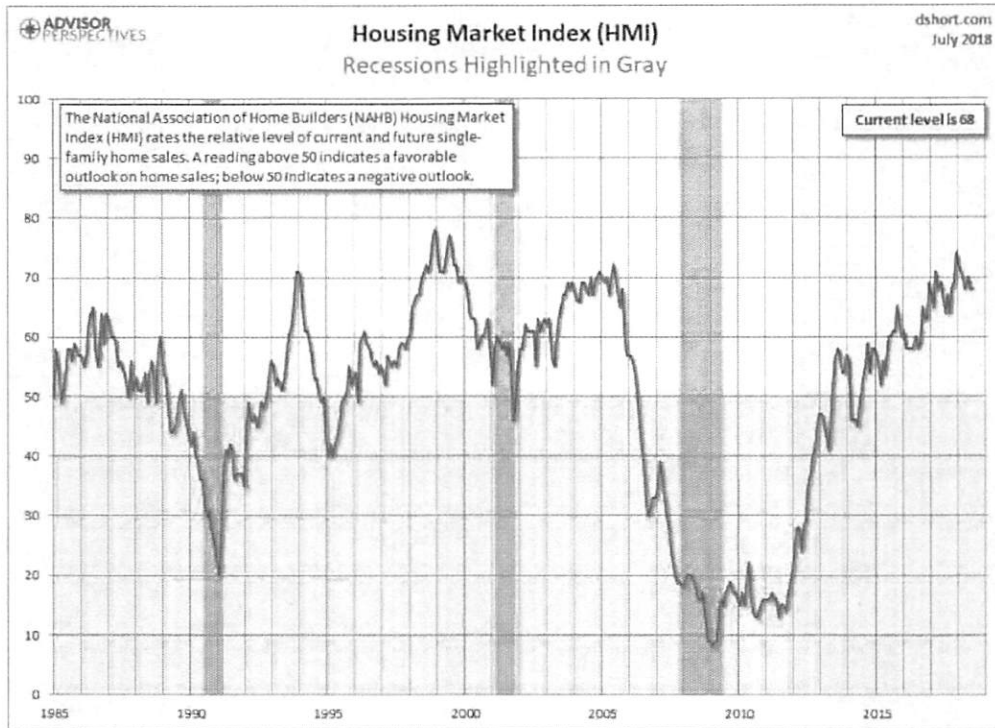


NAHB/Wells Fargo Housing Market Index (HMI)

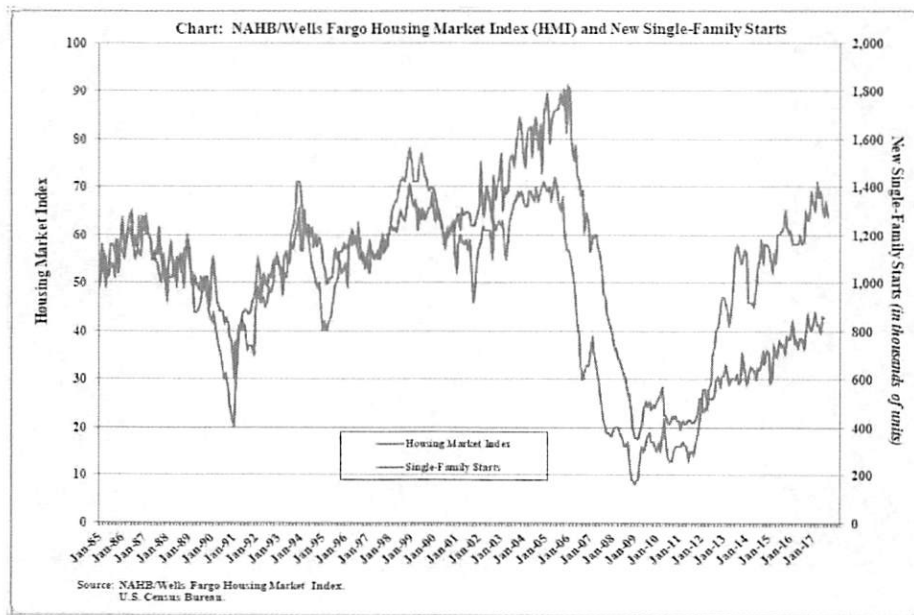
Another measure of the health of the national housing market is the NAHB/Wells Fargo Housing Market Index (HMI). This index, being shepherded by the National Association of Homebuilders (NAHB), is published on a monthly basis, and is based on a survey of homebuilders who are asked to rate the current pace of single family home sales and their future expectations. Survey results over 50 indicate positive responses.

As shown in the ensuing chart, the July 2018 NAHB/Wells Fargo Housing Market Index (HMI) is 68, a level that is unchanged from last month's number. This index has been at or above 50 since July 2014, a very positive sign for the national housing market.





Still, while single-family starts have been generally increasing since 2011, housing starts are well below the levels reached prior to the national economic downturn.

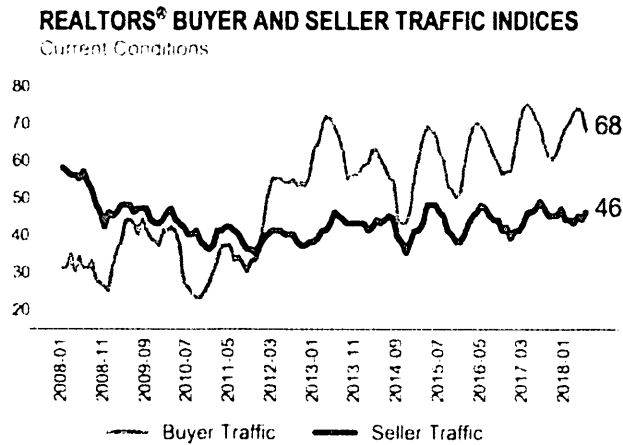


REALTORS Confidence Index

In addition to the aforementioned indices, trends in the national housing market can also be measured by the REALTORS Confidence Index, an index/survey that is published by the National Association of Realtors (NAR). The index/survey includes a scale from 0 to 100 with 100 highest level of confidence.

The following bullet points summarize the results of the most recent edition (June 2018) of this index/survey:

- The REALTORS Confidence Index remained above 50. The Confidence Index ranged from 66 for detached single-family, to 56/54 for condominiums/townhomes, respectively. An index above 50 indicates that market conditions are expected to improve over the next six months.
- The REALTORS Buyer Traffic Index declined slightly to 68, compared to 71 a year prior.

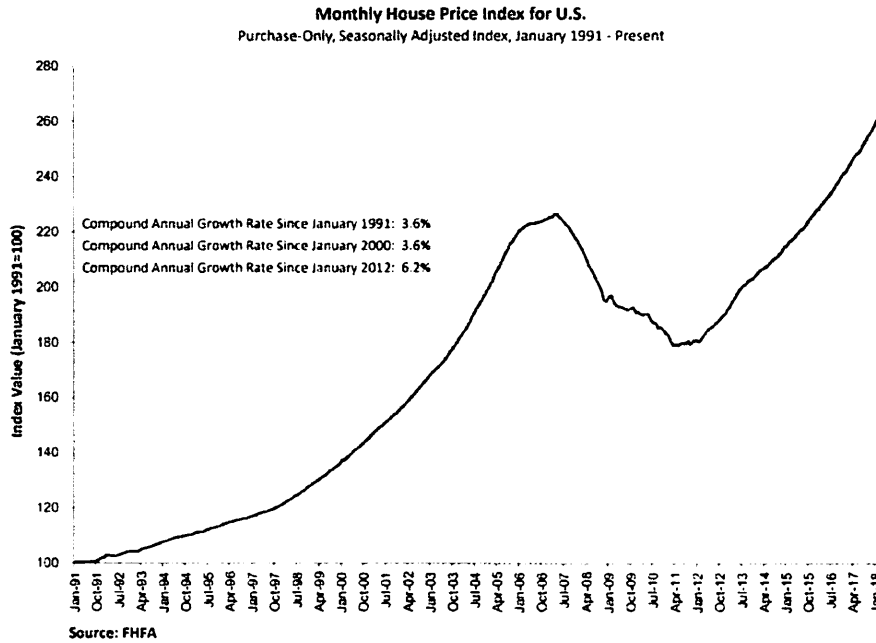


- The REALTORS Seller Traffic Index is down slightly compared to one year ago, decreasing to 46 from 47. This index has remained below 50 since January 2008, which indicates that supply has remained tight.
- Typical days on market declined from 28 to 26 days, compared to a year ago.
- 87% of respondents reported that home prices are at or above levels one year ago.
- First-time buyers accounted for 31% of sales (compared to 32% a year ago).
- Vacation and investment buyers' share of sales remains unchanged at 13%.
- Cash sales have increased, from 18% a year ago to 22% of sales.



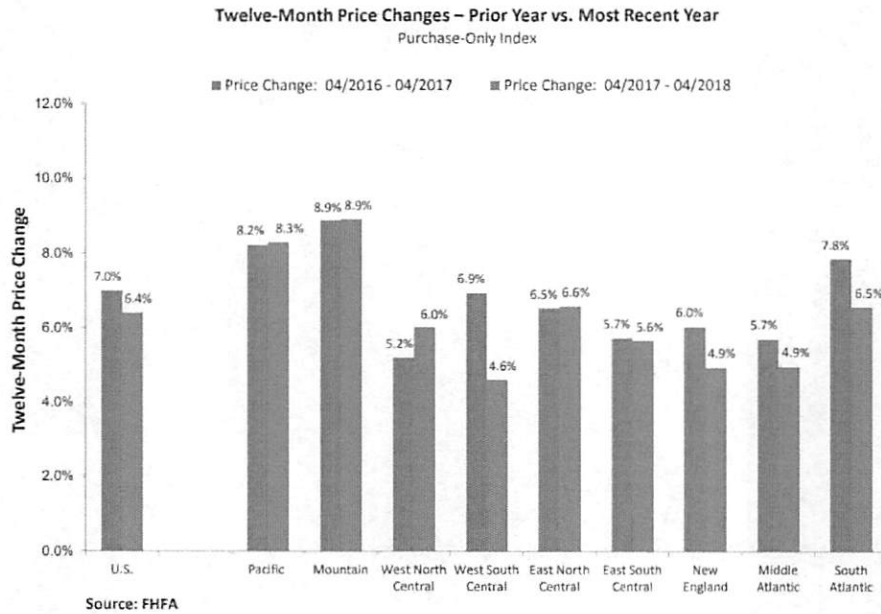
Federal Housing Finance Agency's (FHFA) House Price Index (HPI)

According to the Federal Housing Finance Agency's (FHFA) House Price Index (HPI), which is a broad measure of movement in purchase-only single-family home prices, prices increased by 6.4% between April 2017 and April 2018. The index change for the Middle Atlantic was slightly lower, at 4.9%. Historical movements in the HPI are displayed in the following chart.



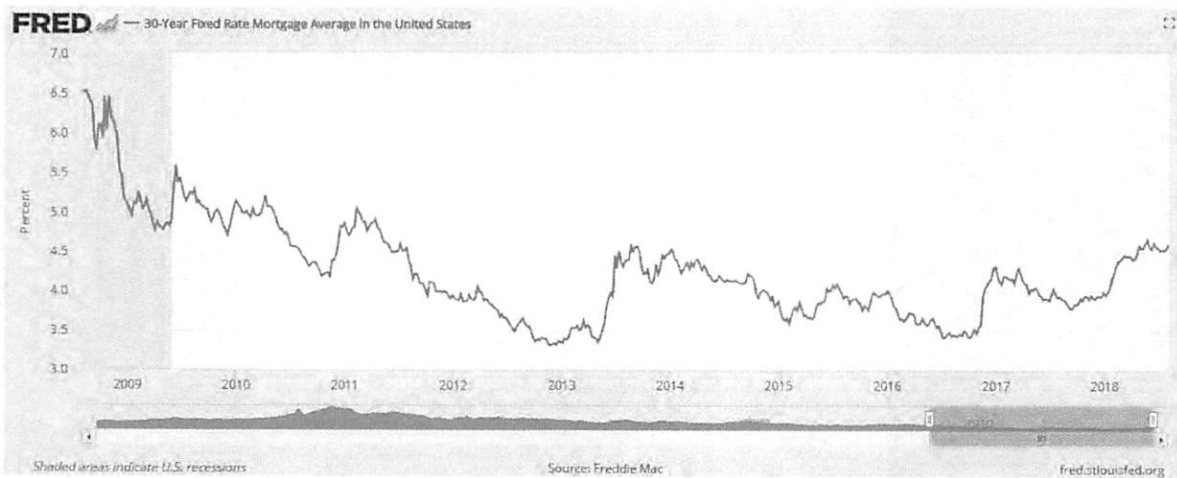
As shown below, year-over-year pricing is reported to have experienced positive growth in all nine census divisions. However, price increases have slowed in a majority of the divisions compared to a year prior.





Interest Rates

Pricing and sales volume in the for-sale housing market are highly sensitive to interest rate changes. Rates for 30-year fixed-rate mortgages recorded a cyclical (and all-time) low in late 2012/early 2013, at $\pm 3.30\%$. Rates increased by over 120 basis points from this level over the course of 2013, then declined by 100 bps, from a weekly average high of nearly 4.6% to as low as 3.60%, by early 2015. Mortgage rates eventually returned to near record low levels of just over 3.4% in mid-2016, before increasing sharply at the end of that year, to just over 4.3%. Rates drifted down over the first half of 2017 year, but have since been increasing steadily and now stand at just over 4.5%.



As shown below, rates are generally expected to rise further over the next year, with forecasts for year-end 2019 interest rates ranging from 4.5% to 5.4%.

Agency	2018 Prediction	2019 Prediction
Mortgage Bankers Association	4.9%	5.4%
Freddie Mac	4.6%	5.1%
Fannie Mae	4.5%	4.5%
Realtor.com	5.0%	No forecast
National Association of Realtors	4.5%	4.8%
Kiplinger	4.7%	No forecast
National Association of Home Builders	4.5%	5.0%

In summary, the national for-sale housing market has made a steady recovery with market conditions for development land and residential lots showing positive trends. However, the housing market remains interest rate sensitive and economic conditions that have positively impacted housing sales could reverse.

Regional Condominium Market

The following is a summary of the Washington, DC area condominium market trends. This data is taken from the annual *TrendLines 2018*, a publication by Delta Associates, for the Washington Area Condominium Market.

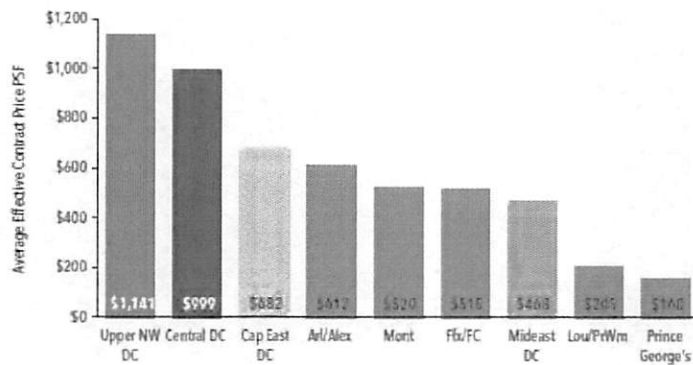
Sales Activity: Net sales in 2017, at 1,333 units, were down 24% compared to 2016 (which had reflected a 34% from 2015 and were at the highest level since 2007). At the submarket level, all four submarkets in the District saw declines, while the suburban markets were mixed. Resale activity, however, was up 1.9% to its highest figure ever (16,223 units). The condominium share of the resale market has also expanded since 2009, from 21% to 25%.

Prices: The average effective price per square foot for "same-store" new condo sales in the metro area in 2017 rose 0.9%, compared to 1.3% the prior year. Prices in the District and Northern Virginia increased by 2.2% and 2.3%, respectively while Suburban Maryland decreased by 3.0%. As described by Delta Associates: "Compared to other cities in the United States, new condos currently selling in Mideast DC and Capitol East DC [the subject's submarket] are priced just behind those in San Diego. PSF prices in Upper Northwest DC are most similar to those in San Francisco."



New Condominium Prices*

Washington Metro Area | Fourth Quarter 2017



*Reflects prices of condo projects currently selling, so averages should not be compared from quarter to quarter since locations of projects change each quarter

Source: Delta Associates; January 2018.

“Resale condo prices picked up considerably more traction than prices for new product in 2017. Prices for resale units in November 2017 were up 7.5% on average metro-wide compared to November 2016. Average resale prices increased in every major jurisdiction in the Washington metro area, but existing units in Montgomery County spiked the most, up 13.2%. Not far behind, prices in the District of Columbia also increased by double-digits compared to November 2016.”

Concessions: Average concession rates (as a percentage of asking price) are 0.7% as of the end of 2017, down 20 basis points from year-end 2016. Condo projects in the District of Columbia continue to offer very little in the way of concessions, currently averaging 0.1% of the sales price.

Pipeline: As of year-end 2017, there were 3,002 unsold new condominium units that were either actively marketing or under construction (and yet to begin marketing) in the metro area, an increase of 17% from a year ago. More than 60% of this inventory (1,900 units) is located in just three submarkets: Prince George’s County, Capitol East DC, and Montgomery County.

While the number of *projects* in the 36-month pipeline has not changed over the past year, the number of *units* planned to begin sales within the next 36 months increased from 3,280 to 4,090 units (similar to the year-end 2015 figure). Northern Virginia makes up the largest share of units (50%) followed by the District of Columbia (38%). Of these units, Delta estimates that about 75% of the total will be built within the next three years. In addition, 6,500 units are in the longer term condominium pipeline and another 55,500 multifamily units in various stages of planning may be built either as rental apartments or condos (both of these figures are down slightly over the past year). As a result, metro-wide, the inventory to sale ratio (months of supply at current rates of sale) is 12.8 months, up from 10.3 months in 2016 but down from 15.3 months reported at the end of 2015. This is still considered to be well below a “healthy” level of between 24 and 30 months of new construction condominium supply. This is an indication that the market remains supply-constrained.



Condominium Starts: In 2017, 1,104 units started construction, down considerably from the 1,838 units that started in 2016. 370 of these units will be located in the District. Starts are expected to rebound in 2018 to \pm 1,900 units.

Condominium Deliveries: Since 2009, the number of deliveries has consistently been below the normalized annual sales range of 2,300 to 3,300 units. The number of deliveries in 2015 rose to about 2,500 units (the highest figure since 2009), but dropped back down to 1,355 units in 2016. Deliveries dropped even further in 2017 to about 923 units.

Sales Pace: During 2016, 833 units began selling in the metro area, an decrease of 20% compared to 2016. Of all new market entrants, 34% of the units have been sold, compared to 36% one year ago. Projects that sold out since 2016 averaged 3.0 sales per month since 2015, while those that started selling over the last twelve months have averaged 2.8 sales per month.

Delta Associates concludes that "The Washington metro area's condo market cooled some in 2017. After a brief lull in construction activity, we expect starts in 2018 to rebound along with sales activity. Price growth should continue to be moderate in the first few quarters of 2018 before accelerating later in the year and into 2019. While the wave of new supply in the District of Columbia has given buyers some leverage, demand remains strong. As a result, supply will be the major determinant of sales, which we expect to ebb and flow with the availability of new product."



Pricing

The following table, based on data provided by *Real Estate Business Intelligence*, in conjunction with MRIS, summarizes historical residential condominium sales in the District of Columbia through year-end 2017:

Year	Units	Average Sale Price	Avg. Sale Price % Change	Average Days On Market
2008	2,293	\$425,711		62
2009	2,336	\$443,809	4.25%	68
2010	2,105	\$469,006	5.68%	53
2011	2,076	\$456,322	-2.70%	57
2012	2,620	\$461,442	1.12%	43
2013	3,137	\$485,819	5.28%	28
2014	3,297	\$508,146	4.60%	29
2015	3,389	\$515,860	1.52%	28
2016	3,602	\$526,418	2.05%	30
2017	3,763	\$554,657	5.36%	27

The average price for condominiums in the District of Columbia has been generally increasing year-over-year since 2008, excluding 2011 which experienced a 2.7% decline. The average sale price for calendar year 2017 reflected a historic high with an average price of \$554,657, and the largest year-over-year percentage increase since 2010.

After experiencing a high of 57 days in 2011, the average days on market for a condominium in the District of Columbia has declined to \pm 30 days, and currently stands at an all-time low of 27 days.

In addition, we have reviewed Sotheby's International Realty's *Q2 2017 Condo Report – A Comprehensive Analysis of the Condominium Market in the Washington Area* for additional market insight. According to their report, the Washington condominium market is still supply constrained; however, the introduction of some larger projects over the past 12 months has contributed to the best annual sales performances for the market since 2013. Heightened sales activity and a constrained supply of units have caused prices for condominium units in the region to increase. According to Sotheby's, there were a total of 131 new condominium contract sales in Washington, DC in the 2nd Quarter of 2017. The Capital Hill/Riverfront/SW, Central DC, and Noma/H Street submarkets continue to lead the city in sales activity in the last 12 months, followed by Columbia Heights/Shaw. The average effective sales prices for new condominiums in the District increased over the 12 months ending in June 2017 with an average price of \$782/square foot. A total of 1,143 units are currently marketing or under construction in the District, with nearly 40% of units in the 36-month pipeline located in the subject's Capitol Hill/ Riverfront/ SW submarket.



Absorption

To determine a reasonable sales pace for the subject, we analyzed investor surveys, absorption data for comparable properties, and conducted a survey of active local market participants; including brokers, developers, and news media sources.

Investor Survey

As described earlier, Delta Associates, in their most recent publication on the *Washington Area Condominium Market*, reports that projects that sold out since 2016 have averaged 3.0 sales per month, while those that started selling over the last twelve months have averaged 2.8 sales per month.

Given the subject's location, level of competitive supply, project size, and expected price points, we would expect an absorption pace similar to the Washington Area average (2.9 units per month) for the subject.

Comparables

For this appraisal, we surveyed several residential condominium projects to determine absorption paces for recent DC condominium projects. The following is a list of absorption comparables for the subject.

Absorption Pace Comparables					
Projects Name	Submarket	# of Units	Number of Sales	Sales Per Month	
Chapman Stables	Truxton Circle	103	8	2	
Ontario 17	Adams Morgan	71	71	2.5	
525 Water	Southwest	108	78	3.6	
10Eleven	Downtown	64	64	4.8	
The Corey	Trinidad	43	43	5.4	
Logan13	Logan Circle	62	62	8.3	

As shown above, absorption paces are variable, but in most cases range from 2 to 5 units per month. In addition, while the relationship does not always hold, larger projects typically achieve a faster absorption pace due to having increased advertising/marketing power and a larger variety of units available for sale.

Interviews

NKF has conducted a market survey of active sales brokers, condominium developers, and other individuals with knowledge of the District of Columbia apartment/condominium market. Generally speaking, these individuals suggested that projects located closer-in to the Washington, DC CBD – especially in the Columbia Heights, U Street/14th Street, and Logan Circle neighborhoods – could expect to experience sales pace estimates between 3 to 8 units per month, depending on project size, price point, location, and quality. As a mid-market project of small to medium size, we would expect the subject to achieve absorption at the lower end of this range.

Based on the market data presented, it is our opinion that a reasonable absorption projection for the subject property is 3 units per month. Given that some level of pre-sales prior to



completion would be expected, it is our opinion that the subject could expect to sell all 20 market-rate units planned in the Development Program within six months of completion/delivery.



Multifamily Market Analysis

While the subject is proposed to be developed as a “for sale” condominium project, this market is directly impacted by conditions in the rental apartment market. Accordingly, we present the following overview of historic, current and forecasted apartment market conditions.

National Market Overview

The following was taken from the “4Q17 United States Multihousing Market Overview” prepared by ARA, a Newmark Company.

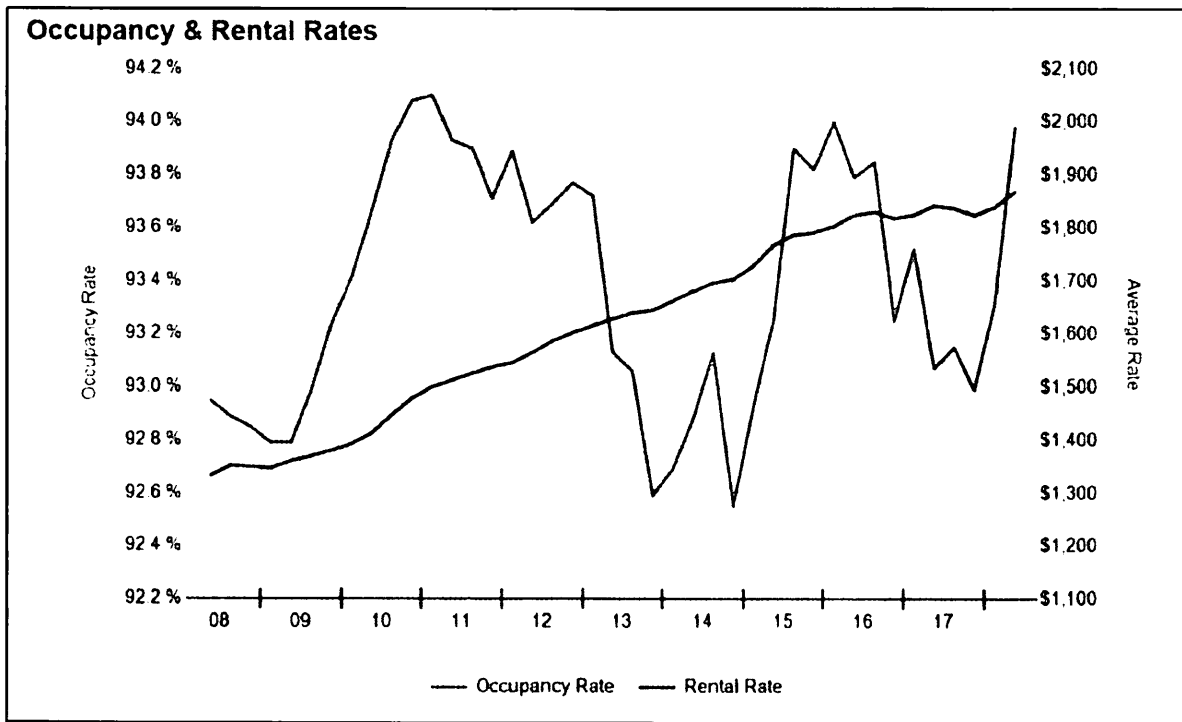
- ✘ **Sales Volume** – The uncertainty following the election made for a turbulent start to 2017, as investment sales volume decreased 6.9% year-over-year to \$150.1 billion. Robust capital, investors’ increasing willingness to be flexible and a resilient economy are likely to accelerate volume in the year ahead.
- ✘ **Cap Rates** – Yields remain flat year-over-year at 5.0% nationally. Intense competition for value-add product in non-major markets and a lack of core opportunities in major markets have narrowed the spread between these two market tiers to just 60 basis points.
- ✘ **Rent Growth** – Annual effective rent growth remains above long-term averages, although the current rate of 2.3% is down 100 basis points year-over-year. Above average growth is occurring throughout the West in markets such as Las Vegas, Sacramento and San Diego.
- ✘ **Supply and Demand** – Over 365,000 units were delivered in 2017, and large deliveries are expected to continue in 2018. Despite these strong levels, many key markets such as Houston and New York have seen demand exceed new supply over the past 12 months.
- ✘ **International Capital** – Acquisitions by international capital sources increased 17.7% to \$11.8 billion during 2017. Much of the volume was through portfolio acquisitions of student housing properties by sovereign wealth funds and pension plans.
- ✘ **Debt Markets** – Multihousing debt outstanding increased to \$1.2 trillion, up 2.1% quarter-over-quarter. Debt capital remains plentiful, especially among GSE lenders, as their debt outstanding increased 3.6% over the fourth quarter to \$571.1 billion.

District of Columbia Overview

Supply and demand indicators for multifamily rental housing in the District of Columbia, including inventory levels, absorption, vacancy, and rental rates for all classes of properties are presented below, and are abstracted from CoStar, Inc. data.



District of Columbia Apartment Market						
Year	Inventory Units	Deliveries Units	Vacancy %	Net Absorption Units	Effective Rent Per Unit	Effective Rent % Growth/Year
YTD	144,631	1,044	6	2,396	\$1,839	2.6
2017	143,587	5,799	7	5,033	\$1,793	0.4
2016	137,800	4,346	6.7	3,288	\$1,787	1.3
2015	133,454	2,499	6.2	4,002	\$1,763	4.5
2014	130,956	5,371	7.4	4,924	\$1,685	3.7
2013	125,604	3,804	7.4	2,090	\$1,625	2.2
2012	121,801	2,201	6.2	2,141	\$1,591	3.9
2011	119,600	1,484	6.3	958	\$1,528	3.8
2010	118,116	1,183	5.9	2,086	\$1,469	6.9
2009	116,933	2,327	6.7	2,617	\$1,371	2.2



The District of Columbia multifamily market contains an overall inventory of 144,631 units. Overall inventory has increased at a 2.14% annual compound rate since 2009.

The market has generally been stable for quite some time with the overall vacancy rate estimated to be 6.0% as of the current time, which represents a modest decrease from a higher mark of 7.4% in 2014. Absorption has remained positive over the past ten years despite the economic recession, with fluctuations in vacancy rate being driven primarily by the timing of new inventory deliveries. Since 2009, positive absorption has averaged 2,954 units per year.



The average effective rental rate is \$1,839 per unit, which has steadily grown since 2009 at an average compound rate of 2.98% per year.

Submarket Analysis

The subject is located along the border of the Capitol Hill and Southwest/Navy Yard submarket areas as defined by CoStar, Inc. As a result, we have combined these submarkets for analysis purposes. Key supply and demand indicators for all classes of properties in this submarket are displayed in the next table, followed by a separate table showing Class A properties only.

Capitol Hill/Southwest/Navy Yard Submarket Cluster						
Year	Inventory Units	Deliveries Units	Vacancy %	Net Absorption Units	Effective Rent Per Unit	Effective Rent % Growth/Year
YTD	14,806	523	11.3	776	\$2,166	2.1
2017	14,283	2,591	13.4	1,913	\$2,122	0.1
2016	11,692	1,483	10.6	808	\$2,120	0.8
2015	10,209	77	5.6	453	\$2,105	13.4
2014	10,132	782	9.3	567	\$1,867	9.1
2013	9,350	426	7.8	226	\$1,709	4.6
2012	8,924	-	5.9	63	\$1,634	10.3
2011	8,924	170	6.6	150	\$1,456	4.2
2010	8,754	141	6.5	206	\$1,393	6.2
2009	8,613	323	7.4	465	\$1,312	2.2

Submarket Cluster - Class A Properties						
Year	Inventory Units	Deliveries Units	Vacancy %	Net Absorption Units	Effective Rent Per Unit	Effective Rent % Growth/Yr
YTD	7,712	523	17	733	\$2,503	1.8
2017	7,189	2,463	21.2	1,912	\$2,457	-0.4
2016	4,726	1,483	20.6	798	\$2,467	-0.6
2015	3,243	77	8.8	446	\$2,485	9.7
2014	3,166	769	20.7	543	\$2,354	5.4
2013	2,397	420	17.9	275	\$2,265	2.5
2012	1,977	-	14.3	34	\$2,222	6.7
2011	1,977	170	15.9	138	\$2,046	3.9
2010	1,807	-	15.7	47	\$1,970	6.8
2009	1,807	323	18.3	448	\$1,845	2.8

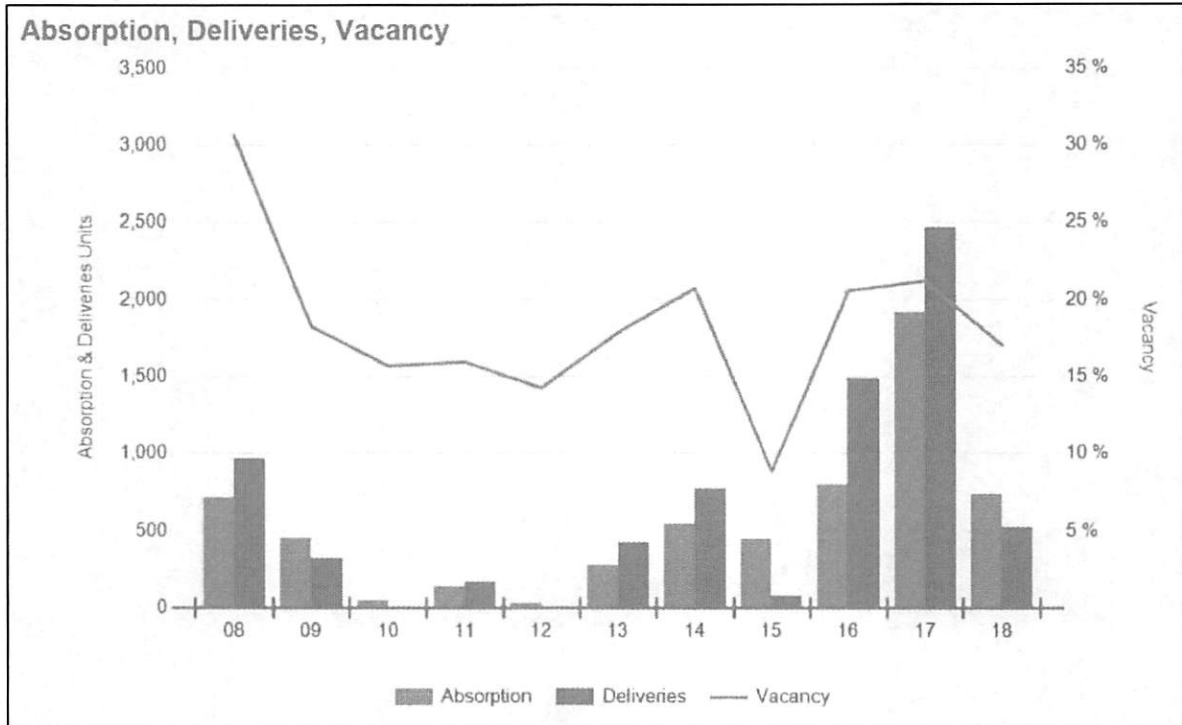
The subject's submarket cluster area contains an overall inventory of 14,806 units, of which 7,712 units or 52.1% are Class A units. Approximately 6,193 units have been added to the overall submarket between 2009 and 2017, of which 5,905 units are Class A (95%). The overall submarket cluster has nearly doubled in size, while the Class A inventory has nearly quadrupled since 2009. This submarket cluster has seen a major increase in development and revitalization of existing inventory. We note that the vast majority of this new development has taken place in the Southwest/Navy Yard portion of the submarket cluster.



While the vacancy rate has remained elevated (especially for Class A properties), this is largely the result of the relatively small number of units in the sample: one 300-unit delivery increases the Class A vacancy rate by about 4%. Once new projects in the market reach stabilization, they have generally remained stabilized in the 93% to 97% occupancy range.

Vacancy Rate and Rental Trends

Vacancy rate trends in relation to new construction deliveries and absorption for Class A multifamily properties in the subject’s submarket cluster are presented in the following chart.



Overall submarket vacancy (all classes of properties combined) is estimated at 11.3%, which represents a significant increase from a lower mark of 5.6% in 2015. Class A vacancy is higher at 17.0%, which represents a modest decrease from a higher mark of 20.7% in 2014. Newmark Knight Frank is of the opinion that the present elevated vacancy rates are strictly the result of multiple simultaneous recent deliveries. Once stabilized, projects tend to stay stabilized.

The overall submarket effective rental rate (all classes of properties combined) is estimated at \$2,166 per unit, which represents a significant increase from the lower mark of \$1,867 in 2014. The Class A rental rate is higher at \$2,503 per unit, which represents a minor increase from a lower mark of \$2,345 per unit in 2014. Much like the elevated vacancy rates, Newmark Knight Frank is of the opinion that the effective rental rate has only seen a minor uptick since 2007 in Class A properties because of the large increase in new deliveries. Most apartment projects are offering an increased amount of concessions in order to attract new tenants and maintain occupancy levels. Once stabilized, the effective rental rate for the submarket is



projected to increase, especially given the significant expansion of neighborhood amenities (retail, etc.) going forward.

New and Proposed Construction

The following table summarizes properties that are under construction, planned, and/or proposed in the subject's market area.

New and Proposed Construction						
Building Name	Building Address	Number Of Units	Rentable Building Area	Year Built	Submarket Name	Building Status
The View at Waterfront - Phase II	1100 6th St SW	276	400,000	2018	Waterfront MF	Under Construction
Square 769N	201 K St SE	179	182,210	2018	Capitol Riverfront MF	Under Construction
Valo	222 M St SW	220	220,000	2018	Waterfront MF	Under Construction
Modern on M	465 M St SW	276	270,000	2018	Waterfront MF	Under Construction
West Half	1201-1221 Half St SE	425	325,500	2018	Navy Yard MF	Under Construction
Lockwood Apartments	1339-1355 E St SE	145	138,646	2019	Capitol Hill MF	Under Construction
Peninsula 88	88 V St SW	108	116,000	2019	Waterfront MF	Under Construction
	192 19th St SE	353	386,452	2019	Hill East MF	Under Construction
NOVEL South Capitol	2 I St SE	558	474,300	2019	Capitol Riverfront MF	Under Construction
Portals V	1399 Maryland Ave SW	373	352,000	2019	Waterfront MF	Under Construction
	1331 SW Maryland Ave	373	374,000	2019	Waterfront MF	Under Construction
1401 PENN	1401-1433 Pennsylvania Ave SE	167	157,500	2019	Capitol Riverfront MF	Under Construction
	1250 Half St SE	445	401,600	2019	Navy Yard MF	Under Construction
Dock 79 Phase II	71 Potomac Ave SE	264	250,000	2020	Navy Yard MF	Under Construction
Randall School Project	65 Eye St SW	479	412,500	2019	Southwest DC MF	Proposed
Square 740 II	1000 1st St SE	275	250,000	2020	Capitol Riverfront MF	Proposed
Square 740 I	1020 1st St SE	273	250,000	2020	Capitol Riverfront MF	Proposed
Riverpoint	2100 2nd St SW	450	609,265	2020	Waterfront MF	Proposed
	415 14th St SE	320	100,000	2020	Capitol Hill MF	Proposed
	1000 S Capitol St SE	330	280,500	2020	Capitol Riverfront MF	Proposed
The Bard	501 Eye St SW	136	125,000	2020	Waterfront MF	Proposed
	227 Tingey St SE	264	264,000	2020	Navy Yard MF	Proposed
	99 I St SE	800	835,000	2020	Capitol Riverfront MF	Proposed
Arthur Capper Carrollsburg	200 L St SE	295	300,000	2020	Capitol Riverfront MF	Proposed
	375 M St SW	308	308,000	2020	Waterfront MF	Proposed
	1319 S Capitol St SW	250	230,000	2020	Waterfront MF	Proposed
	1900 Half St SW	462	481,235	2020	Waterfront MF	Proposed
One Hill South - Phase II	950 S Capitol St SE	300	300,000	2021	Capitol Riverfront MF	Proposed

There are currently 14 properties under construction and another 14 properties in the proposed construction phase in the neighborhoods that influence the subject property. The under construction properties currently total 4,162 units, for an average size of 297 units. The proposed properties currently total 4,942 units, for an average size of 353 units.

Multifamily Market Outlook and Conclusions

Based on the key metro and submarket area trends and future supply/demand outlook, NKF expects the District of Columbia apartment market to experience moderate headwinds in the near term due to the large volume of recent and forthcoming deliveries. Conditions are expected to begin tilting back in landlords' favor circa 2019 as the supply pipeline diminishes. However, the Capitol Hill submarket, especially the Capitol Riverfront neighborhood near Nationals Park, is expected to experience a considerably longer overhang of excess supply. This is expected to result in muted (or potentially negative) rent growth and stubbornly high vacancies for at least the next two to four years.



Property Analysis

Land Description and Analysis

Land Description	
Land Area	0.26 acres; 11,125 SF
Source of Land Area	District of Columbia Office of Tax and Revenue
Primary Street Frontage	17th St. SE - 112 feet
Secondary Street Frontage	Massachusetts Ave. SE - 92 feet
Shape	Trapezoidal
Corner	Yes
Topography	Generally level; graded slightly above street
Drainage	No problems reported or observed
Environmental Hazards	None reported or observed
Ground Stability	No problems reported or observed
<hr/>	
Flood Area Panel Number	1100010038C
Date	September 27, 2010
Zone	X
Description	Outside of 500-year floodplain
Insurance Required?	No
<hr/>	
Zoning; Other Regulations	
Zoning Jurisdiction	District of Columbia
Zoning Designation	RF-1
Description	Residential Flats
Legally Conforming?	Appears to be legally nonconforming
Zoning Change Likely?	PUD and/or special exception approval considered pursuant to Scope of Work
Permitted Uses	Row dwellings and flats (1 or 2-unit dwellings), places of worship, and public education, recreation, and library buildings; conversion of existing on-residential buildings to apartment use permitted, but with density limited to 1 dwelling unit per 900 square feet of land area, and a maximum height of 35 feet for any addition to the existing structure
Minimum Lot Area	1,800 SF for rowhouse lots
Minimum Lot Width	18' for rowhouse lots
Minimum Setbacks	20' (rear only)
Maximum Building Height	35 feet/3 stories
Maximum Site Coverage	60% for detached dwellings, row dwellings and flats; 40% for other structures
Maximum Density	1 dwelling per 900 SF of land area (existing non-residential use);
Maximum Floor Area Ratio	N/A
Parking Requirement	1 per 2 dwelling units (flats and apartments); for expansion or change of use within an existing building, no additional parkin required when the minimum number of spaces for the new use exceeds the number of spaces required for the prior use; historic resources not required to provide additional parking for change in use without expansion
Rent Control	Subject to ADU Act requirements by virtue of District of Columbia ownership
Other Land Use Regulations	None known
<hr/>	
Utilities	
Service	Provider
Water	DC Water
Sewer	DC Water
Electricity	Pepco
Natural Gas	Washington Gas
Local Phone	Verizon



Flood Hazard Status

The following table provides flood hazard information.

Flood Hazard Status	
Community Panel Number	1100010038C
Date	September 27, 2010
Zone	X
Description	Outside of 500-year floodplain
Insurance Required?	No

Zoning and Potential Development Density

The subject is zoned RF-1, Residential Flats, by the District of Columbia. The RF-1 zone is intended to “provide for areas predominantly developed with attached row houses on small lots within which no more than 2 dwelling units are permitted.” The following table summarizes our understanding and interpretation of the zoning requirements that affect the subject.

Zoning Summary	
Zoning Jurisdiction	District of Columbia
Zoning Designation	RF-1
Description	Residential Flats
Legally Conforming?	Appears to be legally nonconforming
Zoning Change Likely?	PUD and/or special exception approval considered pursuant to Scope of Work
Permitted Uses	Row dwellings and flats (1 or 2-unit dwellings), places of worship, and public education, recreation, and library buildings; conversion of existing on-residential buildings to apartment use permitted, but with density limited to 1 dwelling unit per 900 square feet of land area, and a maximum height of 35 feet for any addition to the existing structure
Category	Zoning Requirement
Minimum Lot Area	1,800 SF for rowhouse lots
Minimum Lot Width	18' for rowhouse lots
Minimum Setbacks	20' (rear only)
Maximum Building Height	35 feet/3 stories
Maximum Site Coverage	60% for detached dwellings, row dwellings and flats; 40% for other structures
Maximum Density	1 dwelling per 900 SF of land area (existing non-residential use); 2 dwellings per structure (new row dwellings and flats)
Maximum Floor Area Ratio	N/A
Parking Requirement	1 per 2 dwelling units (flats and apartments); for expansion or change of use within an existing building, no additional parking required when the minimum number of spaces for the new use exceeds the number of spaces required for the prior use; historic resources not required to provide additional parking for change in use without expansion



We are not experts in the interpretation of zoning ordinances. An appropriately qualified land use attorney should be engaged if a determination of compliance is required. However, it appears that the current use of the site is a legally nonconforming use that pre-dates the current zoning regulations, as the lot occupancy of the existing structure (100%) significantly exceeds the maximum permitted under zoning.

If the subject site were vacant, it could be subdivided for development with rowhouses (likely with 2 units per structure, i.e. flats). Based on the minimum lot area under RF-1 zoning (1,800 square feet), we would expect a yield of 6 lots. These lots would require at least 108 feet of street frontage (18' x 6 lots), which would appear to be achievable given that the site has approximately 286 feet of frontage on public streets.

Because the subject is currently improved with a non-residential building, multifamily use is permitted, both within the existing buildings and (potentially) as an expansion to an existing building, but is limited to one unit per 900 square feet of land area. Based on the subject site area of 11,125 SF, a "by right" conversion of the existing facility would yield a maximum of 12 multifamily units [11,125 SF / 900 SF = 12.4, rounded down]. Given the estimated existing building area of approximately 25,000 square feet (excluding the sub-basement level), the implied average unit size would be $\pm 2,000$ square feet [25,000 SF / 12 units = 2,083 SF GBA/unit, corresponding to 1,563 to 1,667 rentable SF at a 75% to 80% efficiency factor]. This is substantially larger than typical parameters for apartments in this market, and would be expected to result in significant levels of functional obsolescence.

The subject building is not historically designated; thus, a purchaser of the subject property in "as is/by-right" condition would be under no legal obligation to retain the existing improvements. However, retention of the improvements would most likely be perceived as a community benefit, in exchange for which a prospective developer might successfully obtain some level of relief from zoning requirements. This could take the form of relief from the 12-unit density limit (in the form of a BZA special exception), resulting in a more efficient/market-conforming unit mix being allowed. Alternatively, a successful Planned Unit Development application could incorporate both this unit density relief and increased allowable development density (in the form of increased height/FAR), potentially allowing for expansion of the improvements. At the client's request, our analysis includes a valuation of the subject property under each of these scenarios.

In the case of the special exception analysis (Scenario 3), our valuation assumes that BZA relief would eliminate the unit density cap, such that the existing structure could be converted for multifamily use at a market-determined level of unit density, so long as the building envelope were not expanded.

In the case of the PUD analysis (Scenario 2), the client has requested that we assume approval of a PUD program "where the parcel will be re-zoned for its highest and best use." The primary constraint on the level of density that could potentially be approved by PUD is the Comprehensive Plan, and more specifically the Future Land Use Map (FLUM). The FLUM identifies the subject site (and most of the surrounding neighborhood) for "Moderate Density Residential" use. NKF would note that there is not a one-to-one correspondence between FLUM categories and zoning designations; thus, assessing potential development density consistent with the Comprehensive Plan/FLUM is to some extent a matter of judgment.



- The Zoning Ordinance states that “The RF [Residential Flat] zones are designed to be mapped in areas identified as low-, moderate-, or medium-density residential areas.” NKF would interpret this categorization scheme as implying that “moderate density residential” use per the FLUM would represent a density level in the middle of the range allowed under the RF zoning categories.
 - The highest floor area density permitted in the RF zones (RF-4 and RF-5) is a 1.8 FAR, and lot occupancy in either of these zones is capped at 60%. The maximum height in these zones is 40’/3 stories (RF-4) or 50’/4 stories (RF-5).
 - Meanwhile, the RF-1 and zone limits residential building heights to 35 feet, but also caps lot occupancy at 60%. While no FAR limit is stated, the implied FAR maximum in this zone would also be ± 1.8 [60% lot coverage x 3 stories = 180% building/lot area ratio]. The RF-2 and RF-3 zones are intended to be mapped to specific neighborhood areas (Dupont Circle and the Capitol Precinct, respectively) and are thus not considered germane to this analysis, but have very similar density limits as the RF-1 zone.
- The Zoning Ordinance also states that “The RA [Residential Apartment] zones are designed to be mapped in areas identified as moderate- or high-density residential areas suitable for multiple dwelling unit development and supporting uses.” NKF would interpret this to imply that moderate-density residential use may also be consistent with the lower-density RA zones.
 - The RA-1 Zone (“low to moderate-density” per Zoning Ordinance) limits density to 0.9 FAR, with a maximum height of 40 feet. The RA-2 Zone (“moderate-density residential” per Zoning Ordinance) sets a maximum FAR of 1.8 and a maximum height of 50 feet. The maximum lot occupancy in either zone is 60%.
 - The next-highest density RA zone, RA-3, is described in the ordinance as “medium-density residential.”

Based on this information, it is our opinion that approval of a Planned Unit Development for the subject at an FAR density substantially exceeding 1.8, or based on a zoning category that is more liberal with regard to use/density than the RA-2 zone, is highly unlikely, as such a designation would appear to be inconsistent with the Comprehensive Plan. However, the above-noted moderate-density zoning categories that regulate density on an FAR basis do provide for a bonus density of up to 20% for Inclusionary Zoning (IZ) compliance. Thus, it is our opinion that the maximum allowable FAR that may be approved for the subject property pursuant to a PUD is 2.16 [1.8 base FAR + 20% IZ bonus].

To that end, we would note that the existing structure appears to represent an FAR of ± 2.25 (based on the non-subbasement GBA estimate of $\pm 25,000$ SF). Thus, it is NKF’s opinion that PUD approvals would be highly unlikely to allow for an expansion of the envelope of the existing structure.

Finally: the Development Program proposed by the Century Associates development team (the basis of our Development Program/Scenario 4 valuation) contemplates a total “at



completion” building area of 47,476 square feet. Of this space, 8,627 square feet would be located on the sub-basement level, indicating an at/above-grade building area of 38,849 square feet. This compares to our estimate of current gross building area (excluding sub-basement) of 25,000 square feet. It should be noted that our estimate of current gross building area is an approximation, as the interior layout is irregular, including significant vertical penetrations (e.g. gymnasium and auditorium areas with very high ceilings), multiple mezzanines, and partial floors. While “as built” plans were not available for our review, the square footage proposed under the development program appears to reflect the “filling in” of the high-ceilinged areas of the building with mezzanine space, such that the building would contain approximately three full floors, plus a small complement of additional mezzanine area and a sub-basement level. In our opinion, this design would represent the maximum floor area density achievable inside the existing building envelope, and would therefore be consistent with the maximum achievable density under a PUD-based development program, or under by-right zoning (noting that the RF-1 zone does not explicitly limit FAR, only height and coverage).

Other Land Use Regulations

ADU Act

Pursuant to the Disposition of District Land for Affordable Housing Act of 2014 (the “ADU Act”), dispositions of real property owned by the District of Columbia for purposes of developing 10 or more multifamily housing units are subject to the requirement that the subsequent development designate either 20% or 30% of the new units be designated as Affordable Dwelling Units (ADUs). Based on the subject’s location, the 30% requirement applies.

If the subject property were developed as a “for rent” multifamily property, 75% of the required ADUs would have to be made available to households earning not more than 50% of area median income (AMI), with the remaining 25% of the ADUs affordable to households earning not more than 30% of AMI. As a “for sale” multifamily development, 50% of the ADUs would have to be affordable at the 50% AMI level, with the other 50% of ADUs affordable at the 80% AMI level.

In either case, these restrictions must remain in place through the life of the building. Because the subject property is owned by the District, a disposition of the property would necessitate that the purchaser and/or leaseholder comply with these regulations in developing the site for any multifamily residential use comprising 10 or more units. This requirement would have a substantial negative impact on the value of the property in a multifamily residential use context.

Notably, the ADU Act does not apply to property developed with residential uses other than multifamily use (i.e. single-family dwellings or flats). Thus, if the subject improvements were demolished and the site subdivided for development with rowhouses, rowhouse flats, etc., the requirements of the ADU Act would not be applicable.

Inclusionary Zoning

Under DC law, Inclusionary Zoning requirements may be satisfied by the provision of affordable housing units required by other affordability programs that are more restrictive than



required by Inclusionary Zoning regulations. As the requirements under the ADU Act are more restrictive than the IZ program, no additional affordable compliance requirements would result from Inclusionary Zoning regulations. In addition, we would note that while Inclusionary Zoning requirements may apply to non-multifamily residential development, this is only the case when 10 or more units are constructed as part of a single project. As discussed, the subject site, if vacant, would be able to be subdivided into a maximum of 6 lots. Thus, a developer could legally avoid providing any affordable housing units under the Inclusionary Zoning program as long as not more than 3 of the 6 potential rowhouses were subdivided into two-unit flats.

We are not aware of any other land use regulations that would affect the property.

Conclusion of Site Analysis

Overall, the physical characteristics of the site and the availability of utilities result in functional utility suitable for the uses permitted by zoning. The primary use permitted by zoning are row dwellings/flats on a minimum lot size of 1,800 square feet, though certain other public/quasi-public uses are also permitted. Other than the noted requirements associated with the ADU Act, we are not aware of any other particular restrictions on development.



Tax/Zoning Map



Aerial



Improvements Description and Analysis

Existing Improvements

The subject site is currently improved with a structure built in 1937 that was formerly used as a Boys & Girls Club. It has been vacant since 2009, when the District of Columbia acquired the property, along with two other Boys & Girls Club facilities, for a reported price of \$20 million.

The layout of the structure is atypical, and highly tailored to the previous use. In particular, floor heights vary throughout the building, due to the presence of three separate large-volume special-purpose rooms (pool room, auditorium, and gymnasium), with the gymnasium and auditorium penetrating through two floors. In general, the building is laid out such that the pool is located on the lower level at the north end of the building, with the auditorium occupying the two floors above; meanwhile, the gymnasium occupies the lower level and first floor at the south end of the building. The space above the gymnasium is built out primarily as classroom/office type space. Both the pool and the gym are serviced by locker room and shower areas located on the lower level. In the center of the building, just inside the 17th Street entrance on the first floor, is an entry foyer/circulation area and a small amount of office space. Finally, a sub-basement level is located under approximately 75% of the building, though a significant portion of the sub-basement area is occupied by the vault of the pool located above. In any event, the sub-basement is non-windowed and is not considered to be marketable/usable except as storage or parking area. It should be noted that, because the main entrance to the first floor is accessed via stairs, and is situated ± 10 feet above the grade of 17th Street, the floor of the lower level is located at or slightly below grade (depending on shifts in topography along the building perimeter). Therefore, the utility of the lower level space is considered essentially equivalent to typical at-grade/first floor building area.

As discussed, the layout of the improvements makes accurate measurement of the as-built floor area difficult. We estimate the current gross floor area, excluding the sub-basement, at $\pm 25,000$ square feet [3 floors at 100% site coverage (11,125 SF) = 33,375 SF, less $\pm 5,000$ SF vertical penetration of gymnasium into first floor and $\pm 3,500$ SF penetration of auditorium into second floor].

The improvements were previously served by radiant heat (from two boilers located in the sub-basement) and package A/C units, which are presumed to be non-operational at present. (The building has been without electrical service for an unknown period of time.) Restrooms and locker room plumbing fixtures likewise appear to be non-operational, and the pool has been drained.

Finishes throughout the building generally consist of commercial carpet and VCT tile, acoustical tile ceilings and painted drywall or lightweight plaster partitions, generally of average quality. In any event, essentially all of the finishes and fixtures are in fair to poor condition and would require replacement prior to placing the building back in service. We would note that while temperature fluctuations appear to have impacted these finishes (e.g. ceiling tiles bowed), we did not observe any evidence of significant moisture intrusion.



The building's structural frame, meanwhile, appears to be very sound and comprised of reinforced concrete and terra cotta tile. No significant damage or deterioration to the interior structure was observed during our inspection.

Overall, the underlying structure of the building appears to be of good quality and condition, while the condition of finishes is fair to poor. With regard to functional utility, the building is considered reasonably adaptable to an alternative institutional use, such as a school or community center. However, economically productive use would be expected to require a significant reconfiguration of the current layout, as the amount of large-format special-purpose space would be considered very excessive by most potential users, relative to the amount of general purpose (classroom or office) space.

Development Program Overview/Proposed Improvements

The following chart summarizes the Development Program proposed by the Century Associates development team, which is the basis of our Development Program (Scenario 4) valuation premise. This description is based on our inspection of the property, discussions with DMPED staff, the development pro-forma prepared by the prospective developer (dated November 11, 2017), and floor plans prepared by Century Associates dated November 13, 2017.

Proposed Improvements Description	
Name of Property	Eastern Branch Boys and Girls Club (EBBGC)
General Property Type	Multifamily Residential
Property Sub Type	Age-Restricted Condominium
Competitive Property Class	Historic
Number of Buildings	1
Stories	3, including basement level that is mostly above-grade
Construction Class	B
Construction Type	Reinforced concrete frame
Construction Quality	Good
Number of Units	29
Units per Acre (Density)	113.5
Gross Building Area (SF)	47,476
Rentable Floor Area (SF)	26,175
Land Area (SF)	11,125
Floor Area Ratio (RFA/Land SF)	2.35
Floor Area Ratio (GFA/Land SF)	3.49
Building Area Source	Other
Year Built	1937
Year Renovated	2018/2019 (proposed)
Actual Age (Yrs.)	81
Estimated Effective Age (Yrs.)	5
Estimated Economic Life (Yrs.)	55
Remaining Economic Life (Yrs.)	50
Number of Parking Spaces	17
Source of Parking Count	Pro-forma
Parking Type	Structured below ground, mechanical lift system
Parking Spaces/Unit	0.6



Unit Mix – Development Program

The subject's proposed unit mix is detailed in the following table.

Development Program Unit Mix				
Floor Plan	Units	% of Total	Avg. Unit Size	Total SF
2 Bedroom Units				
Total/Average	3	10.3%	889	2,668
2 Bedroom >950 SF Units				
Total/Average	13	44.8%	1,044	13,577
2 Bedroom 50% AMI Units				
Total/Average	4	13.8%	829	3,316
2 Bedroom 80% AMI Units				
Total/Average	3	10.3%	884	2,652
1 Bedroom Units				
Total/Average	3	10.3%	655	1,966
1 Bedroom 50% AMI Units				
Total/Average	1	3.4%	691	691
1 Bedroom 80% AMI Units				
Total/Average	2	6.9%	653	1,305
Total Units	29	100.0%	903	26,175

Proposed Improvements Analysis

Quality and Condition

Upon completion, the improvements are expected to be of good quality construction and in very good/near-new condition.

We note that project renderings and other detailed descriptive information (proposed finishes, appliances, building system details) pertaining to the proposed project were not available. This appraisal assumes that the subject's finishes, fixtures, building systems, etc. will be typical of other new/renovated for-sale condominium projects in the market. Accordingly, the quality of the subject, at completion, is expected to be consistent that of competing properties.



Functional Utility

From the standpoint of a potential conversion to multifamily use, the functional utility of the existing building shell is considered somewhat below average. In particular, we would note the following:

- The subject contains several large “vault” spaces that penetrate through two full floors. In order to maximize the utility of the shell and deliver marketable units, these floors will have to be “filled in,” levelizing them (to the extent possible) with adjacent floor areas. The presence of partial floors and mezzanine levels of varying height is likely to result in sub-optimal functional utility even after adding an additional floor within the vault areas. In addition, many of the existing windows are configured with the larger vault spaces in mind, and are not well-aligned with the projected post-renovation floor locations.
- The footprint of the building, with a depth of approximately 82 feet east/west and up to 156 feet north/south, is somewhat larger/more monolithic than would be considered ideal for multifamily use, and the absence of an interior courtyard will limit light/air/views to the perimeter of the building. Typically, new-construction multifamily buildings in this market employ a double-loaded corridor design along perimeter wings with depths of 60 to 70 feet. As a result, both building efficiency (yield of rentable vs. gross square feet) and functional utility (appeal of finished units) is expected to be somewhat below average.
- The subject’s east-fronting units will enjoy very good views of the park across the street and to the Armory and across the Anacostia River beyond, and the north and south units will have average to good views, units fronting on the west side of the building face into the rear parking lot or exterior walls of the adjacent apartment building to the west. Where the walls face each other, the separation provided by the alley is only about 12 feet, and the height of these buildings (3 stories, plus English basement level) is sufficient to significantly limit light penetration into these adjoining units.

ADA Compliance

Based on our inspection and information provided, we are not aware of any ADA issues. However, we are not expert in ADA matters, and further study by an appropriately qualified professional would be recommended to assess ADA compliance. We would note that the Development Program, due to the intended use of the property for senior housing, contemplates a “fully accessible” design.

Environmental Conditions

An environmental assessment report was not provided for review and environmental issues are beyond our scope of expertise. No hazardous substances were observed during our inspection of the improvements; however, we are not qualified to detect such substances.

However, given the age of the building improvements, it is likely that some level of environmentally hazardous substances (e.g. asbestos-containing materials/ACMs) are present, and will require some level of remediation in the course of renovating the property.



The development pro-forma provided for our review indicates a budget of \$189,904 in hard costs associated with environmental remediation (\$4.00/SF GBA). By way of comparison, Marshall Valuation Service cost data indicates a cost range for asbestos removal ranging from \$25.15 to \$44.50 per square foot for full abatement, or \$9.47 to \$16.65 for spot removal. Accordingly, it is our opinion that the development budget may understate the actual cost of required environmental remediation. While we have given significant weight to the development budget in estimating the cost of renovating the existing structure, we have considered the potential for environmental cost overruns in our selection of an appropriate yield rate/profit requirement.

Conclusion of Improvements Analysis

In comparison to other competitive properties in the region, the proposed improvements are rated as follows:

Improvements Ratings	
Design and Appearance	Average
Age/Condition	Above Average
Room Sizes and Layouts	Average
Bathrooms	Average
Kitchens	Average
Landscaping	Above Average
Garages	Average
Unit Features	Average
Project Amenities	Average

As discussed, we expect the conversion of the existing improvements to multifamily use to result in somewhat sub-optimal functionality due to the existing floor configuration, building footprint, etc. On the positive side, the subject benefits from a large surrounding yard area on two sides (technically publicly owned, but under the control of the property owner), good view potential for a significant proportion of the units, and a unique concept (a senior cohousing community) that we expect will have significant appeal in the local market. Perhaps most importantly, the property is located in a mature neighborhood with adequate access to transit and services, relatively high income levels, and high rates of home ownership.





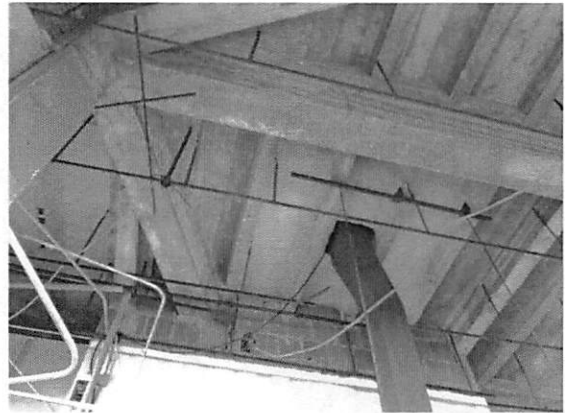
First floor entry area
(Photo Taken on January 11, 2017)



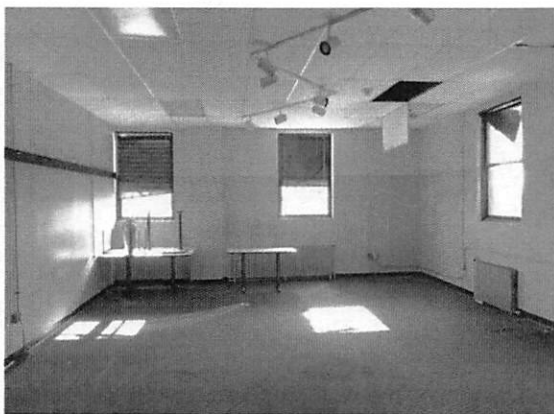
First floor office
(Photo Taken on January 11, 2017)



Auditorium
(Photo Taken on January 11, 2017)



View of concrete frame
(Photo Taken on January 11, 2017)



Second floor classroom
(Photo Taken on January 11, 2017)



Second floor classroom
(Photo Taken on January 11, 2017)





View east toward park from upper floor
(Photo Taken on January 11, 2017)



Gymnasium
(Photo Taken on January 11, 2017)



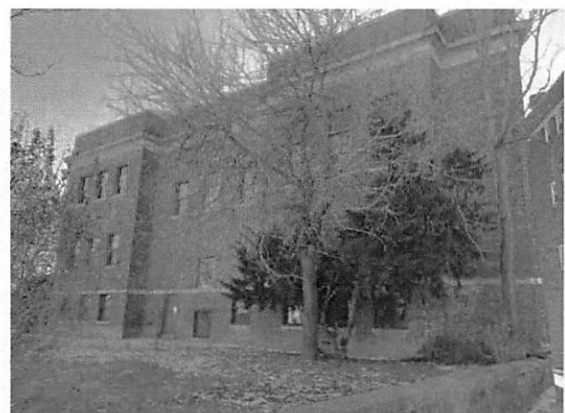
Swimming pool
(Photo Taken on January 11, 2017)



Locker room (lower level)
(Photo Taken on January 11, 2017)



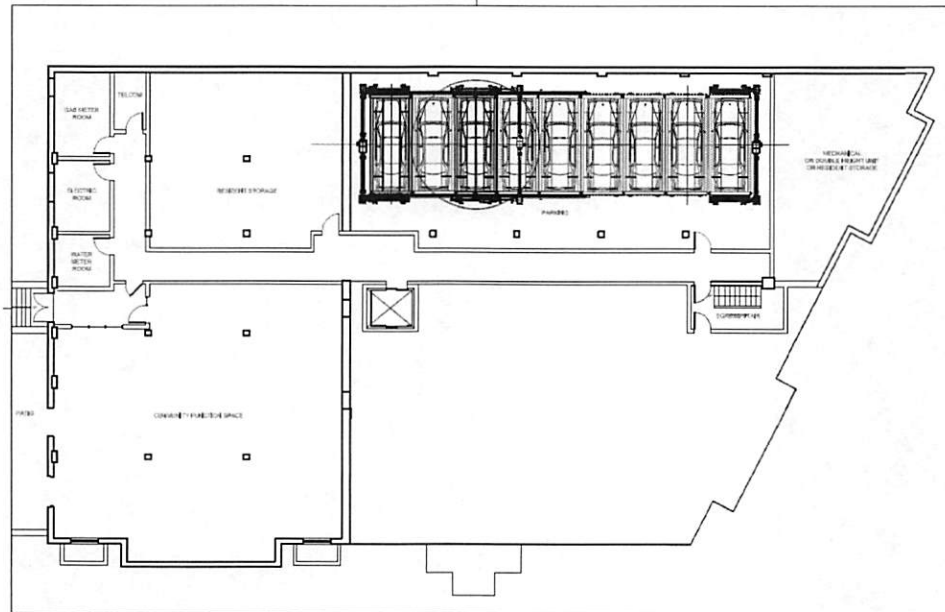
View of subject facing north/northwest
(Photo Taken on January 11, 2017)



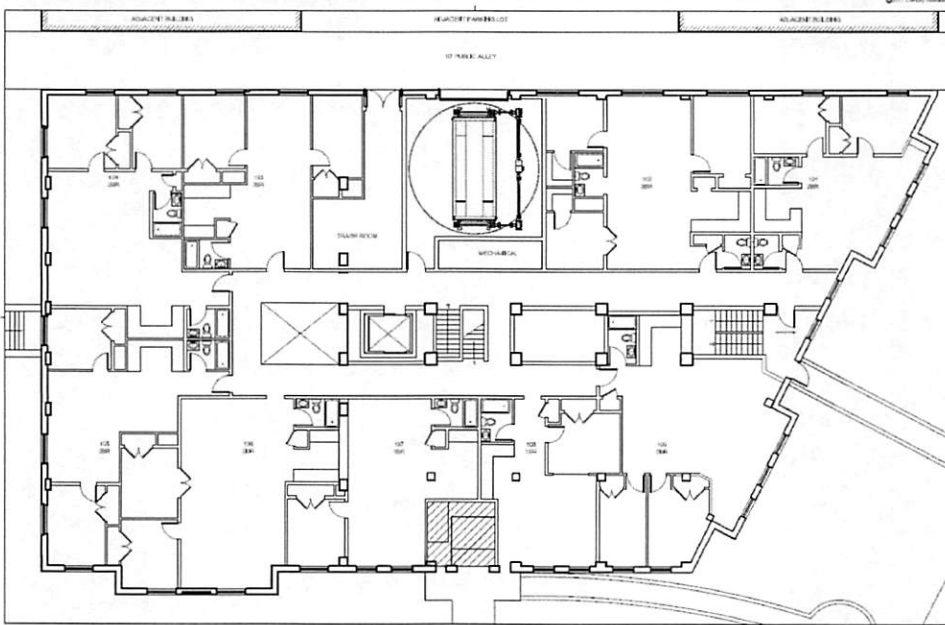
North façade, facing south
(Photo Taken on January 11, 2017)



Proposed Floor Plans

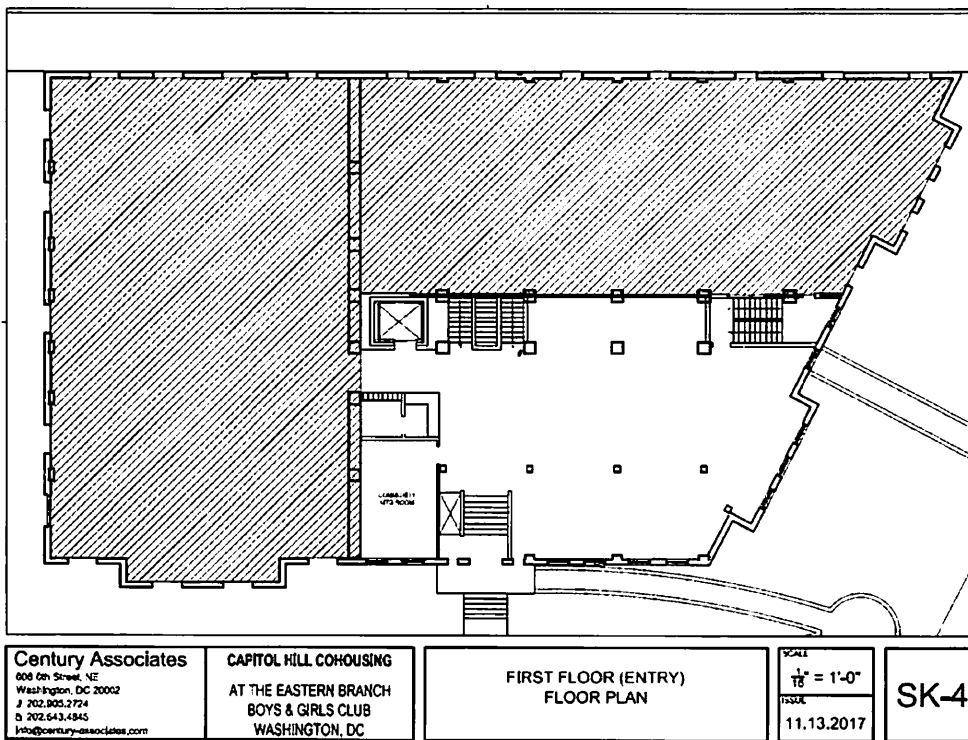
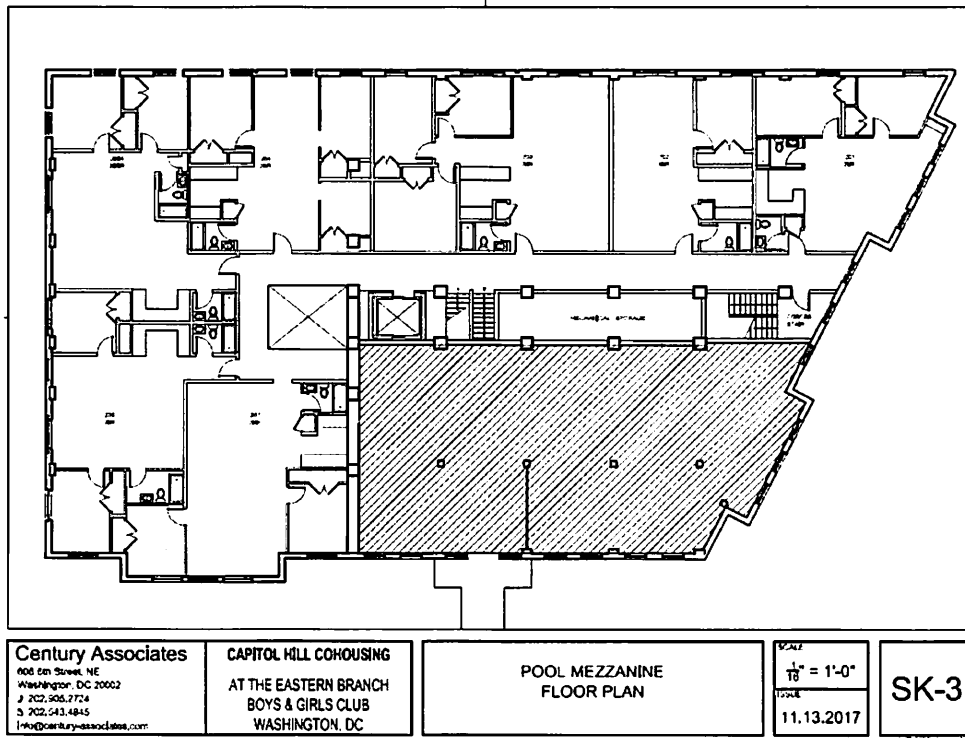


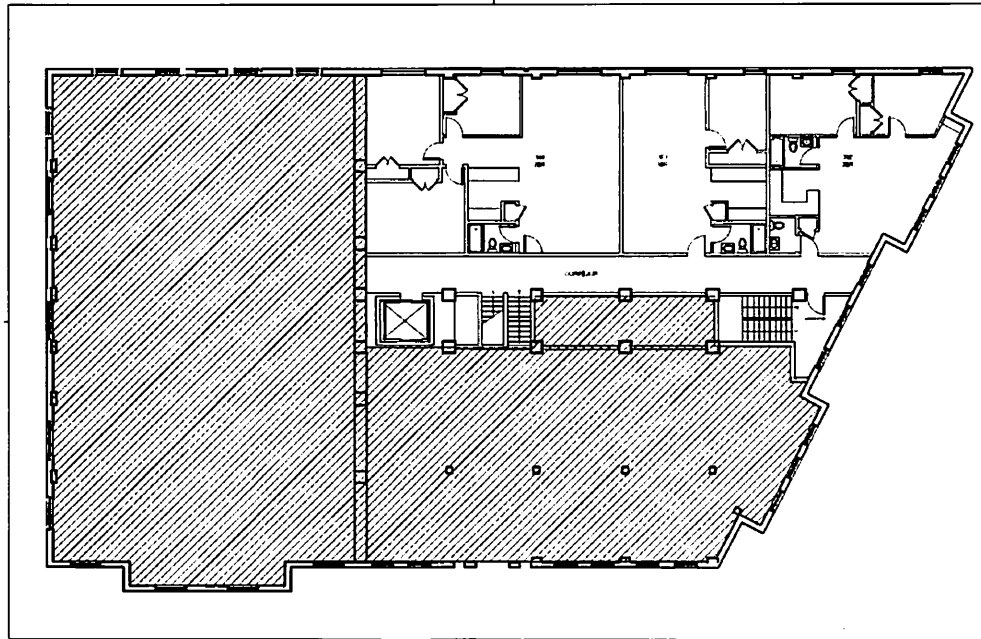
Century Associates 608 8th Street, NE Washington, DC 20002 J 202.905.2724 F 202.543.4845 info@century-associates.com	CAPITOL HILL COHOUSING AT THE EASTERN BRANCH BOYS & GIRLS CLUB WASHINGTON, DC	SUB BASEMENT FLOOR PLAN	SCALE: $\frac{1}{16}'' = 1'-0''$ ISSUE: 11.13.2017	SK-1
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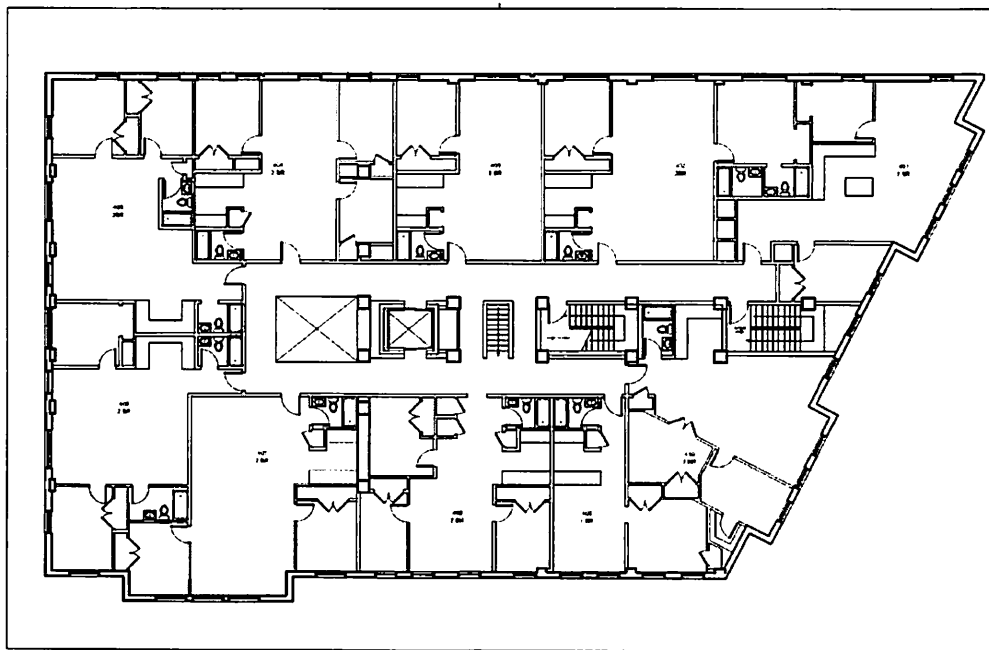
Century Associates 608 8th Street, NE Washington, DC 20002 J 202.905.2724 F 202.543.4845 info@century-associates.com	CAPITOL HILL COHOUSING AT THE EASTERN BRANCH BOYS & GIRLS CLUB WASHINGTON, DC	LOWER LEVEL (GYM / POOL) FLOOR PLAN	SCALE: $\frac{1}{16}'' = 1'-0''$ ISSUE: 11.13.2017	SK-2
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<p>Century Associates 608 6th Street, NE Washington, DC 20002 P 202.305.2724 F 202.543.4845 info@century-associates.com</p>	<p>CAPITOL HILL COHOUSING AT THE EASTERN BRANCH BOYS & GIRLS CLUB WASHINGTON, DC</p>	<p>AUDITORIUM LEVEL FLOOR PLAN</p>	<p>SCALE $\frac{1}{16}'' = 1'-0''$ DATE 11.13.2017</p>	<p>SK-5</p>
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<p>Century Associates 608 6th Street, NE Washington, DC 20002 P 202.305.2724 F 202.543.4845 info@century-associates.com</p>	<p>CAPITOL HILL COHOUSING AT THE EASTERN BRANCH BOYS & GIRLS CLUB WASHINGTON, DC</p>	<p>UPPER FLOOR FLOOR PLAN</p>	<p>SCALE $\frac{1}{16}'' = 1'-0''$ DATE 11.13.2017</p>	<p>SK-6</p>
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Real Estate Taxes

The subject property is located in the District of Columbia, which administers the real estate tax assessment for the underlying parcel. Real estate taxes in this jurisdiction represent ad valorem taxes, meaning a tax applied in proportion to value. The real estate taxes for an individual property may be determined by dividing the assessed value for a property by 100, then multiplying the estimate by the appropriate property tax rate. In the District of Columbia, property tax rates vary by property types, with residential properties (including apartments) taxed at \$0.85 per \$100 in assessed value; commercial properties are taxed at \$1.65 per \$100 for the first \$3 million and \$1.85 per \$100 thereafter. Vacant properties are taxed in a special tax class (Class 3) at \$5.00 per \$100. Properties that are classified as “nuisance” or “blighted” properties are taxed at the Class 4 rate of \$10.00 per \$100. We note that vacant properties that are planned for development or are being actively marketed for sale or lease are generally exempt from classification as vacant for tax purposes.

Real estate taxes and assessments for the current tax year are shown in the following table.

Taxes and Assessments - 2018						
Tax ID	Assessed Value			Tax Rate	Taxes and Assessments	
	Land	Improvements	Total		Ad Valorem Taxes	Total
Square 1088, Lot 0802	\$1,246,000	\$2,073,330	\$3,319,330	0.85%	\$28,214	\$28,214

Based on the concluded market value of the subject, the assessed value appears to be significantly overstated. We note that the subject is currently exempt from taxation by virtue of ownership by the District of Columbia.



Highest and Best Use

As Vacant

Legally Permissible

The site is zoned RF-1, Residential Flats. Permitted uses include row dwellings and flats (1 or 2-unit dwellings), places of worship, and public education, recreation, and library buildings. To our knowledge, there are no other legal restrictions such as easements or deed restrictions that would effectively limit the use of the property, except that in the case of a sale for multifamily residential development, the property would be subject to the affordable housing requirements of the ADU Act due to its current ownership by the District of Columbia. However, development of a multifamily use on the site would not be legally permissible under current zoning if the site were vacant, and as a result the ADU Act would not apply in this case.

Physically Possible

The subject site contains 11,125 square feet or 0.26 acres and is adequately served by utilities, has an adequate shape and size, sufficient access, etc., to be a separately developable site. Further, it appears that the site has sufficient frontage to support subdivision into the maximum legally allowable number of rowhouse lots (six lots, based on the minimum RF-1 lot size of 1,800 square feet), and there are no known physical reasons why the subject site would not support such a development.

Given prevailing land use patterns in the area and the limited uses permitted under zoning, only subdivision and development of rowhouses (single-family or flats) is given further consideration in determining highest and best use of the site, as though vacant.

Financially Feasible

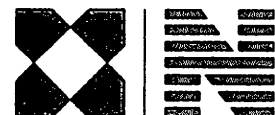
Based on our analysis of the market, there is currently adequate demand for additional rowhouse properties (both single-family and flats) in the subject's area, and the rowhouse lots that would result from subdivision would have a market value substantially exceeding the cost of subdivision and basic site finishing costs, even after accounting the discount necessary to convert the combined value of the lots to a single-purchaser bulk value.

Maximally Productive

The final test of highest and best use of the site as though vacant is that the use be maximally productive, yielding the highest returns to the land. In the case of the subject as if vacant, the analysis has indicated that subdivision and development of rowhouses (single-family or flats) development would be most appropriate.

Conclusion: Highest and Best Use As Vacant

Based on the preceding analysis and upon information and analysis contained in the area, neighborhood, and market analyses, the highest and best use as vacant would be subdivision and development of rowhouses (single-family or flats). Sufficient demand exists for development to occur in the near term. Our analysis of the subject and market yields the conclusion that the most likely buyer, as if vacant, would be a developer.



As Improved

Legally Permissible

The subject site is improved with an institutional property, which appears to be an allowable use under zoning. While the improvements date to 1937 (or thereabouts), the property is not located in a historic district and the improvements have not been designated historic. Accordingly, demolition of the improvements is considered legally permissible.

Physically Possible

The improvements are severely depreciated, and only marginally well-suited to be adapted to an alternative economically productive use. Moreover, the analysis to follow indicates that an adaptive re-use of the structure would have a value only marginally commensurate with the cost of the renovation, considering the return that would be required by an investor/developer.

Financially Feasible

As demonstrated in the following valuation analysis, the financial feasibility of an adaptive re-use of the property is marginal, yielding a nominal net residual value. However, the value of the underlying land, as a potential rowhouse lot subdivision, is sufficient to justify the cost of demolition of the improvements while providing a return to both an investor/developer and the underlying land.

Maximally Productive

Demolition of the existing improvements in order to realize the value associated with the highest and best use of the site as if vacant produces a substantially greater residual value than adaptive re-use, or any other reasonably probable alternative use. Accordingly, demolition and subdivision is concluded to be the maximally productive use of the property.

Conclusion: Highest and Best Use As Improved

Based on the foregoing, the highest and best use of the property, as improved, is demolition of the improvements and subsequent subdivision for residential development (rowhouse lots). Taking into account the size and characteristics of the property, the likely buyer is a local investor/developer.



Valuation

As discussed, the only applicable methodology for the valuation of the subject property under each of the scenarios proposed is a development analysis, which is a form of land residual analysis. In each of the scenario analyses to follow, we have developed a discounted cash flow model which forecasts periodic net cash flows over the life of the project, based on anticipated revenues from sales of units (or lots, as applicable) to end-users, less sale costs and development costs. These periodic cash flows are then discounted at an overall yield rate reflecting the unlevered yield rate that a developer would be expected to require to undertake the proposed project.

We begin this process with an analysis of the proposed Development Program (Scenario 4), as the parameters of the proposed development (unit mix, etc.) have been stipulated by the developer. Potential modifications to the proposed development program that may enhance value are then examined as part of the Scenario 2 and 3 (Special Exception/PUD) analyses, in order to determine what if any alternate development plan would result in a higher value and therefore reflect the highest and best use of the property (while retaining the existing improvements). Finally, we will develop an alternative discounted cash flow projection based on our conclusion of the highest and best use of the property (Scenario 1), reflecting demolition of the existing improvements and subsequent subdivision of the subject property into rowhouse lots.

Development Program Valuation

Condominium Unit Valuation

We begin the Development Program valuation by developing an opinion of the prospective sale prices of the proposed condominium units. In the following section of the report, we establish current pricing parameters for each unit type, which will then be trended to reflect anticipated price changes through the date that each unit is sold.

Market Rate Units

To price the market-rate 1-bedroom and 2-bedroom condominium units, we use the sales comparison approach. This approach develops an indication of value by researching, verifying, and analyzing sales of similar properties.

To identify relevant sales for comparison to the subject's one bedroom units (3 units, ranging from 534 SF to 717 SF with an average size of 655 SF), we searched for transactions meeting the following criteria:

- Location: East of 11th Street NE/SE, south of D Street NE, north/west of Anacostia River
- Size: 500 to 750 SF
- Quality/Condition: Good quality/condition, new/recent construction preferred, located in buildings with more than four units



- Transaction Date: 2017 to present

The most relevant sales are summarized in the following table.

One Bedroom Condominium Sale Comparables								
Address	Year Built	Bedrooms	Baths	Size (SF)	Close Price	Price/SF	Close Date	
1500 Pennsylvania Ave. SE #304	2015	1	1	541	\$339,900	\$628.28	3/23/2017	
1516 K St. SE #2B	2016	1	1	680	\$349,900	\$514.56	3/30/2017	
420 16th St. SE #203	1947	1	1	585	\$350,000	\$598.29	4/18/2018	
17 14th St. NE #17 (Car Barn)	1980	1	1	655	\$354,000	\$540.46	6/4/2018	
1519 Constitution Ave. NE #102	1927	1	1	689	\$360,000	\$522.50	5/23/2018	
1337 K St. SE #103	2015	1	1	610	\$363,500	\$595.90	3/31/2017	
1603 North Carolina Ave. NE #2	1960/2015	1	1.5	625	\$364,000	\$582.40	4/20/2018	
1391 Pennsylvania Ave. SE #439	2007	1	1	680	\$365,000	\$536.76	2/2/2017	
1621 East Capitol St. SE #3	1953/2013	1	1	634	\$369,000	\$582.02	6/29/2018	
35 15th St. NE #38 (Car Barn)	1980	1	1	679	\$369,900	\$544.77	1/8/2018	
9 14th St. NE #9	1896/1980	1	1	655	\$370,000	\$564.89	6/26/2018	
1391 Pennsylvania Ave. SE #212	2007	1	1	632	\$370,000	\$585.44	6/15/2018	
1391 Pennsylvania Ave. SE #544	2007	1	1	684	\$379,900	\$555.41	5/26/2017	
73 14th St. NE #73 (Car Barn)	1980	1	1	686	\$384,900	\$561.08	6/28/2017	
69 15th St. NE #96 (Car Barn)	1980	1	1	690	\$385,000	\$557.97	12/11/2017	
1391 Pennsylvania Ave. SE #264	2007	1	1	728	\$388,000	\$532.97	5/11/2018	
1516 K St. SE #3B	2016	1	1	680	\$390,000	\$573.53	3/20/2017	
1391 Pennsylvania Ave. SE #213	2007	1	1	671	\$391,000	\$582.71	5/23/2017	
1391 Pennsylvania Ave. SE #426	2007	1	1	684	\$395,000	\$577.49	3/28/2018	
16 17th St. NE #112	1927/2015	1	1	585	\$397,500	\$679.49	4/10/2017	
1513 Constitution Ave. NE #4	1927	1	1	700	\$429,000	\$612.86	6/22/2017	
1301 South Carolina Ave. SE #6	1959	1	1	700	\$430,000	\$614.29	12/15/2017	
1500 Pennsylvania Ave. SE #409	2017	1	1	611	\$434,000	\$710.31	3/4/2018	
1324 E St. SE #210	1895/2018	1	1	660	\$449,000	\$680.30	6/11/2018	
900 11th St. SE #303	2017	1	1	729	\$449,900	\$617.15	1/15/2018	
900 11th St. SE #307	2017	1	1	723	\$459,900	\$636.10	9/9/2017	
732 15th St. SE #3	1926/2014	1	1	714	\$499,000	\$698.88	8/18/2017	
				Min.	541	\$339,900	\$514.56	
				Max.	729	\$499,000	\$710.31	
				Avg.	663	\$392,122	\$592.10	

The prospective developer's pro-forma reflects an anticipated average sale price of \$442,350 (range of \$360,450 to \$483,975) for one-bedroom units, based on an average sale price of \$675/SF. As shown above, few 1-bedroom units of less than 750 square feet in size have commanded pricing in excess of \$440,000 in the local market. In addition, only four 1-bedroom units have sold for more than \$650/SF. The highest per square foot pricing is 1500 Pennsylvania Avenue SE #409 (\$710/SF), which is in a new-construction building located nearly adjacent to Metro, and is also smaller than the subject's average unit size (at 611 SF). Another of these units, 732 15th Street SE #3 (\$699/SF), is located in a unique building with very high-end architecture and finishes, and includes a large private terrace. 16 17th Street NE #112 (\$679/SF) is considerably smaller than the subject's average unit size, and is also considered superior in quality/appeal to the subject units. 1324 E St. SE #210 (\$680/SF) is more similar to the subject's average unit size, and is also similar in that it is located in a converted historic building. However, this unit also has exceptional high-end features and 14-foot ceilings.

Based on the above sale data, we would expect the subject units to command an average price somewhat below the \$650/SF threshold. At an average price of \$640/SF, the two ±715/SF 1-bedroom units would sell for ±\$457,600, which falls at the upper end of the overall

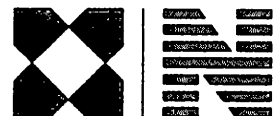


range but is well-bracketed in terms of quality, condition, and location by comparable sales on either side of this price point. Meanwhile, the implied price of the smaller (534 SF) studio unit at \$635/SF would be \$341,760. This is at the low end of the comparable range on an overall price basis, but this would seem appropriate given the unusually small size of this unit. Further, to the extent that there may be some upside pricing potential for this unit, it would be offset by a potentially lower \$/SF price point for the larger 1 bedroom units. We therefore conclude to an average price of \$640/SF for the market-rate 1 bedroom units.

To identify relevant sales for comparison to the subject's market-rate two bedroom units (16 units, ranging from 788 SF to 1,270 SF with an average size of 1,015 SF), we searched for transactions meeting the following criteria:

- Location: East of 11th Street NE/SE, south of D Street NE, north/west of Anacostia River
- Size: 750 to 1,400 SF
- Quality/Condition: Good quality/condition, new/recent construction preferred, located in buildings with more than four units
- Transaction Date: 2017 to present

The most relevant sales are summarized in the following table.



Two Bedroom Condominium Sale Comparables								
Address	Year Built	Bedrooms	Baths	Size (SF)	Close Price	Price/SF	Close Date	
1391 Pennsylvania Ave. SE #329	2007	2	2	832	\$455,000	\$546.88	6/16/2017	
245 15th St. SE #302	2008	2	2	761	\$465,000	\$611.04	1/27/2017	
1500 Pennsylvania Ave. SE #311	2016	2	1	760	\$479,900	\$631.45	4/7/2017	
254 15th St. SE #3	1908/2016	2	2	858	\$479,900	\$559.32	2/28/2017	
1391 Pennsylvania Ave. SE #423	2007	2	2	822	\$480,000	\$583.94	5/23/2017	
1391 Pennsylvania Ave. SE #529	2007	2	2	832	\$489,000	\$587.74	6/12/2018	
254 15th St. SE #4	1908/2016	2	2	858	\$499,900	\$582.63	3/30/2017	
1391 Pennsylvania Ave. SE #259	2007	2	2	1,029	\$510,000	\$495.63	4/27/2018	
245 15th St. SE #201	2008	2	2	870	\$516,245	\$593.39	3/23/2018	
1391 Pennsylvania Ave. SE #371	2007	2	2	918	\$517,000	\$563.18	10/11/2017	
1337 K St. SE #101	2016	2	2	909	\$528,200	\$581.08	5/12/2017	
1391 Pennsylvania Ave. SE #471	2007	2	2	1,018	\$545,000	\$535.36	8/4/2017	
1391 Pennsylvania Ave. SE #371	2007	2	2	1,017	\$555,000	\$545.72	12/13/2017	
1391 Pennsylvania Ave. SE #215	2007	2	2	1,166	\$566,000	\$485.42	6/6/2018	
1391 Pennsylvania Ave. SE #543	2007	2	2	1,188	\$599,000	\$504.21	1/6/2017	
254 15th St. SE #5	1908/2016	2	2	1,195	\$600,000	\$502.09	3/10/2017	
1200 East Capitol St. NE #4	1880	2	2	978	\$600,000	\$613.50	6/20/2018	
1391 Pennsylvania Ave. SE #311	2007	2	2	1,234	\$605,000	\$490.28	7/20/2018	
257 15th St. SE #A	2009	2	2	934	\$618,500	\$662.21	6/6/2018	
225 20th St. NE #1	2017	2	2	1,300	\$624,900	\$480.69	9/12/2017	
1433 K St. SE #102	2016	2	3	1,331	\$629,000	\$472.58	5/19/2017	
225 20th St. NE #3	2017	2	2.5	1,350	\$634,001	\$469.63	12/13/2017	
1337 K St. SE #201	2016	2	2	985	\$634,300	\$643.96	1/31/2017	
1342 Massachusetts Ave. SE #C	1908/2011	2	2	939	\$634,500	\$675.72	8/14/2017	
1391 Pennsylvania Ave. SE #237	2007	2	2	1,335	\$635,000	\$475.66	11/17/2017	
1433 K St. SE #301	2016	2	1.5	1,375	\$640,000	\$465.45	2/1/2017	
1337 K St. SE #202	2016	2	2	935	\$654,100	\$699.57	1/12/2017	
732 15th St. SE #6 (PH)	1926/2014	2	2	1,008	\$660,000	\$654.76	4/26/2018	
1306 Pennsylvania Ave. SE #401	2016	2	2	1,161	\$682,500	\$587.86	5/12/2007	
900 11th St. SE #410	2017	2	2	1,301	\$824,900	\$634.05	1/12/2018	
900 11th St. SE #408	2017	2	2.5	1,368	\$834,900	\$610.31	1/12/2018	
			Min.	760	\$455,000	\$465.45		
			Max.	1,375	\$834,900	\$699.57		
			Avg.	1,051	\$586,992	\$565.98		

The prospective developer's pro-forma reflects an anticipated average sale price of \$685,336 (range of \$531,900 to \$857,250) for one-bedroom units, again based on an average sale price of \$675/SF. As shown above, only 4 two-bedroom units in this market have achieved prices higher than \$650/SF. Three of these units, at 934 to 939 SF, are considerably smaller than the subject's average 2-bedroom unit size of 1,015 SF. 732 14th St. SE #6 is similar in size (at 1,008 SF) and sold at \$655/SF, but this is a penthouse unit with private roof deck. Accordingly, it is our opinion that the developer's pricing projections are overly optimistic.

For analysis purposes, we have separated the subject 2-bedroom units into two size groups: a "large" size class (>950 SF) and standard size units (<950 SF), as the data indicates that per square foot pricing for smaller 2-bedroom units is somewhat higher. Most of the market-rate 2-bedroom units (13 of 16) fall into the larger size category. The average size of these units is 1,044 SF. Looking at new (2016-2018 construction or renovation) comparable unit sales in this size category, the average sale price is \$678,278 (range \$600,000 - \$834,900), or \$541/SF (range \$465 - \$644/SF).

Based on the sales data above, we project an average sale price for the subject's large 2-bedroom units at \$615/SF, or \$642,060. This price level falls at the upper end of the central tendency range of the comparables (i.e., excluding the outliers at the high and low ends).



Turning to the smaller 2-bedroom units (average size 889 SF), the comparables in this size class have achieved an average sale price of \$524,403, or \$606/SF. Looking at new properties only, the average is somewhat higher, at \$556,429 or \$627/SF. In our opinion, the subject's smaller 2-bedroom units should command a modest premium over this \$/SF average, at \$635/SF, resulting in an average sales price of \$564,515.

ADUs

The development program calls for a total of 10 ADUs, representing 30.4% of rentable/saleable floor area. Half of these would be affordable at 50% AMI and the other half at 80% AMI. We have projected pricing for these units based on the condominium price limits specified in the most recent Maximum Income, Rent and Purchase Price Schedule published by the Department of Housing and Community Development (DHCD). As noted, these figures will be trended upward through the projected sale date(s) in the discounted cash flow analysis to follow.

Parking

The developer proposes to charge \$40,000 per parking space for each of the 17 available spaces. Pricing From our review of parking space prices in competitive properties, we have observed price points that range from \$30,000 to \$80,000 per parking space. We are aware of the following current/recent parking space comparables:

- The Lexicon (50 Florida Avenue NE) is selling parking spaces at \$45,000 per space.
- The Elysium Logan has a price of \$80,000 per space.
- 2030 Atlantic Plumbing has recently sold a parking space at \$43,000.
- 10Eleven and Logan 133 have recently sold parking spaces for \$35,000 to \$45,000 per space.

Given these results, we conclude that the developer's asking price of \$40,000 per space is reasonable.

Retail Pricing Conclusions

Our opinions of achievable end-user/retail pricing of the proposed condominium units (in current dollars) are summarized as follows.



Development Program Pricing Matrix					
Market Rate Units	Avg. SF	Avg. Price/SF	Avg. Sale Price	# of Units	Gross Revenue
2 Bedroom	889	\$635	\$564,515	3	\$1,693,545
Large 2-Bedroom	1044	\$615	\$642,060	13	\$8,346,780
1 Bedroom	655	\$640	\$419,200	3	\$1,257,600
Market Rate Total/Avg	958	\$621	\$594,628	19	\$11,297,925
ADUs		Price/SF (Max)	Maximum Sale Price*		
2 Bedroom 50% AMI	829	\$137	\$113,600	4	\$454,400
2 Bedroom 80% AMI	884	\$263	\$232,800	3	\$698,400
1 Bedroom 50% AMI	691	\$160	\$110,700	1	\$110,700
1 Bedroom 80% AMI	653	\$322	\$210,100	2	\$420,200
ADU Total/Avg	797	\$211	\$168,370	10	\$1,683,700
Overall Project	902	\$496	\$447,642	29	\$12,981,625

* Per 2017 Maximum Income, Rent and Purchase Price Schedule published by DHCD, effective October 6, 2017

Senior Housing Considerations

As noted, the development program would include designating the subject as a “senior cohousing” community. This would include designation of the subject units as “age-restricted,” such that they could only be occupied by persons over the age of 55 (with some exceptions). While there is a limited supply of age-restricted housing in the District proper (primarily affordable/subsidized housing), these types of communities are broadly accepted by the market at large (developers, residents, homebuyers, lenders), and do not typically exhibit measurable price differences (either higher or lower) compared to non-restricted product.

In the subject’s case, we do not expect any price premium or discount to adhere to the subject units based on their age-restricted status. Housing demand from older households, especially for for-sale product, is very high, with the subject’s immediate neighborhood being particularly well-positioned to absorb age-restricted housing based on the relatively high median age of area households (median age 38, compared to 35 in the District as a whole) high homeownership rate (55% owner-occupied housing units, vs. 35% in the District as a whole). While restricting the units to ownership/occupancy by 55+ households does, by definition, reduce the total amount of potential demand within a given market area, it also serves to differentiate the project from other for-sale housing product in the area, thereby increasing both the size of the relevant market area and the expected capture rate from within the age-qualified population.

Finally, we note that the development program includes the provision of 2 guest suites. Guest suites are occasionally provided as an amenity at larger apartment buildings in this market, for use by overnight visitors of the residents. There is typically a charge \$100-\$150 per night for



their use, but due to turnover/cleaning costs and high vacancy rates, they are rarely if ever a profit center, functioning instead as an amenity to residents. Given the small size of the subject property, these suites would be unlikely to generate any significant net income.

Discounted Cash Flow

In the preceding analysis, we have developed projections of the subject's sale revenue potential. These projections, along with the assumptions described below, are used to project net revenues during the sell-out period.

Price Trending

As discussed in the For-Sale Residential Market Analysis, the District's condominium market remains supply-constrained relative to demand, but the subject's submarket (along with the H Street/Noma submarket to the northeast) represents an outsized share of under-construction and proposed condominium development. While most developers would forecast some level of price increases over the construction and sellout period, especially with the likelihood of increased mortgage rates during this period. According to MLS data, median sale prices for all homes in the District increased more than 5% over the course of 2017. However, this data includes a large number of resales, rather than new units, and is subject to influence by changes in the composition of the listed inventory. Delta Associates specifically tracks "same-store" price trends in new-construction condominium properties in order to avoid these issues. Their most recent data indicates that condominium prices in the District increased by 0.9% over the course of 2017, down from a pace of $\pm 1.3\%$ in 2016. Based on this information, it is our opinion that a 1.5% annual price growth rate is reasonable.

We have not applied an escalation factor to the pricing of parking spaces or ADUs. In our experience, pricing for parking spaces tends to be "sticky," often holding steady within a project or neighborhood for years at a time, then eventually jumping by larger increments (e.g. \$2,500 or \$5,000). Meanwhile, the price limits for ADUs units are primarily a function of Area Median Income for the Washington MSA, but also take other factors into account. While AMI is expected to increase over the forecast period, this growth is projected to be offset by rising utility costs and interest rates, which are also factored into DHCD's calculation of sale price limits.

Absorption and Timing

The developer's pro-forma contemplates a 12 month pre-construction period, followed by another 12 months of construction to begin delivering units. Given the project's entitlement status, architectural/engineering requirements, and the relative scale and complexity of the type of construction proposed, this estimate is considered realistic, and representative of the expectations of a typical developer.

As discussed in the Residential Condominium Market Analysis section, we project a sales-up pace of 3 market-rate residential units per month. Because our DCF model uses semi-annual (6 month) discounting periods, this corresponds to 18 unit sales per period. Given that only 20 market-rate units are proposed, and some level of pre-sales would be expected, we project that the entire market-rate inventory can be sold in the first 6-month analysis period after completion of construction.



All affordable units are priced well below market, and other condominium projects in the area have reported that they have had long waitlists for affordable units as soon as their availability was announced. These units are therefore projected to settle as they become available (i.e. immediately at delivery).

Most condominium projects in the market report that parking spaces are typically sold at a rate of one space per market-rate unit, especially when a significant number of units contain more than one bedroom. We therefore project that all available parking spaces will be sold during the first post-completion analysis period.

Selling Expenses

Marketing and sales expenses include commissions, advertising, and all other items required in attracting buyers, including carrying costs associated with model units. Marketing overhead and sales management is typically projected at 1.5% to 3.0% of gross sales. Other selling expenses are typically budgeted at 4.0% to 6.0% of gross sales, and include commissions to outside brokers, salaries and commissions for on-site sales personnel, and closing costs that are borne by the seller.

Considering the characteristics of the subject project, including its size and projected price points, we project residential marketing and closing costs at 6.5% of gross sales proceeds, which includes the District of Columbia's 1.45% transfer tax (typically paid by the seller), 4.0% brokerage commissions, and $\pm 1\%$ in other miscellaneous closing costs (title, escrow).

Real Estate Taxes

Tax carrying costs prior to delivery are projected based on the subject's current assessment. At completion, the individual units are expected to be assessed by the District of Columbia at or about our concluded individual unit retail values. The owner will then be responsible for real estate taxes on all unsold inventory. While all units are expected to be sold in the first post-completion period, the developer will incur some level of real estate tax expenses prior to settlement.

We therefore project real estate tax carrying costs based on the sum of the unit values, multiplied by the 0.85% tax rate, divided by 12 (to reflect monthly taxes), and multiplied by a 3 month average holding period, resulting in a projected post-completion tax carry expense of \$30,899 [$\$14,540,593 \times 0.0085 / 12 \times 3$].

Condominium Fees

Condominium fees can vary significantly from property to property, depending on the amenities provided at the property, the amount of shared common areas, the scale of the project, and if any utilities are included. Based on a review of other new condominium communities in the market, especially those included in the sales comparison approach, typical fees for 1-bedroom units range from \$250 to \$350/month, while 2-bedrooms average \$375 to \$500/month. Based on the subject's unit mix (6 1-bedroom units and 23 2-bedroom units), we total monthly condominium fees at \$399 [$\300×6 1-bedroom units + $\$425 \times 23$ 2-bedroom units], or an average of per unit.



The developer's condominium fee liabilities, as with real estate taxes, will be limited to the period of time which a unit is held in inventory. We have applied the same average holding period for the residential units that was applied in the real estate tax calculations (3 months), and have therefore projected the developer's post-completion condominium fee obligations at \$65,624.

Construction Costs

The developer's budget for hard costs is \$8.4 million, broken down as follows:

HARD COSTS	UNIT COST	UNIT	AMOUNT	\$/GSF
Demolition	\$ 4.50 /SF		\$ 213,642	
Environmental Remediation	\$ 4.00 /SF		\$ 189,904	
Residential Portion	\$ 150.00 /SF		\$ 4,085,250	\$ 140,871 /unit
Common House	\$ 100.00 /SF		\$ 272,600	
Parking	\$ 35,000 /space		\$ 595,000	
Community Room	\$ 70.00 /SF		\$ 129,500	
Resident Storage	\$ 40.00 /SF		\$ 53,120	
Circulation / Service	\$ 110.00 /SF		\$ 1,201,530	
Solar System	LS		\$ -	
Landscaping	LS		\$ 50,000	
Subtotal Direct Hard Costs			\$ 6,790,546	\$ 143
Hard Cost Contingency	10.0%		\$ 679,055	
General Requirements	5.0%		\$ 339,527	
General Contractor Overhead	2.0%		\$ 135,811	
General Contractor Profit	5.0%		\$ 339,527	
Bond	1.5%		\$ 124,267	
Subtotal Hard Costs			\$ 8,408,733	\$ 177 \$ 289,956 /unit

By way of comparison, Marshall Valuation Service cost data indicates that constructing a new building of similar size and materials would be expected to cost approximately \$8 million, as shown below.

Hard Cost Estimate							
Building Improvements							
Bldg Name	MVS Building Type	MVS Class	Quality	Quantity	Unit	Unit Cost	Cost New
Multifamily	Apartments	B	Good	38,849	SF	\$180.82	\$7,024,676
Parking	Apartment Basement	A-B	Parking	8,627	SF	\$66.59	\$574,472
Subtotal - Replacement Cost New							\$7,599,148
Site Improvements							
Item				Quantity	Unit	Unit Cost	Cost New
General Sitework				47,476	SF GBA	\$8.00	\$379,808
Overall Property							
Building Improvements							\$7,599,148
Site Improvements							\$379,808
Subtotal - Replacement Cost New							\$7,978,956
Source: Marshall Valuation Service; site improvement costs from local comparables							

The ±\$400,000 difference in our new-construction cost estimate vs. the developer's cost estimate is entirely accounted for by the developer's estimated environmental remediation and demolition costs (\$403,456), which are not considered in our new-construction cost estimate. As discussed, it is our opinion that the environmental remediation costs budgeted by the developer may be insufficient, though this is partly accounted for by the developer's inclusion of a 10% hard cost contingency.



While comparison of new construction costs to the costs of adaptive re-use of an existing structure is inherently imprecise, NKF would opine that improvements of the age and condition of the subject rarely make a significant positive contribution to value (in the sense of reducing development costs relative to new construction of functionally equivalent improvements). What limited contributory value may exist, if any, would be limited to the frame and foundation, estimated at \$20 to \$25 per square foot per MVS cost data. In the subject's case, the complexity of the renovation (filling in additional floor areas and other major interior floor reconfiguration requirements, removal of pool and associated infrastructure, etc.) would be expected to completely offset the contributory value of the shell.

Accordingly, it is our opinion that the budgeted hard costs reflected in the development budget provided are reasonable, if not somewhat conservative/understated. As previously discussed, the downside risk to the developer associated with possible cost overruns is considered in our selection of an appropriate return requirement (yield rate).

The developer has also budgeted \$2.5 million in soft costs. This budget includes some costs which we have accounted for separately in our DCF model (real estate taxes, condo association startup costs, and selling expenses). Excluding these costs, the soft cost budget is adjusted to \$1.5 million, as shown below.

SOFT COSTS	UNIT COST	UNIT	AMOUNT	\$/GSF
Design				
Architectural Design & CA	3.3%		\$ 273,284	
Civil/Landscape Design	LS		\$ 53,000	
Structural Engineering	12.0% of arch		\$ 32,794	
MEP Engineering	45.0% of arch		\$ 122,978	
Sustainability Consultant	LS		\$ 18,000	
Commissioning	LS		\$ 45,000	
Permits			\$ 104,278	
Utility Fees	LS		\$ 40,000	
Survey - Condo Plats and Plans	LS		\$ 25,500	
Legal - Condominium Docs	LS		\$ 20,000	
Accounting	LS		\$ 25,000	
Project Manager	LS		\$ 150,000	
Development Overhead	3.0% hard & soft costs		\$ 284,072	
Cohousing Coordinator	LS		\$ 90,000	
Title & Recording - Acquisition	LS		\$ 20,000	
Property Insurance	\$ 3,500 /YR		\$ 10,500	
Common Area Furnishings	LS		\$ 30,000	
Soft Cost Contingency	10.0%		\$ 134,441	
Subtotal Soft Costs			\$ 1,478,846	\$ 31

This adjusted soft cost budget represents 17.6% of hard costs, which is well within the typical soft cost range for condominium development (15% to 20%). Accordingly, we rely on this budget in our analysis, and project total hard and soft costs at \$9.9 million [\$8,408,733 hard costs + \$1,478,846 adjusted soft costs = \$9,887,580, rounded].

Note: we have utilized an overall yield rate in our DCF analysis to discount periodic cash flows to present value. This rate is an unlevered return requirement, incorporating a weighted average cost of capital (both debt and equity). Thus, the developer's budgeted financing costs are excluded from our projection.



Developer Profit and Discounting

The preceding analysis includes reasonable estimates of the direct costs of sales, the cost of holding unsold units, and the cost of completing construction of the project. However, a developer's profit is required. The developer typically creates, coordinates, and oversees the investment and is entitled to the entrepreneurial profit the venture creates. Accordingly, his expertise must be rewarded.

The most commonly used technique for estimating return requirements in a development analysis is the application of an overall yield rate that incorporates all entrepreneurial profit and project management (weighted average cost of capital). This figure is most often quoted as an annual yield rate (internal rate of return), which is applied to periodic cash flows to convert future revenues to present value.

Residential respondents to national surveys have historically reported unleveraged pretax returns (IRRs) that range from 11% to 60%, with a sample median of around 30%. Returns on the low end of the range were noted for properties where certain risks had been lessened or eliminated. Several respondents indicate that they expect slightly lower returns when approvals/entitlements are already in place, or where pre-sales occur prior to construction. These responses support the perception that when significant steps in the development process are achieved, risk remaining in the project decreases. In other words, the rate of return decreases over the life of a project.

One of the most common sources of estimating an appropriate yield rate is referencing investor surveys. We have reviewed the *PricewaterhouseCoopers Real Estate Investor Survey*, one of the most widely quoted sources of such data.

PwC conducts a semi-annual survey of dozens of residential, office, retail, and industrial developers regarding current typical land investment criteria and analysis techniques. *PwC* inquired as to the methodologies used by market participants to calculate return for typical land investments, as well as to determine those levels of return currently required to induce participation.

PwC most recently conducted a survey of development land investors in Q4 2017. For national development land, developers have applied discount rates that range from 10% to 20% and average 15.40%. This is 10 basis points lower than the average reported as of Q4 2016, and 60 basis points lower than the Q2 2017 average. These rates are inclusive of developer profit, and assume entitlements are in place. Notably, these ranges and averages include all development land product types. Survey responses from individual participants indicate that residential development (single-family, apartments, and condominiums) investors require returns at the upper end of this range (14.0% to 20.0%).

We have also consulted *RealtyRates.com*, a national commercial real estate data source which tracks actual and pro-forma discount rates on sell-out property types including residential subdivisions and condominium developments. The Developer Survey represents a polling of commercial appraisers, lenders, and local, regional and national developers.

The survey rates quoted by respondents in the most recent *RealtyRates.com* survey are also summarized in the tables below.



RealtyRates.com DEVELOPER SURVEY - 4th Quarter 2017*						
National - Condominiums & Co-Ops						
	Actual Rates			Pro-Forma Rates		
	Min	Max	Avg	Min	Max	Avg
Primary Residential	8.76%	27.92%	18.43%	8.41%	26.80%	17.73%
Hi-Rise/Urban Townhouse	9.41%	27.92%	18.76%	9.03%	26.80%	18.01%
Garden/Suburban Townhouse	8.76%	26.44%	18.04%	8.41%	25.38%	17.32%
Mixed Use	9.25%	27.81%	19.00%	8.51%	26.70%	18.05%
Resort & Second Home	10.05%	30.36%	20.71%	9.65%	29.15%	19.50%
Hi-Rise	10.17%	30.36%	20.37%	9.76%	29.15%	19.55%
Garden/Townhouse	10.05%	26.22%	18.59%	9.65%	25.17%	17.85%
Commercial/Industrial	7.34%	28.53%	18.59%	7.04%	27.45%	17.68%
Urban Office	8.25%	25.42%	17.09%	7.92%	24.40%	16.24%
Suburban Office	7.45%	25.10%	16.84%	7.15%	24.09%	16.01%
Retail	8.02%	28.53%	18.95%	7.70%	27.45%	18.01%
Industrial	7.34%	25.84%	17.17%	7.04%	24.80%	16.32%

*3rd Quarter 2017 Data

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RealtyRates.com provides survey data by property type, with the relevant category for the subject being Condominium and Co-ops-Hi-rise/Urban Townhouse. The average national pro-forma rate for this product type was reported at 18.01%, with a range from 9.03% to 26.80%, while actually achieved rates were slightly higher.

RealtyRates.com DEVELOPER SURVEY - 4th Quarter 2017*						
Mid-Atlantic - Condominiums & Co-Ops						
	Actual Rates			Pro-Forma Rates		
	Min	Max	Avg	Min	Max	Avg
Primary Residential	11.47%	22.81%	16.60%	11.01%	21.90%	15.86%
Hi-Rise/Urban Townhouse	12.31%	22.81%	17.21%	11.82%	21.90%	16.52%
Garden/Suburban Townhouse	11.47%	21.60%	15.87%	11.01%	20.73%	15.24%
Mixed Use	12.11%	22.72%	16.72%	11.14%	21.81%	15.82%
Resort & Second Home	13.15%	24.81%	17.64%	12.63%	23.81%	16.93%
Hi-Rise	13.31%	24.81%	18.68%	12.78%	23.81%	17.93%
Garden/Townhouse	13.15%	21.42%	16.60%	12.63%	20.56%	15.93%
Commercial/Industrial	9.60%	23.36%	15.24%	9.22%	22.42%	14.63%
Urban Office	10.79%	20.77%	15.46%	10.36%	19.94%	14.85%
Suburban Office	9.75%	20.50%	14.52%	9.36%	19.68%	13.94%
Retail	10.50%	23.36%	16.25%	10.08%	22.42%	15.60%
Industrial	9.60%	21.11%	14.74%	9.22%	20.26%	14.15%

*3rd Quarter 2017 Data

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Survey responses for urban residential projects in the Mid-Atlantic reflect lower average and maximum pro-forma rates than the national data (at 16.52% and 21.90%, respectively), but the minimum rate of return of 11.82% is higher than the national figure.

It is noted that the condominium and co-op rates above do not include separate line-items for developer's profit. According to RealtyRates.com, survey respondents for this property type include profit as a line-item expense. Therefore, the discount rates shown



above would likely be higher if a profit were included (i.e., on an overall yield rate basis).

Generally speaking, given the subject's location in the Washington, DC MSA, we would expect the rate for the subject to be in the lower-middle portion of the range reported above. In our selection of an appropriate return requirement, we have considered the following project-specific factors which impact developer/investor risk and are reflected in higher or lower discount rates and ultimately residual land value.

- Lower Risk – Location in the Washington, DC MSA, within the boundaries of the District of Columbia, and within walking distance of two Metro stations.
- Lower Risk – The project will offer a significant number of affordable units, decreasing pricing risk. In addition, the market-rate units are expected to be priced at moderate levels relative to new-construction condominiums in the District as a whole.
- Lower Risk – Because the building shell already exists, no significant excavation or sitework is expected to be required. This decreases both cost and timing risk associated with construction.
- Medium Risk – While the District would be expected to support the entitlements required to complete the proposed development, the development program is not permitted by right and approvals will have to be obtained at the developer's expense. This process may be subject to unexpected delays and/or costs.
- Medium Risk – The subject is located in a segment of the market that comprises an outsized proportion of the expected near-term competitive condominium supply.
- Medium Risk – Home price growth in many areas of the District has slowed, and anticipated interest rate increases may further contribute to this trend. Coupled with the supply issues noted above, this increases pricing risk.
- Higher Risk – As an adaptive re-use project, there is significant exposure to potential cost overruns; this factor is compounded by the unknown environmental status of the property.

Based on this information, we conclude that a discount rate at the upper end of the indicated range is appropriate. Accordingly, we apply a 16% annual yield rate (8% per semi-annual period) in our analysis. The resulting discounted cash flow projection is shown below.



Development Analysis - Development Program							
Period Ending		1/31/2019	7/31/2019	1/31/2020	7/31/2020	1/31/2021	Totals
		1	2	3	4	5	
Avg. Market Price	\$594,628	\$599,087	\$603,580	\$608,107	\$612,668	\$617,263	
Avg. ADU Price	\$168,370	\$168,370	\$168,370	\$168,370	\$168,370	\$168,370	
Avg. Parking Price	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	
Market Units Sold	20					20	20
ADUs Sold	9					9	9
Parking Spaces Sold	17					17	17
Market Unit Revenue		\$0	\$0	\$0	\$0	\$12,345,263	\$12,345,263
ADU Revenue		\$0	\$0	\$0	\$0	\$1,515,330	\$1,515,330
Parking Sales Revenue		\$0	\$0	\$0	\$0	\$680,000	\$680,000
Gross Sales Revenue		\$0	\$0	\$0	\$0	\$14,540,593	\$14,540,593
Cost of Sales	6.5%	\$0	\$0	\$0	\$0	(\$945,139)	(\$945,139)
Net Sale Revenues		\$0	\$0	\$0	\$0	\$13,595,455	\$13,595,455
Development Costs	\$9,900,000	\$1,000,000	\$1,000,000	\$3,500,000	\$3,500,000	\$900,000	\$9,900,000
Carrying Costs							
RE Taxes		\$14,107	\$14,107	\$14,107	\$14,107	\$30,899	\$87,327
Condo Fees						\$34,725	\$34,725
Total Carry		\$14,107	\$14,107	\$14,107	\$14,107	\$65,624	\$122,052
Net Cash Flow		(\$1,014,107)	(\$1,014,107)	(\$3,514,107)	(\$3,514,107)	\$12,629,831	\$3,573,402
Safe Rate PV Factor	3.0%	0.9852	0.9707	0.9563	0.9422	0.9283	
PV Factor	16.0%	0.9259	0.8573	0.7938	0.7350	0.6806	
Periodic PV		(\$999,120)	(\$984,355)	(\$3,380,800)	(\$3,310,636)	\$8,595,651	(\$59,361)
Net Present Value							(\$59,361)

The reader should note that, in the DCF above, we have shown both the concluded overall yield rate (PV Factor) and a Safe Rate PV Factor. The "safe rate" is applied in periods where net cash flows are negative, recognizing that only a minimal "return" accrues to the spreading out/delaying of development costs. Thus, the only discounting that is appropriate to periods of net negative cash flows is the yield that could be earned during that period in a relatively liquid, minimum-risk alternative investment, which we estimate at 3.0%.

Development Program Value Conclusion

The DCF indicates a net present value of negative \$59,361. This indicates that the project is, strictly speaking, not financially feasible. However, because this figure is near zero, very small changes to the DCF inputs would result in a positive NPV indication, if only marginally so. For example, adjusting the discount rate downward by just 50 basis points would be sufficient to push the value indication to \$40,000 (positive). Similarly, increasing the projected sale price of the large 2-bedroom market rate units by \$10/SF would result in a marginally positive value (\$35,000).

Based on this analysis, we conclude that the project would likely be viewed by at least some market participants as financially feasible (i.e., offering an appropriate potential for return on investment and effort), *provided that the property could be acquired at a near-zero basis*. We therefore conclude to a market value of \$1 for the subject property under the Development



Program (Scenario 4), reflecting our opinion that a developer would be willing to pay nominal consideration to acquire title to the property and undertake the proposed development.

Alternative Adaptive Re-Use Scenarios (Scenarios 2 & 3)

As discussed in our analysis of potential development density, it is our opinion that the development density (on a gross floor area basis) proposed under the Development Program represents the maximum floor area that can feasibly be utilized inside the existing building envelope, and that expansion of the envelope would be unlikely to be permitted, even under a PUD. Further, due to the noted functional issues related to the adaptive re-use of the existing improvements, we do not believe that a significantly higher yield of residential floor area could be achieved. Finally, the floor area devoted to ADUs under the Development Program only barely exceeds the legally required minimum (30.4% provided vs. 30% required per the ADU Act).

Accordingly, the only significant change to the Development Program that might positively impact potential sales revenues, and therefore value, would be a shift in the composition/distribution of the residential floor area, in the form of an alternative unit mix. In general, smaller units tend to result in higher net revenues for the same amount of floor area, both for market-rate units and ADUs. (ADU price limits increase as bedroom count increases, but by a smaller percentage than the increase in unit size.) However, there are several constraints on a strategy of shifting the unit mix toward smaller units than are contemplated in the Development Program proposal.

First, zoning requires that parking be provided at a rate of 1 space per 2 units. The 17 parking spaces proposed in the Development Program likely represent the maximum number of spaces that can be provided, which caps the number of units at 34. Second, developers are very wary of building studio condominium units, due to the perception that the market for such units is extremely limited. Third, shifting the unit mix to include more one-bedrooms would tend to increase development costs per square foot on the margin, as there are significant fixed per-unit costs associated with multifamily development. (Most significantly, kitchens are a substantial proportion of multifamily development costs and have more or less the same requirements in terms of size, plumbing, appliances and cabinetry in a 1-bedroom vs. 2-bedroom unit).

Nonetheless, we have performed an iterative analysis of various alternate unit mixes that conform to both market parameters (with regard to unit mix and sizes) and the requirements of the ADU Act. Of the various scenarios modeled, the one yielding the highest gross revenue estimate is presented below.



Alternative Program Pricing Matrix					
Market Rate Units	Avg. SF	Avg.	Avg. Sale	# of Units	Gross Revenue
2 Bedroom	850	\$635	\$539,750	7	\$3,778,250
Large 2-Bedroom	1000	\$615	\$615,000	8	\$4,920,000
1 Bedroom	625	\$640	\$400,000	8	\$3,200,000
Market Rate Total/Avg	824	\$628	\$517,315	23	\$11,898,250
ADUs		Price/SF (Max)	Maximum Sale Price*		
2 Bedroom 50% AMI	850	\$134	\$113,600	3	\$340,800
2 Bedroom 80% AMI	850	\$274	\$232,800	2	\$465,600
1 Bedroom 50% AMI	650	\$170	\$110,700	2	\$221,400
1 Bedroom 80% AMI	650	\$323	\$210,100	3	\$630,300
ADU Total/Avg	750	\$221	\$165,810	10	\$1,658,100
Overall Project	802	\$513	\$410,798	33	\$13,556,350

* Per 2017 Maximum Income, Rent and Purchase Price Schedule published by DHCD, effective October 6, 2017

(The reader will note that only 33 units are planned, while 34 units would be legally permitted with 17 parking spaces. This is because, at a unit count of 33 units, provision of 10 ADUs is sufficient to meet the 30% requirement under the ADU Act, but adding another market-rate unit would require another ADU. Thus, the next unit added would have to be an ADU, and would most likely be required to be affordable at the 50% AMI level. Construction of such a unit would not be financially feasible, because the cost of building the unit would be greater than the allowable sale price.)

As shown, gross sale revenue (in current dollars) under this alternative scenario is estimated at \$13.56 million, compared to \$12.96 million under the Development Program. As shown in the following DCF analysis, the impact of this additional revenue, in net present value terms, is negligible.



Development Analysis - Alternative Program							
Period Ending		1/31/2019	7/31/2019	1/31/2020	7/31/2020	1/31/2021	Totals
		1	2	3	4	5	
Avg. Market Price	\$517,315	\$521,195	\$525,104	\$529,042	\$533,010	\$537,008	
Avg. ADU Price	\$165,810	\$165,810	\$165,810	\$165,810	\$165,810	\$165,810	
Avg. Parking Price	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	
Market Units Sold	23					23	23
ADUs Sold	10					10	10
Parking Spaces Sold	17					17	17
Market Unit Revenue		\$0	\$0	\$0	\$0	\$12,351,178	\$12,351,178
ADU Revenue		\$0	\$0	\$0	\$0	\$1,658,100	\$1,658,100
Parking Sales Revenue		\$0	\$0	\$0	\$0	\$680,000	\$680,000
Gross Sales Revenue		\$0	\$0	\$0	\$0	\$14,689,278	\$14,689,278
Cost of Sales	6.5%	\$0	\$0	\$0	\$0	(\$954,803)	(\$954,803)
Net Sale Revenues		\$0	\$0	\$0	\$0	\$13,734,474	\$13,734,474
Development Costs	\$9,900,000	\$1,000,000	\$1,000,000	\$3,500,000	\$3,500,000	\$900,000	\$9,900,000
Carrying Costs							
RE Taxes		\$14,107	\$14,107	\$14,107	\$14,107	\$29,186	\$85,614
Condo Fees						\$34,725	\$34,725
Total Carry		\$14,107	\$14,107	\$14,107	\$14,107	\$63,911	\$120,339
Net Cash Flow		(\$1,014,107)	(\$1,014,107)	(\$3,514,107)	(\$3,514,107)	\$12,770,564	\$3,714,135
Safe Rate PV Factor	3.0%	0.9852	0.9707	0.9563	0.9422	0.9283	
PV Factor	16.0%	0.9259	0.8573	0.7938	0.7350	0.6806	
Periodic PV		(\$999,120)	(\$984,355)	(\$3,360,600)	(\$3,310,936)	\$8,691,431	\$36,419
Net Present Value		\$36,419					

Other than the forecasted sale revenues, the above DCF holds all assumptions from the Development Program DCF constant. In reality, we would expect the discount rate to increase slightly in this alternative scenario because of the increased absorption risk associated with the additional market-rate units, as well as the fact that we have assumed project-level construction costs would stay constant, while in fact some level of increase would be likely.

In any event, the preceding analysis illustrates that under an alternative scenario based on the maximally productive potential unit mix achievable under the applicable legal and physical constraints, the net present value indication would not be materially different from the Development Program, and the project would remain only marginally feasible. Accordingly, it is our opinion that the market value of the subject property under Scenarios 2, 3 and 4 is identical (nominal).



Highest and Best Use Valuation (Scenario 1)

As discussed in the highest and best use analysis, the highest and best use of the site as if vacant would be for subdivision into six rowhouse lots. Further, the analysis presented in the preceding section indicates that, while an adaptive re-use of the existing improvements on the site would be marginally feasible, the implied residual land value would be negligible. Because the improvements are not located in a historic district and are not historically demolished, they appear to be eligible for demolition. Thus, the site can be rendered vacant, albeit at some cost, and then put to its highest and best use as if vacant. In the following analysis, we determine the value of the property based on this premise (using the development approach), and thereby demonstrate that demolition and subdivision is the highest and best use of the property in its “as-is/by-right” condition.

Retail Lot Values

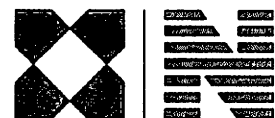
To project pricing for the resulting rowhouse lots (post demolition/subdivision), we use the sales comparison approach. The following chart summarizes the most comparable lot sales identified in our research.

Summary of Comparable Land Sales								
No.	Name/Address	Sale Date; Status	Sale Price	SF; Acres	Units; Density (Units/Ac.)	Zoning	\$/Unit	\$/SF Land
1	Trinidad Lot 1033 16th St. NE Washington DC	Dec-17 Closed	\$180,000	1,501 0.03	1 29.0	RF-1	\$180,000	\$119.92
<i>Comments: Small rowhouse lot located one block off of Bladensburg Road in the Trinidad neighborhood. Nonconforming as to size (1,500 SF vs. 1,800 SF minimum), but variance believed to be attainable.</i>								
2	E Street Lot 1529 E St. SE Washington DC	Dec-17 Closed	\$533,000	2,500 0.06	1 17.4	RF-1	\$533,000	\$213.20
<i>Comments: 25' x 100' lot located on the south side of the 1500 block of E Street SE, just northeast of Potomac Avenue Metro. Purchased by residential builder for construction of rowhouse flat. Unusually wide lot.</i>								
3	Neal Street Lot 1169 Neal St. NE Washington DC	Nov-17 Closed	\$390,000	2,700 0.06	1 16.1	RF-1	\$390,000	\$144.44
<i>Comments: Large conforming lot located just north of Florida Avenue NE and west of Gallaudet University (Trinidad). Purchase by developer for construction of two-unit flat.</i>								
4	Kingman Park Lot 1665 Gales St. NE Washington DC	Jul-17 Closed	\$180,000	780 0.02	1 55.8	RF-1	\$180,000	\$230.77
<i>Comments: Very small/narrow (12' wide) lot located just south of Benning Road between 16th and 17th Streets. Will require variance for construction.</i>								
Subject				1,800	1	RF-1		
Potential Rowhouse Lot				0.04	24.2			
Washington, DC								



We evaluate the sales on a price per lot basis, as this is how market participants typically compare pricing. The sales are compared to the subject and adjusted to account for material differences that affect value. Adjustments are considered for the following factors, in the sequence shown below.

Adjustment Factors	
Effective Sale Price	Accounts for atypical economics of a transaction, such as demolition cost, expenditures by the buyer at time of purchase, or other similar factors. Usually applied directly to sale price on a lump sum basis.
Real Property Rights	Fee simple, leased fee, leasehold, partial interest, etc.
Financing Terms	Seller financing, or assumption of existing financing, at non-market terms.
Conditions of Sale	Extraordinary motivation of buyer or seller, assemblage, forced sale, related parties transaction.
Market Conditions	Changes in the economic environment over time that affect the appreciation and depreciation of real estate.
Location	Market or submarket area influences on sale price; surrounding land use influences.
Access/Exposure	Convenience to transportation facilities; ease of site access; visibility from main thoroughfares; traffic counts.
Size	Inverse relationship that often exists between parcel size and unit value.
Shape and Topography	Primary physical factors that affect the utility of a site for its highest and best use.
Zoning	Government regulations that affect the types and intensities of uses allowable on a site.
Entitlements	The specific level of governmental approvals attained pertaining to development of a site.



The following table summarizes the adjustments we make to each sale.

Land Sales Adjustment Grid					
	Subject	Comparable 1	Comparable 2	Comparable 3	Comparable 4
Name	Eastern Branch Boys and Girls Club (EBBGC)	Trinidad Lot	E Street Lot	Neal Street Lot	Kingman Park Lot
Address	261 17th Street SE	1033 16th St. NE	1529 E St. SE	1169 Neal St. NE	1665 Gales St. NE
City State	Washington District of Columbia	Washington DC	Washington DC	Washington DC	Washington DC
Sale Date		Dec-17	Dec-17	Nov-17	Jul-17
Sale Status		Closed	Closed	Closed	Closed
Sale Price		\$180,000	\$533,000	\$390,000	\$180,000
Effective Sale Price		\$180,000	\$533,000	\$390,000	\$180,000
Square Feet	1,800	1,501	2,500	2,700	780
Acres	0.04	0.03	0.06	0.06	0.02
Number of Units	1	1	1	1	1
Price per Unit		\$180,000	\$533,000	\$390,000	\$180,000
Property Rights		-	-	-	-
% Adjustment		-	-	-	-
Financing Terms		-	-	-	-
% Adjustment		-	-	-	-
Conditions of Sale		-	-	-	-
% Adjustment		-	-	-	-
Market Conditions	8/7/2018	Dec-17	Dec-17	Nov-17	Jul-17
Annual % Adjustment		-	-	-	-
Cumulative Adjusted Price		\$180,000	\$533,000	\$390,000	\$180,000
Location		30%	-15%	15%	15%
Access/Exposure		-	-	-	-
Size		15%	-15%	-20%	50%
Shape and Topography		-	-	-	-
Zoning		-	-	-	-
Entitlements		25%	-	-	25%
Net \$ Adjustment		\$126,000	-\$159,900	-\$19,500	\$162,000
Net % Adjustment		70%	-30%	-5%	90%
Final Adjusted Price		\$306,000	\$373,100	\$370,500	\$342,000
Overall Adjustment		70%	-30%	-5%	90%
Range of Adjusted Prices		\$306,000 - \$373,100			
Average		\$347,900			
Indicated Value		\$350,000			

Based on the above analysis, we estimate an average price for the lots that could be subdivided on the subject site at \$350,000 per lot.

As shown below, we estimate that the “retail” value of the subject lots if sold individually to homebuilders or owner-users would be \$2,100,000. A buyer purchasing the entire site would expect an absorption timeframe on the order of ±6 months (rather than more or less immediately at completion), requiring an additional return to compensate for holding costs and increased risk associated with a bulk acquisition. Based on discussions with several area developers of mid-size townhome and rowhouse flat projects, we estimate this return requirement at 10% of the gross retail value. This limited profit allocation reflects the fact that



a typical buyer would expect to earn most of their profit from vertical construction and eventual home sales, rather than on the land acquisition and development.

In addition to the bulk discount necessary for the risk/time associated with re-selling or developing the lots, an as-is purchaser would also have to demolish the existing improvements. Marshall Valuation Service reports typical demolition costs for concrete framed buildings on the order of \$5 to \$8 per square foot. Given the massing of the existing improvements and the likelihood that some level of environmental remediation will be required, a prudent buyer would budget for a substantial premium over this cost range, at \pm \$15/SF.

Finally, after demolition, the buyer/developer would have to legally subdivide the lots and render them to a build-ready state. Based on a review of townhome subdivision development costs, we estimate this expense at \$45,000 per lot.

Accordingly, we estimate the cost of completing demolition and subdivision as follows:

Improvement Size (Gross SF)	33,000
Demolition Cost/SF	\$15
Total Demolition Cost	<u>\$495,000</u>
Subdivision and Development Cost/Lot	\$45,000
No. of Lots	6
Total Subdivision and Development Cost	<u>\$270,000</u>
Total Cost to Complete Subdivision	\$765,000

In addition to the hard and soft costs of completing demolition and subdivision, taking the project through this process would entail a substantial capital outlay, additional holding time, and taking on the risk associated with both. We estimate the profit requirement associated with this phase of the development at 30% of the projected costs, due to the atypical nature of the project and the uncertainty associated with demolition (and potential environmental) costs.

Based on the preceding analysis, we estimate the market value of the subject property in the "as-is/by-right" condition as follows:

Highest and Best Use (Scenario 1) Valuation

Avg. Retail Value per Lot	\$350,000
No. of Potential Lots	6
Aggregate Retail Value	<u>\$2,100,000</u>
Less: Profit on Bulk Acquisition	<u>-\$210,000</u>
Prospective Value at Completion	\$1,890,000
Less: Demolition and Subdivision Cost	-\$765,000
Less: Profit on Demolition and Subdivision	<u>-\$229,500</u>
Net Value	\$895,500
Rounded	\$900,000



Reconciliation and Conclusion of Value

As discussed previously, only residual analysis is applicable to the valuation of the subject property in Scenarios 2 through 4, due to the restrictions associated with the proposed Development Program, as well as ADU Act requirements that would remain applicable even in the absence of the development program. We also rely on a residual analysis (development approach) in the valuation of the property under Scenario 1, as this is the only applicable methodology for valuing a property comprised of multiple building lots, which we have concluded is the highest and best use of the subject property in the “as-is/by-right” condition.

Based on the preceding valuation analysis and subject to the definitions, assumptions, and limiting conditions expressed in the report, our opinions of value are as follows:

Value Conclusions			
Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
Market Value	Fee Simple	August 7, 2018	\$900,000
Market Value Under PUD	Fee Simple	August 7, 2018	\$1
Market Value With Special Exception	Fee Simple	August 7, 2018	\$1
Market Value Under Development Program	Fee Simple	August 7, 2018	\$1

Extraordinary Assumptions and Hypothetical Conditions

The value conclusions are subject to the following extraordinary assumptions that may affect the assignment results. An extraordinary assumption is uncertain information accepted as fact. If the assumption is found to be false as of the effective date of the appraisal, we reserve the right to modify our value conclusions.

1. Our valuation of the subject property assuming PUD approvals (Scenario 2) assumes 1) that the purchaser is legally required to retain the existing improvements and 2) that the subject will be approved for a Planned Unit Development and that the PUD approvals waive the underlying zoning requirement that limits density to 1 multifamily unit per 900 SF of lot area.
2. Our valuation of the property assuming a special exception (Scenario 3) assumes 1) that the purchaser is legally required to retain the existing improvements and 2) that the BZA will grant a special exception waiving the underlying zoning requirement that limits density to 1 multifamily unit per 900 SF of lot area.
3. Our valuation of the property subject to the Development Program (Scenario 4) assumes that the property would convey with a deed restriction or similar legally binding instrument requiring that the property be put to the specific use proposed, as further described herein.

The value conclusions are based on the following hypothetical conditions that may affect the assignment results. A hypothetical condition is a condition contrary to known fact on the effective date of the appraisal but is supposed for the purpose of analysis.

1. None.

The opinions of value expressed in this report are based on estimates and forecasts that are prospective in nature and subject to considerable risk and uncertainty. Events may occur that could cause the performance of the property to differ materially from our estimates, such as changes in the economy, interest rates, capitalization rates, financial strength of tenants, and behavior of investors, lenders, and consumers. Additionally, our opinions and forecasts are based partly on data obtained from interviews and third party sources, which are not always completely reliable. Although we are of the opinion that our findings are reasonable based on



available evidence, we are not responsible for the effects of future occurrences that cannot be reasonably foreseen at this time.

Exposure Time

Exposure time is the length of time the subject property would have been exposed for sale in the market had it sold on the effective valuation date at the concluded market value. Exposure time is always presumed to precede the effective date of the appraisal. Based on our review of recent sales transactions for similar properties and our analysis of supply and demand in the local residential development market, it is our opinion that the probable exposure time for the subject at the concluded market values stated previously is 6 to 12 months.



Assumptions and Limiting Conditions

The Appraisal contained in this Report (herein "Report") is subject to the following assumptions and limiting conditions:

1. Unless otherwise stated in this report, title to the property which is the subject of this report (herein "Property") is assumed to be good and marketable and free and clear of all liens and encumbrances and that there are no recorded or unrecorded matters or exceptions to title that would adversely affect marketability or value. No responsibility is assumed for the legal description, zoning, condition of title or any matters which are legal in nature or otherwise require expertise other than that of a professional real estate appraiser. This report shall not constitute a survey of the Property.
2. Unless otherwise stated in this report, it is assumed: that the improvements on the Property are structurally sound, seismically safe and code conforming; that all building systems (mechanical/electrical, HVAC, elevator, plumbing, etc.) are in good working order with no major deferred maintenance or repair required; that the roof and exterior are in good condition and free from intrusion by the elements; that the Property and improvements conform to all applicable local, state, and federal laws, codes, ordinances and regulations including environmental laws and regulations. No responsibility is assumed for soil or subsoil conditions or engineering or structural matters. The Property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report is based, unless otherwise stated. The physical condition of the Property reflected in this report is solely based on a visual inspection as typically conducted by a professional appraiser not someone with engineering expertise. Responsible ownership and competent property management are assumed.
3. Unless otherwise stated in this report, this report did not take into consideration the existence of asbestos, PCB transformers or other toxic, hazardous, or contaminated substances or underground storage tanks, or the cost of encapsulation, removal or remediation thereof. Real estate appraisers are not qualified to detect such substances. The presence of substances such as asbestos, urea formaldehyde foam insulation, contaminated groundwater or other potentially hazardous materials and substances may adversely affect the value of the Property. Unless otherwise stated in this report, the opinion of value is predicated on the assumption that there is no such material or substances at, on or in the Property.
4. All statements of fact contained in this report as a basis of the analyses, opinions, and conclusions herein are true and correct to the best of the appraiser's actual knowledge and belief. The appraiser is entitled to and relies upon the accuracy of information and material furnished by the owner of the Property or owner's representatives and on information and data provided by sources upon which members of the appraisal profession typically rely and that are deemed to be reliable by such members. Such information and data obtained from third party sources are assumed to be reliable and have not been independently verified. No warranty is made as to the accuracy of any



of such information and data. Any material error in any of the said information or data could have a substantial impact on the conclusions of this Report. The appraiser reserves the right to amend conclusions reported if made aware of any such error.

5. The opinion of value stated in this report is only as of the date of value stated in this report. An appraisal is inherently subjective and the conclusions stated apply only as of said date of value, and no representation is made as to the effect of subsequent events. This report speaks only as of the date hereof.
6. Any projected cash flows included in the analysis are forecasts of estimated future operating characteristics and are predicated on the information and assumptions contained within this report. Any projections of income, expenses and economic conditions utilized in this report are not predictions of the future. Rather, they are estimates of market expectations of future income and expenses. The achievement of any financial projections will be affected by fluctuating economic conditions and is dependent upon other future occurrences that cannot be assured. Actual results may vary from the projections considered herein. There is no warranty or assurances that these forecasts will occur. Projections may be affected by circumstances beyond anyone's knowledge or control. Any income and expense estimates contained in this report are used only for the purpose of estimating value and do not constitute predictions of future operating results.
7. The analyses contained in this report may necessarily incorporate numerous estimates and assumptions regarding Property performance, general and local business and economic conditions, the absence of material changes in the competitive environment and other matters. Some estimates or assumptions, however, inevitably will not materialize, and unanticipated events and circumstances may occur; therefore, actual results achieved during the period covered by the analysis will vary from estimates, and the variations may be material.
8. All prospective value opinions presented in this report are estimates and forecasts which are prospective in nature and are subject to considerable risk and uncertainty. In addition to the contingencies noted in the preceding paragraphs, several events may occur that could substantially alter the outcome of the estimates such as, but not limited to changes in the economy, interest rates, capitalization rates, behavior of consumers, investors and lenders, fire and other physical destruction, changes in title or conveyances of easements and deed restrictions, etc. In making prospective estimates and forecasts, it is assumed that conditions reasonably foreseeable at the present time are consistent or similar with the future.
9. The allocations of value for land and improvements must not be used in conjunction with any other appraisal and are invalid if so used. This report shall be considered only in its entirety. No part of this report shall be utilized separately or out of context.
10. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or any reference to the Appraisal Institute) shall be disseminated through advertising media, public relations media, news media or any other means of communication (including without limitation prospectuses, private offering memoranda and other offering material provided to prospective investors) without the prior written consent of the Firm. Possession of this report, or a copy hereof, does not carry with it the right of publication.



11. Client and any other Intended User identified herein (should consider this report and the opinion of value contained herein as only one factor together with its own independent considerations and underwriting guidelines in making any decision or investment or taking any action regarding the Property. Client agrees that Firm shall not be responsible in any way for any decision of Client or any Intended User related to the Property or for the advice or services provided by any other advisors or contractors. The use of this report and the appraisal contained herein by anyone other than an Intended User identified herein, or for a use other than the Intended Use identified herein, is strictly prohibited. No party other than an Intended User identified herein may rely on this report and the appraisal contained herein.
12. Unless otherwise stated in the agreement to prepare this report, the appraiser shall not be required to participate in or prepare for or attend any judicial, arbitration, or administrative proceedings.
13. The Americans with Disabilities Act (ADA) became effective January 26, 1992. No survey or analysis of the Property has been made in connection with this report to determine whether the physical aspects of the improvements meet the ADA accessibility guidelines. No expertise in ADA issues is claimed, and the report renders no opinion regarding the Property's compliance with ADA regulations. Inasmuch as compliance matches each owner's financial ability with the cost to cure the non-conforming physical characteristics of a property, a specific study of both the owner's financial ability and the cost to cure any deficiencies would be needed for the Department of Justice to determine compliance.
14. Acceptance and/or use of this report constitutes full acceptance of these Assumptions and Limiting Conditions and any others contained in this report, including any Extraordinary Assumptions and Hypothetical Conditions, and is subject to the terms and conditions contained in the agreement to prepare this report and full acceptance of any limitation of liability or claims contained therein.



Addendum A

Appraiser Qualifications



PATRICK C. KERR, MAI, SRA, FRICS

Senior Managing Director

Newmark Knight Frank

840 First Street NE, Suite 460
Washington, DC 20002

Pat.Kerr@ngkf.com

T 202-774-9040

F 885-226-8532

Years of Experience

42 Years

Areas of Specialization

- Valuation and Advisory

Senior Managing Director Patrick C. Kerr, MAI, SRA, FRICS, has been providing valuation and consulting services since the mid-1970s. He has prepared valuations and market studies on proposed, partially completed, renovated and existing structures. He has also performed appraisals on a wide variety of properties, including shopping centers, apartment complexes, industrial facilities, office buildings, office parks, mixed-use space, hotels and land. Mr. Kerr has made appraisals for condemnation purposes, estates, mortgage financing, equity participation and due diligence. One of his most important clients is the federal government: He has completed appraisals of several government facilities, including BRAC (Base Realignment and Closure) facilities, and has been a consultant to the U.S. General Services Administration, Internal Revenue Service, Department of Housing and Urban Development and U.S. Army Corps of Engineers.

Mr. Kerr has also served as portfolio manager for numerous appraisal portfolios for estate, lending and government purposes. He has worked with Signet Partners/GSA to manage an account of fair annual rent appraisals throughout the U.S. He has also managed a national account overseeing appraisals being done for USPS. In addition to his consulting work, Mr. Kerr is approved to work on projects for, but not limited to, the Virginia Department of Transportation, Maryland Department of Transportation, Fairfax, VA, Council of the District of Columbia, and Office of the Deputy Mayor for Planning and Economic Development.

Mr. Kerr joined Newmark Knight Frank in 2017, when the firm acquired several affiliates of Integra Realty Resources. At the time of the acquisition, he had been working at IRR for nearly 20 years as a senior managing director. Prior to IRR, Mr. Kerr founded and was president of Legg Mason Appraisal Group and Legg Mason Realty Group from 1983 to 1990.

PROFESSIONAL AFFILIATIONS:

- ◆ Board member, Integra Realty Resources, Inc., 1999 – 2001 and two additional terms of 18 years
- ◆ Member, Urban Land Institute (ULI), 1998 – 2001; co-author (with IRR-Baltimore), Baltimore metro area overview
- ◆ Board member, 1988 and 1989, 1992 – 1994; chairman, appraisal committee, 1991 – 1992, Greater Baltimore Board of Realtors
- ◆ Past local chapter president, past chair on several national committees, Appraisal Institute

Mr. Kerr is an MAI and SRA designated member of the Appraisal

Institute as well as a former local chapter president and former chair of several national committees. He is also a fellow of the Royal Institute of Chartered Surveyors (FRICS) and a certified real estate appraiser in the District of Columbia, Commonwealth of Virginia and states of Delaware, Maryland and West Virginia.

Additionally, Mr. Kerr is qualified as an expert appraiser in U.S. bankruptcy courts in Maryland (Baltimore and Greenbelt), Virginia (Alexandria), Baltimore City Circuit Court, Maryland State Tax Court and Wicomico County Court.

Mr. Kerr has been a frequent lecturer and guest speaker for many appraisal and civic organizations. In 1989, he was a guest speaker at the annual meeting of the Maryland Financial Services Association. He also spoke at that year's Department of Defense Housing Policy Conference.

Mr. Kerr earned a Master of Business Administration degree in finance from the University of Baltimore and a Bachelor of Business Administration degree in accounting from West Texas State University. He also has successfully completed numerous real estate-related courses and seminars sponsored by the Appraisal Institute and accredited universities as well as HUD Multifamily Accelerated Processing (MAP) Third Party Training. Currently, Mr. Kerr is certified by the Appraisal Institute's voluntary program of continuing education for its designated members.

GOVERNMENT OF THE DISTRICT OF COLUMBIA



DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Occupational and Professional Licensing Administration

certifies that

PATRICK KERR
IRR-WASHINGTON DC
840 First Street, NE, Suite 460
Washington DC 20002

has met all requirements by law and regulations and is hereby licensed as:

APPRAISER CERTIFIED GENERAL
License #: GA10274

Issue Date: 3/1/2018
Expiration Date: 2/28/2020

Director, Department of
Consumer and Regulatory Affairs

Serial #: 450538

SAMUEL D. SHERWOOD, MAI
First Vice President

Newmark Knight Frank

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Washington, DC 20002

Sam.Sherwood@ngkf.com

T 202-774-9044

F 885-226-8532

Years of Experience

14 Years

Areas of Specialization

- Valuation and Advisory

First Vice President Samuel D. Sherwood, MAI has been providing valuation and consulting services since the early 2000s. He has prepared appraisals for a wide variety of property types including multifamily, office, mixed-use, retail, and industrial properties. He has extensive experience in the valuation of development rights/air rights within large-scale mixed-use projects, multi-phase land developments, and adaptive re-use of historic properties. Other specialized expertise includes the valuation of life science/ biotechnology research and manufacturing facilities, low income housing and historic tax credits, transferable development rights, subsurface and other partial takings, charter school facilities, and fractured condominiums. These appraisal and consulting services have been performed for a wide variety of client types including commercial and investment banks, law firms, life insurance companies, universities (public and private), and pension funds.

In addition to his private sector clients, Mr. Sherwood has worked extensively on behalf of various governmental and quasi-governmental agencies including the U.S. General Services Administration, the U.S. Army Corps of Engineers, multiple entities of the District of Columbia government, DC Water, and the Washington Metropolitan Area Transit Authority.

Mr. Sherwood joined Newmark Knight Frank in 2017, when the firm acquired several affiliates of Integra Realty Resources. At the time of the acquisition, he had been working at IRR's Washington, DC office for 10 years, most recently as Director. Prior to his work in the Washington market, he worked as an analyst for IRR's New Jersey office, and as a software developer for IRR's corporate office in New York.

Mr. Sherwood is an MAI designated member of the Appraisal Institute and a certified real estate appraiser in the District of Columbia, Commonwealth of Virginia, and State of Maryland.

Mr. Sherwood earned a Bachelor of Arts in Politics from Princeton University, where he also completed the certificate program in Political Economy. He also has successfully completed numerous real estate-related courses and seminars sponsored by the Appraisal Institute and accredited universities. Currently, Mr. Sherwood is certified by the Appraisal Institute's voluntary program of continuing education for its designated members.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Occupational and Professional Licensing Administration

certifies that

SAMUEL DAVID SHERWOOD

Newmark Knight Frank
840 First St NE
Suite 460
WASHINGTON DC 20002



has met all requirements by law and regulations and is hereby licensed as:

APPRAISER CERTIFIED GENERAL

License #: GA12136

Issue Date: 3/1/2016
Expiration Date: 2/28/2020

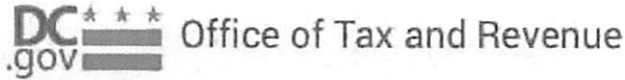
Melinda Balling

Director, Department of
Consumer and Regulatory Affairs

Addendum B

Financials and Property Information





[← Prev](#)

Property Detail

Address: 0261 17TH ST SE
SSL: 1088 0802

Record Details

Neighborhood:	OLD CITY I	Sub-Neighborhood:	A
Use Code:	87 - Recreational	Class 3 Exception:	No
Tax Type:	DC - District of Columbia	Tax Class:	002 - Commercial
Homestead Status:	** Not receiving the Homestead Deduction		
Assessor:	FOLU ADDEY		
Gross Building Area:		Ward:	6
Land Area:	11,125	Triennial Group:	2

Owner and Sales Information

Owner Name:	DISTRICT OF COLUMBIA GOVERNMENT
Mailing Address:	1100 15TH ST NW STE 800; WASHINGTON DC20005-1737
Sale Price:	\$20,000,000
Recordation Date:	02/01/2010
Instrument No.:	1183
Sales Code:	GOVT PURCHASE
Sales Type:	I - IMPROVED

Tax Year 2019 Preliminary Assessment Roll

	Current Value (2018)	Proposed New Value (2019)
Land:	\$1,246,000	\$1,246,000
Improvements:	\$2,073,330	\$2,125,530
Total Value:	\$3,319,330	\$3,371,530
Taxable Assessment: *	\$3,319,330	\$3,371,530

* Taxable Assessment after Tax Assessment Credit and after \$73,350 Homestead Credit, if applicable. (Click here for more information).



LAND DISPOSITION AND DEVELOPMENT AGREEMENT

by and between the

DISTRICT OF COLUMBIA

and

CAPITOL HILL COHOUSING LLC

for the

**DISPOSITION AND DEVELOPMENT OF
THAT CERTAIN PARCEL OF LAND LOCATED AT**

**261 17th Street, S.E.
Square 1088 Lot 0802**

[Date]

TABLE OF CONTENTS

ARTICLE I DEFINITIONS 1

 1.1 DEFINITIONS 1

 1.2 RULES OF CONSTRUCTION.....11

 1.3 OTHER DEFINITIONS.. 11

ARTICLE II SALE OF PROPERTY; PROJECT DEPOSIT; CONDITION OF PROPERTY..... 11

 2.1 SALE OF THE PROPERTY; PURCHASE PRICE..... 11

 2.2 PROJECT DEPOSIT; LETTERS OF CREDIT..... 12

 2.3 CONDITION OF PROPERTY..... 13

 2.4 TITLE..... 17

 2.5 RISK OF LOSS..... 18

 2.6 CONDEMNATION..... 18

 2.7 SERVICE CONTRACTS AND LEASES; TEMPORARY LICENSEES..... 19

ARTICLE III REPRESENTATIONS AND WARRANTIES 19

 3.1 REPRESENTATIONS AND WARRANTIES OF DISTRICT..... 19

 3.2 REPRESENTATIONS AND WARRANTIES OF DEVELOPER..... 20

ARTICLE IV APPROVAL OF CONSTRUCTION PLANS AND SPECIFICATIONS AND OTHER SUBMISSIONS..... 21

 4.1 CONSTRUCTION PLANS AND SPECIFICATIONS..... 21

 4.2 DISTRICT REVIEW AND APPROVAL OF CONSTRUCTION PLANS AND SPECIFICATIONS..... 22

 4.3 CHANGES IN CONSTRUCTION PLANS AND SPECIFICATIONS; GOVERNMENT REQUIRED CHANGES..... 23

 4.4 PROJECT PROFESSIONALS..... 24

 4.5 RETAIL PLAN..... 24

 4.6 COMMUNITY PARTICIPATION PROGRAM..... 24

 4.7 CONSTRUCTION CONSULTANT..... 24

 4.8 PROJECT FUNDING PLAN; PROJECT BUDGET..... 25

 4.9 INTENTIONALLY OMITTED..... 25

 4.10 SUBMISSION DEADLINE EXTENSIONS..... 25

ARTICLE V CONDITIONS TO CLOSING 26

 5.1 CONDITIONS PRECEDENT TO DEVELOPER’S OBLIGATION TO CLOSE..... 26

 5.2 CONDITIONS PRECEDENT TO DISTRICT’S OBLIGATION TO CLOSE..... 27

ARTICLE VI CLOSING 29

 6.1 CLOSING DATE AND OUTSIDE CLOSING DATE..... 29

 6.2 DELIVERIES AT CLOSING..... 29

 6.3 RECORDATION OF CLOSING DOCUMENTS; CLOSING COSTS..... 31

ARTICLE VII DEVELOPMENT OF PROPERTY AND CONSTRUCTION OF PROJECT; AFFORDABLE HOUSING REQUIREMENT	31
7.1 <u>OBLIGATION TO CONSTRUCT PROJECT</u>	31
7.2 <u>APPROVALS</u>	32
7.3 <u>ISSUANCE OF PERMITS</u>	32
7.4 <u>SITE PREPARATION</u>	32
7.5 <u>AFFORDABLE HOUSING REQUIREMENT</u>	32
7.6 <u>OPPORTUNITY FOR CBES</u>	33
7.7 <u>EMPLOYMENT OF DISTRICT RESIDENTS; FIRST SOURCE AGREEMENT</u>	33
7.8 <u>DAVIS BACON ACT; LIVING WAGE ACT</u>	33
ARTICLE VIII POST-CLOSING GUARANTIES OF PERFORMANCE.....	33
8.1 <u>DEVELOPMENT AND COMPLETION GUARANTY</u>	33
8.2 <u>PERFORMANCE LETTER OF CREDIT</u>	34
8.3 <u>PAYMENT AND PERFORMANCE BONDS</u>	34
ARTICLE IX DEFAULTS AND REMEDIES.....	34
9.1 <u>DEFAULT</u>	34
9.2 <u>DISTRICT REMEDIES IN THE EVENT OF A DEVELOPER DEFAULT</u>	35
9.3 <u>DEVELOPER REMEDIES IN THE EVENT OF A DISTRICT DEFAULT</u>	35
9.4 <u>LIMITATION ON REMEDIES; CURE PERIODS</u>	36
9.5 <u>NO WAIVER BY DELAY; WAIVER</u>	36
9.6 <u>ASSIGNMENT OF WORK PRODUCT</u>	36
9.7 <u>ATTORNEYS' FEES</u>	36
9.8 <u>RIGHTS AND REMEDIES CUMULATIVE</u>	37
ARTICLE X CONSTRUCTION FINANCING.....	37
10.1 <u>LIMITATIONS ON ENCUMBRANCES</u>	37
10.2 <u>SUBMISSIONS</u>	37
ARTICLE XI ASSIGNMENT AND TRANSFER.....	37
11.1 <u>ASSIGNMENT</u>	38
11.2 <u>TRANSFER OF MEMBERSHIP INTERESTS</u>	38
11.3 <u>NO UNREASONABLE RESTRAINT</u>	38
ARTICLE XII INSURANCE OBLIGATIONS; INDEMNIFICATION	38
12.1 <u>INSURANCE OBLIGATIONS</u>	38
12.2 <u>INDEMNIFICATION</u>	38
ARTICLE XIII NOTICES.....	39
13.1 <u>TO DISTRICT</u>	39
13.2 <u>TO DEVELOPER</u>	39
ARTICLE XIV MISCELLANEOUS.....	40
14.1 <u>PARTY IN POSITION OF SURETY WITH RESPECT TO OBLIGATIONS</u>	40
14.2 <u>CONFLICT OF INTERESTS; REPRESENTATIVES NOT INDIVIDUALLY LIABLE</u>	40
14.3 <u>SURVIVAL; MERGER</u>	40

14.4	<u>TITLES OF ARTICLES AND SECTIONS.</u>	40
14.5	<u>LAW APPLICABLE; FORUM FOR DISPUTES.</u>	40
14.6	<u>ENTIRE AGREEMENT; RECITALS; EXHIBITS.</u>	41
14.7	<u>COUNTERPARTS.</u>	41
14.8	<u>TIME OF PERFORMANCE.</u>	41
14.9	<u>SUCCESSORS AND ASSIGNS.</u>	41
14.10	<u>THIRD PARTY BENEFICIARY.</u>	41
14.11	<u>WAIVER OF JURY TRIAL.</u>	41
14.12	<u>FURTHER ASSURANCES.</u>	42
14.13	<u>MODIFICATIONS AND AMENDMENTS.</u>	42
14.14	<u>SEVERABILITY.</u>	42
14.15	<u>ANTI-DEFICIENCY LIMITATION; AUTHORITY.</u>	42
14.16	<u>TIME OF THE ESSENCE; STANDARD OF PERFORMANCE.</u>	42
14.17	<u>NO PARTNERSHIP.</u>	42
14.18	<u>EACH PARTY TO BEAR ITS OWN COSTS.</u>	43
14.19	<u>DISCRETION.</u>	43
14.20	<u>FORCE MAJEURE.</u>	43
14.21	<u>JOINT PREPARATION.</u>	43
14.22	<u>ESTOPPEL CERTIFICATES.</u>	43

EXHIBITS

Exhibit A	Legal Description of Property
Exhibit B	Form of Affordable Housing Covenant
Exhibit C	Affordable Housing Plan
Exhibit D	CBE Agreement
Exhibit E	Form of Construction and Use Covenant
Exhibit F	Form of Guaranty
Exhibit G	First Source Agreement
Exhibit H	Concept Plans
Exhibit I	Deed
Exhibit J	Form Letter of Credit
Exhibit K	Schedule of Performance
Exhibit L	Council Term Sheet
Exhibit M	Right of Entry
Exhibit N	Project Funding Plan
Exhibit O	Project Budget
Exhibit P	Underground Storage Tank Disclosure Form
Exhibit Q	Developer's Organizational Chart
Exhibit R	Antenna Lease
Exhibit S	Insurance Obligations

LAND DISPOSITION AND DEVELOPMENT AGREEMENT

THIS LAND DISPOSITION AND DEVELOPMENT AGREEMENT (this “**Agreement**”), is made effective for all purposes as of the _____ day of _____, 20__ between (i) **DISTRICT OF COLUMBIA**, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (“**District**”), and (ii) **CAPITOL HILL COHOUSING LLC** (“**Developer**”) (individually a “**Party**” and collectively, the “**Parties**”).

RECITALS:

R-1. District owns the real property located at 261 17TH STREET SE in the District of Columbia and known for taxation and assessment purposes as Lot 0802 in Square 1088 (the “**Property**”), as further described on **Exhibit A**.

R-2. District intends to sell the Property to Developer, and Developer intends to purchase the Property from District, in accordance with the terms of this Agreement, on which the Project (defined below) will be developed and constructed.

R-3. The disposition of the Property to Developer was approved on _____ by the Council of the District of Columbia (the “**Council**”) pursuant to the _____ Approval Resolution of _____, Resolution _____ (“**Resolution**”), subject to certain terms and conditions incorporated herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties hereto, District and Developer do hereby agree as follows, to wit:

ARTICLE I DEFINITIONS

1.1 **Definitions**. For the purposes of this Agreement, the following capitalized terms shall have the meanings ascribed to them below:

“**Affiliate**” means with respect to any Person (“**first Person**”) (i) any other Person directly or indirectly Controlling, Controlled by, or under common Control with such first Person, (ii) any officer, director, partner, shareholder, manager, member, or trustee of such first Person, or (iii) any officer, director, general partner, manager, member, or trustee of any Person described in clauses (i) or (ii) of this sentence.

“**Affordable Housing Covenant**” is that certain Affordable Housing Covenant between District and Developer in the form attached hereto as **Exhibit B**, to be recorded in the Land Records against the Property at the Closing pursuant to Applicable Law and this Agreement.

“**Affordable Housing Plan**” is attached hereto as **Exhibit C**.

“Affordable Unit” means an affordable dwelling unit constructed as part of the Improvements.

“Agreement” means this Land Disposition and Development Agreement.

“Antenna Lease” means the antenna lease agreement attached as **Exhibit R**.

“Applicable Law” means all applicable District of Columbia and federal laws, codes, regulations, and orders, including, without limitation, Environmental Laws, laws relating to historic preservation, laws relating to accessibility for persons with disabilities, and, if applicable, the Davis-Bacon Act.

“Approvals” means all applicable governmental approvals that are required under Applicable Law to construct the Improvements, including those that pertain to any subdivision, tax lot designations, street closing(s), and other regulatory approvals, including, without limitation, approval by the Historic Preservation Review Board, National Capital and Planning Commission, District of Columbia Board of Zoning Adjustment or Zoning Commission, but expressly excluding the Permits.

“Approved Plans and Specifications” is defined in **Section 4.2.1**.

“Architect” means the architect of record for the Project, who shall be licensed to practice architecture in the District of Columbia.

“Bonds” is defined in **Section 8.3**.

“Business Day” means Monday through Friday, inclusive, other than holidays recognized by the District of Columbia government, or days on which the District of Columbia government is officially closed.

“CBE Agreement” is that certain Certified Business Enterprise Utilization and Participation Agreement, by and between Developer and DSLBD, governing certain obligations of Developer under the Small and Certified Business Enterprise Development and Assistance Act of 2005, as amended (D.C. Law 16-33; D.C. Official Code §§2-218.01, et seq.) with respect to the Project, attached hereto as **Exhibit D**.

“Closing” is the consummation of the transactions involving the sale of the Property from District to Developer, as contemplated by this Agreement.

“Closing Date” is defined in **Section 6.1**.

“Commencement of Construction” means the time at which Developer has (i) executed a Construction Contract with its Contractor; (ii) given the Contractor a notice to proceed under said Construction Contract; (iii) caused the Contractor to mobilize on the Property equipment necessary for demolition, if any, and/or excavation; (iv) obtained the required Permits for demolition, excavation and sheeting and shoring; and (v) commenced demolition, if any, and/or excavation upon the Property pursuant to the Approved Plans and Specifications. For purposes of this Agreement, the term “Commencement of Construction” does not mean site

exploration, borings to determine foundation conditions, or other pre-construction monitoring or testing to conduct due diligence activities or to establish background information related to the suitability of the Property for the Project or the investigations of environmental conditions, but “Commencement of Construction” shall include any material removal of Hazardous Materials from the Property by Developer in anticipation of excavation for construction.

“**Community Participation Program**” is defined in Section 4.6.

“**Concept Plans**” are the design plans that serve the purpose of establishing the major direction of the design of the Improvements, which are attached as Exhibit H.

“**Construction and Use Covenant**” is that certain Construction and Use Covenant between District and Developer, in the form attached hereto as Exhibit E, to be recorded in the Land Records against the Property in connection with Closing.

“**Construction Consultant**” is defined in Section 4.7.

“**Construction Contract**” means a contract with the Contractor for the construction of the Improvements in accordance with the Development Plan, the Approved Plans and Specifications, this Agreement, the CBE Agreement, and the First Source Agreement.

“**Construction Drawings**” mean the detailed architectural drawings and specifications that are prepared by the Architect for all aspects of the Improvements in accordance with the approved Design Development Plans and that are used to obtain Permits, detailed cost estimates, to solicit and receive construction bids, and to direct the actual construction of the Improvements.

“**Construction Plans and Specifications**” mean the Concept Plans, the Schematic Drawings, the Design Development Plans and the Construction Drawings, individually or collectively, as the context shall appear, which shall be delivered by Developer to District, and approved by District, to the extent required by, and in accordance with the standards set forth in, Article IV of this Agreement. As used in this Agreement, the term “Construction Plans and Specifications” shall include any changes to such Construction Plans and Specifications that are made in accordance with the terms of this Agreement.

“**Contractor**” means the general contractor for the Project.

“**Control**” means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management and policies of a Person, whether through ownership of voting securities, membership interests or partnership interests, by contract or otherwise, or the power to elect at least fifty percent (50%) of, as applicable, the directors, managers, managing partners, or Persons exercising similar authority with respect to the subject Person. The terms “Control,” “Controlling,” “Controlled by” or “under common Control with” shall have meanings correlative thereto.

“**Council**” is defined in the Recitals.

“**Council Term Sheet**” means the term sheet attached as **Exhibit L** executed as required by D.C. Official Code § 10-801(b-1)(2).

“**Debt Financing**” shall mean the aggregate financing or financings to be obtained by Developer from one or more Institutional Lenders to fund the costs set forth in the Project Budget, other than any Equity Investment.

“**Deed**” means the special warranty deed conveying the Property to Developer in the form attached hereto as **Exhibit I**.

“**Design Development Plans**” are the design plans produced after review and approval of the Schematic Plans that reflect refinement of the approved Schematic Plans, showing all aspects of the Improvements at their proposed size and shape. The Design Development Plans shall include details of materials and design, including size and scale of façade elements, which are presented in detailed illustrations.

“**Developer**” is defined in the Preamble.

“**Developer Default**” is defined in **Section 9.1.1**.

“**Developer’s Agents**” means Developer’s agents, officers, directors, employees, consultants, contractors, subcontractors, and representatives.

“**Development Plan**” means Developer’s detailed plans for constructing, financing, using, and operating the Project as a mixed use residential building which will consist of approximately 47,476 gross square feet, with approximately 10 affordable residential units for seniors, 5 of which will be affordable at 50% Area Median Income (“AMI”) and 5 of which will be affordable at 80% AMI; approximately 2 guest suites available as a common element of the condominium association; and approximately 18 market rate residential units for seniors. The project will also include community space that is available to residents and the public (“**Community Space**”) and approximately 17 parking spaces.

“**Disapproval Notice**” is defined in **Section 4.2.3**.

“**Disposal Plan**” is defined in **Section 2.3.1(b)**.

“**District**” is defined in the Preamble.

“**District Certificate of Final Completion**” shall have the meaning given in the Construction and Use Covenant.

“**District Default**” is defined in **Section 9.1.2**.

“**DOEE**” means the District of Columbia Department of Energy and Environment.

“**DOES**” is the District of Columbia Department of Employment Services.

“DSLBD” is the District of Columbia Department of Small and Local Business Development.

“Effective Date” is the date first written above, provided that all Parties shall have executed and delivered this Agreement to one another by that date.

“Environmental Laws” means any present and future federal, state or local law and any amendments (whether common law, statute, rule, order, regulation or otherwise), permits and other requirements or guidelines on Governmental Authorities and relating to (a) the protection of health, safety, and the indoor or outdoor environment; (b) the conservation, management, or use of natural resources and wildlife; (c) the protection or use of surface water and groundwater; (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of or exposure to Hazardous Materials; or (e) pollution (including any release to air, land, surface water, and groundwater), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and subsequently amended, 42 U.S.C. § 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. § 1251 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 32701 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136-136y, the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq.; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f et seq.; the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et seq.; the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq.; and any similar, implementing, or successor law, and any amendment, rule, regulatory order, or directive issued thereunder.

“Equity Investment” shall mean the funding for the Project that is provided by any Person with a direct or indirect ownership interest in Developer, which funding shall cover the difference between the proceeds of all Debt Financing and the costs set forth in the Project Budget.

“Final Project Budget” is defined in Section 4.8.3.

“Final Project Funding Plan” is defined in Section 4.8.3.

“Financing Commitments” shall mean bona fide commitment(s) for the Debt Financing and Equity Investment.

“Financing Documents” means (a) the final loan documents for the Debt Financing, (b) the agreements evidencing the Equity Investment, and (c) a statement detailing the disbursement of the proceeds of the Debt Financing and Equity Investment.

“First Source Agreement” is that agreement between Developer and DOES, attached hereto as Exhibit G, governing certain obligations of Developer regarding job creation and employment generated as a result of the Project.

“Force Majeure” is an act or event, including, as applicable, an act of God; fire; earthquake; flood; explosion; war; invasion; insurrection; riot; mob violence; sabotage; terrorism; inability to procure or a general shortage of labor, equipment, facilities, materials, or supplies in the open market; failure or unavailability of transportation; strike, lockout, or other actions of labor unions; a taking by eminent domain or requisition; and laws or orders of government or of civil, military, or naval authorities enacted or adopted after the Effective Date; so long as such act or event: (i) is not within the reasonable control of Developer, Developer’s Agents, or its Members, or by District in the event District’s claim is based on a Force Majeure event; (ii) is not due to the fault or negligence of Developer, Developer’s Agents, or its Members, or by District in the event District’s claim is based on a Force Majeure event; (iii) is not reasonably avoidable by Developer, Developer’s Agents, or its Members or by District in the event District’s claim is based on a Force Majeure event; and (iv) directly results in a delay in performance by Developer or District, as applicable; but specifically excluding: (A) shortage or unavailability of funds or Developer’s financial condition; (B) changes in market conditions such that the Project is no longer practicable under the circumstances; or (C) the acts or omissions of a general contractor, its subcontractors, or any of Developer’s Agents or Members.

“Governmental Authority” means the United States of America, the District of Columbia, and any agency, department, commission, board, bureau, instrumentality or political subdivision of the foregoing, now existing or hereafter created, having jurisdiction over Developer or the Project or portion thereof, or any street, road, avenue or sidewalk comprising a part of, or in front of, the Property, or any vault in or under the Property, or airspace within or over the Property.

“Guarantor” is, as of the Effective Date, [FILL NAME] or such other Person selected by Developer and approved by District pursuant to Section 8.1, who will enter into a Guaranty at Closing.

“Guarantor Submissions” shall mean the (a) audited, if available, or (b) if audited are not available, in-house reviewed financial statements and balance sheets, profit and loss statements, cash flow statements and other financial reports and other financial information certified by an officer or manager of such Guarantor as District may reasonably request, of a proposed guarantor for the two (2) years prior to submission, together with a summary of such proposed guarantor’s other guaranty obligations and the other contingent obligations of such proposed guarantor (in each case, certified by such proposed guarantor or an officer of such proposed guarantor as being true, correct and complete). Additionally, for any proposed guarantor that is not a natural person, the following documents evidencing the due organization and authority of such guarantor to enter into, join and consummate the actions required under the Guaranty: (i) the organizational documents and a current certificate of good standing issued by its state of formation and the District of Columbia for the proposed guarantor; (ii) authorizing resolutions, in form and content satisfactory to District, demonstrating the authority of the proposed guarantor and of the Person executing the Guaranty on behalf of such proposed guarantor; and (iii) a customary opinion of counsel that such proposed guarantor is validly organized, existing and in good standing in its state of formation, and is authorized to do business in the District of Columbia, that such proposed guarantor has the full authority and legal right to carry out the terms of the Guaranty, that such proposed guarantor has taken all actions to authorize the execution, delivery, and performance of the Guaranty, that none of the aforesaid

actions, undertakings, or agreements violate any restriction, term, condition, or provision of the organizational documents of such proposed guarantor, or, to counsel's actual knowledge, any contract or agreement to which such proposed guarantor is a party or by which it is bound.

"Guaranty" means a development and completion guaranty to be executed by Guarantor in the form attached hereto as **Exhibit F**, which shall, among other things, obligate the Guarantor to develop and otherwise construct the Improvements in the manner and within the time frames required by the terms of the Construction and Use Covenant and the Affordable Housing Covenant.

"Hazardous Materials" means (a) asbestos and any asbestos containing material; (b) any substance that is then defined or listed in, or otherwise classified pursuant to, any Environmental Law or any other Applicable Law as a "hazardous substance," "hazardous material," "hazardous waste," "infectious waste," "toxic substance," or "toxic pollutant" or any other formulation intended to define, list or classify substances by reason of deleterious properties, such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or Toxicity Characteristic Leaching Procedure (TCLP) toxicity; (c) any petroleum and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; and (d) any petroleum product, polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive material (including any source, special nuclear or by-product material), medical waste, chlorofluorocarbon, lead or lead-based product, and any other substance the presence of which could be detrimental to the Property or hazardous to health or the environment.

"Improvements" means landscaping, hardscape, and improvements to be constructed or placed on the Property in accordance with the Development Plan and Approved Plans and Specifications; provided, however, that in no event shall trade fixtures, furniture, operating equipment (in contrast to building equipment), stock in trade, inventory, or other personal property used in connection with the conduct of any business within the Improvements be deemed included in the term "Improvements" as used in this Agreement.

"Institutional Lender" shall mean a Person that is not an Affiliate of Developer or a Prohibited Person and is, at the time it first makes a loan to Developer, or acquires an interest in any such loan, (i) a commercial bank, investment bank, investment company, savings and loan association, trust company or national banking association, acting for its own accord; (ii) a finance company principally engaged in the origination of commercial mortgage loans or any financing related subsidiary of a Fortune 500 company; (iii) an insurance company acting for its own account or for special accounts maintained by it or as agent or manager or advisor for other entities covered by any of clauses (i) – (x) hereof; (iv) a public employees' pension or retirement system; (v) a pension, retirement, or profit sharing, or commingled trust or fund for which any bank, trust company, national banking association or investment adviser registered under the Investment Advisors Act of 1940, as amended is acting as trustee or agent; (vi) a real estate investment trust (or umbrella partnership or other entity of which a real estate investment trust is the majority owner), a real estate mortgage investment conduit, hedge fund, private equity fund or securitization trust or similar investment entity; (vii) any federal, state, or District of Columbia government agency regularly making, purchasing or guaranteeing mortgage loans, or any governmental agency supervising the investment of public funds; (viii) a profit-sharing or

commingled trust or fund, the majority of equity investors in which are pension funds having in the aggregate no less than \$1 billion in assets; (ix) any entity of any kind actively engaged in commercial real estate financing and having total assets in the aggregate of no less than \$1 billion; or (x) such other lender, subject to approval by District, in its sole and absolute discretion, provided that such other lender is at the time of making the loan of a type which is then customarily used as a lender on projects like the Project.

“**Land Records**” means the property records maintained by the Recorder of Deeds for the District of Columbia.

“**Letter of Credit**” means a stand-by letter of credit from an Institutional Lender in the form attached hereto as **Exhibit J**.

“**Managing Member**” means the individual(s) who are specifically able to bind the Limited Liability Company contractually. This individual(s) will be specifically identified in the Developer’s Organizational Chart in **Exhibit Q**.

“**Material Change**” means (i) any change in size or design from the Approved Plans and Specifications that substantially affects the general appearance of the Improvements, or changes the building bulk or the number of floors of the Improvements or any change or series of changes that result in a diminution or increase of square footage of the Improvements in excess of five percent (5%); (ii) any change to the structural integrity of exterior walls or elevations; (iii) any changes in exterior finishing materials that substantially affects the architectural appearance from those shown and specified in the Approved Plans and Specifications; (iv) any change in the functional use and operation of the Improvements from those shown and specified in the Approved Plans and Specifications; (v) any changes in design and construction of the Improvements requiring approval of, or any changes required by, any District of Columbia agency, body, commission or officer (other than District); (vi) any change in number of parking spaces in the Improvements by five percent (5%) or more from the Approved Plans and Specifications; (vii) any significant change that affects the appearance of landscape design or plantings from the Approved Plans and Specifications; (viii) any significant change that affects the general appearance or structural integrity of exterior pavement, exterior lighting and other exterior site features from the Approved Plans and Specifications; and (ix) any change that reduces the number of Affordable Units; or (x) any change or series of changes that reduces the total residential square footage of the Improvements by more than five percent (5%).

“**Member**” means any Person with an ownership interest in Developer.

“**Mortgage**” means a mortgage, deed of trust, mortgage deed, or such other classes of legal documents as are commonly given to secure advances on fee simple estates under the laws of the District of Columbia.

“**Outside Closing Date**” is defined in **Section 6.1**.

“**Party**” when used in the singular, shall mean either District or Developer; when used in the plural, shall mean both District and Developer.

“**Performance Letter of Credit**” is defined in **Section 8.2**.

“Permits” means all demolition, site, building, construction, excavation, and other permits, approvals, licenses, and rights required to be obtained from any Governmental Authority having jurisdiction over the Property necessary to commence and complete construction of the Improvements in accordance with the Development Plan, the Approved Plans and Specifications, the Construction and Use Covenant, and this Agreement.

“Permitted Exceptions” is defined in Section 2.3.2.

“Person” means any individual, corporation, limited liability company, trust, partnership, association, or other entity.

“Progress Meetings” is defined in Section 4.1.3.

“Prohibited Person” shall mean any of the following Persons: (A) any Person (or any Person whose operations are directed or controlled by a Person) who has been convicted of, has pleaded guilty in a criminal proceeding for, or is an on-going target of a grand jury investigation concerning, a felony for one or more of the following: (i) fraud, (ii) intentional misappropriation of funds, (iii) bribery, (iv) conspiracy to commit a crime, (v) making false statements to a governmental agency, (vi) improperly influencing a governmental official, and (vii) extortion; or (B) any Person organized in or controlled from a country, the effects of the activities with respect to which are regulated or controlled pursuant to the following United States laws and the regulations or executive orders promulgated thereunder: (x) the Trading with the Enemy Act of 1917, 50 U.S.C. § 4301 et seq., as amended; (y) the International Emergency Economic Powers Act of 1977, 50 U.S.C. § 1701 et seq., as amended; and (z) the Antiterrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. § 4605, as amended; or (C) any Person who has engaged in any dealings or transactions (i) in contravention of the applicable money laundering laws or regulations or conventions or (ii) in contravention of Executive Order No. 13224 dated September 24, 2001 issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time-to-time or any published terrorist or watch list that may exist from time to time; or (D) any Person who appears on or conducts any business or engages in any transaction with any person appearing on the list maintained by the U.S. Treasury Department’s Office of Foreign Assets Control located at 31 C.F.R., Chapter V, Appendix A or is a person described in Section 1 of the Anti-Terrorism Order described above; or (E) any Person who could be debarred if the standards applied in Title 27, Section 2213 of the D.C. Municipal Regulations were applied to such Person’s failure to satisfy a contractual obligation to the District of Columbia; or (F) any Person who is on the District of Columbia’s list of debarred, suspended or ineligible Persons; or (G) any Affiliate of any of the Persons described in any one or more of clauses (A) through (F) above.

“Project” means the design, development, and construction of the Improvements on the Property in accordance with the Approvals, the Development Plan, this Agreement, and the Approved Plans and Specifications.

“Project Budget” has the meaning given in Section 4.8.2.

“Project Deposit” has the meaning given it in Section 2.1.2(a).

“Project Funding Plan” has the meaning given it in Section 4.8.1.

“Property” is defined in the Recitals.

“Purchase Price” has the meaning given in Section 2.1.1(a).

“Residential Units” means the residential dwelling units to be constructed on the Property in accordance with the Development Plan and this Agreement, including the Affordable Units.

“Resolution” is defined in the Recitals.

“Resubmission Period” is a period of thirty (30) days commencing on the day after Developer receives a Disapproval Notice from District, or such other period of time as District and Developer may agree in writing. In the event either Developer or District reasonably believes that the Resubmission Period should be longer or shorter than such thirty (30) day period, such Party shall promptly notify the other in writing of the period of time that such Party reasonably believes should apply and the reasons therefor.

“Retail Plan” is defined in Section 4.5.

“Review Period” is defined in Section 4.2.2.

“ROE” is defined in Section 2.3.1(a).

“Schedule of Performance” means that schedule of performance, attached hereto as Exhibit K and incorporated herein, setting forth the timeline for design, development, construction, and completion of the Improvements (including a construction timeline in customary form) together with the dates for submission of documentation required under this Agreement, which schedule shall be attached to the Construction and Use Covenant.

“Schematic Drawings” means drawings and plans for the Improvements that include and show, at a minimum, the following: (a) site survey; (b) site plan; (c) ground level plan; (d) preliminary building elevations; (e) a landscape plan (1”=30’) showing the proposed location of plantings, including trees and shrubs on the Property; (f) the approximate square footage of each building to be developed as part of the Improvements; (g) the location of parking facilities and approximate number of spaces; (h) schematic building plans, inclusive of any underground garage facility (1/20”=1’); (i) typical floors plans, inclusive of any underground garage facilities (1/20”=1’); (j) a chart showing expected floor areas, expected floor area ratio, expected building coverage of the Property, expected building height, areas dedicated to pedestrian and recreational uses, and expected location of loading docks; (k) a topographic survey for the Property; (l) expected open spaces, driveways, access roads, private streets, sidewalks and loading on the Property; and (m) the intended Affordable Unit count and proposed unit location, which shall be consistent with the requirements of the Affordable Housing Covenant.

“**Second Notice**” means that notice given by Developer to District in accordance with Section 4.2.2 and/or Section 4.2.3 herein. Any Second Notice shall (a) be labeled, in bold, 18 point font, as a “SECOND AND FINAL NOTICE”; (b) contain the following statement: “A FAILURE TO RESPOND TO THIS NOTICE WITHIN FIFTEEN (15) BUSINESS DAYS SHALL CONSTITUTE APPROVAL OF THE [NAME OF SUBMISSION] ORIGINALLY SUBMITTED ON [DATE OF DELIVERY OF SUCH SUBMISSION]”; and (c) be delivered in the manner prescribed in Section 13.1, in an envelope conspicuously labeled “SECOND AND FINAL NOTICE”.

“**Settlement Agent**” means [_____], the title agent selected by Developer and mutually acceptable to Developer and District.

“**Settlement Statement**” is the settlement statement prepared by Settlement Agent setting forth the sources and uses of all funds associated with Closing.

“**Submissions**” means those certain plans, specifications, documents, items and other matters to be submitted by Developer to District pursuant to the terms of this Agreement.

“**Studies**” is defined in Section 2.3.1.

“**Transfer of Membership Interests**” is defined in Section 11.2.

“**UST Act**” is defined in Section 2.3.3.

“**UST Regulations**” is defined in Section 2.3.3.

“**Zoning Commission**” means the District of Columbia Zoning Commission.

1.2 Rules of Construction. Unless the context clearly indicates to the contrary, for all purposes of this Agreement, (a) words importing the singular number include the plural number and words importing the plural number include the singular number; (b) words of the masculine gender include correlative words of the feminine and neuter genders; (c) words importing persons include any Person; (d) any reference to a particular Section shall be to such Section of this Agreement; and (e) any reference to a particular Exhibit shall be to such Exhibit to this Agreement; and to all sub-exhibits related thereto (e.g., references to Exhibit A shall include Exhibit A-1, Exhibit A-2, etc.).

1.3 Other Definitions. When used with its initial letter(s) capitalized, any term which is not defined in this Article I shall have the definition assigned to it elsewhere in this Agreement.

ARTICLE II SALE OF PROPERTY; PROJECT DEPOSIT; CONDITION OF PROPERTY

2.1 Sale of the Property; Purchase Price

2.1.1 Sale of the Property. Subject to and in accordance with the terms of this Agreement, District shall sell to Developer, and Developer shall purchase from District, all of District's right, title, and interest in and to the Property.

2.1.2 Purchase Price. The purchase price of the Property is One Hundred Thousand Dollars (\$100,000) (the "Purchase Price"), which shall be paid by Developer at Closing in immediately available funds.

2.2 Project Deposit; Letters of Credit.

2.2.1 Project Deposit.

(a) As of the Effective Date, Developer has delivered to District an Acceptable Letter of Credit in the amount of FIFTY THOUSAND DOLLARS (\$50,000.00) (the "Project Deposit").

(b) The Project Deposit is not a payment on account of and shall not be credited against the Purchase Price; rather, the Project Deposit shall be held by District to be used as security to ensure Developer's compliance with this Agreement and may be drawn on by District in accordance with the terms of this Agreement. The Project Deposit and any replacement Letters of Credit provided under this Agreement is, or shall be, an Acceptable Letter of Credit. Notwithstanding any provision herein to the contrary, District shall return the Project Deposit to Developer at Closing.

2.2.2 Acceptable Letters of Credit.

(a) Each letter of credit delivered by Developer to District pursuant to this Agreement shall be in the form attached hereto as Exhibit J and otherwise in form and substance reasonably satisfactory to District, provided that such letter of credit shall be: (i) issued by a commercial bank with an office located in the Washington, D.C. metropolitan area; (ii) made payable to District; (iii) payable at sight upon presentment to a Washington, D.C. metropolitan area branch or office of the issuer (or such other branch or office of the issuer as may be reasonably acceptable to District) of a simple sight draft stating only that District is permitted to make such draw on the letter of credit under the terms of this Agreement and setting forth the amount that District is drawing; and (iv) of a term not less than one (1) year and shall on its face state that same shall be renewed automatically, without the need for any further notice or amendment, for successive minimum one-year periods, unless the issuer notifies District in writing, at least thirty (30) days prior to the expiration date thereof, that such issuer has elected not to renew the letter of credit. A letter of credit satisfying all of the requirements set forth above shall be an "Acceptable Letter of Credit".

(b) Developer shall ensure that the Acceptable Letter of Credit shall be renewed (or automatically or unconditionally extended) from time to time until, (x) with respect to the Project Deposit, thirty (30) days following the scheduled Closing Date, or (y) with respect to the Performance Letter of Credit, the ninetieth (90th) day after the issuance of the District Certificate of Final Completion.

(b) Developer shall deliver to District a replacement Acceptable Letter of Credit in the event of either (i) the Project Deposit will expire prior to the Closing Date or (ii) if the issuer of the Acceptable Letter of Credit notifies District in writing that it will not renew the same. Any such replacement Letter of Credit shall be delivered to District at least ten (10) days prior to the expiration date of the expiring Acceptable Letter of Credit.

(c) In the event the issuer of any Acceptable Letter of Credit is insolvent or is placed into receivership or conservatorship by the Federal Deposit Insurance Corporation, or any successor or similar entity, or if a trustee, receiver, or liquidator is appointed for the insurer, then, effective as of the date of such occurrence, said letter of credit shall no longer meet the requirements of an Acceptable Letter of Credit, and, within ten (10) days thereof, Developer shall deliver to District a replacement Acceptable Letter of Credit.

(d) If District draws any part of the Project Deposit without also terminating this Agreement, Developer shall replenish the Project Deposit to its full amount within ten (10) days following District's draw on the Project Deposit.

(e) In the event Developer fails to deliver a replacement Acceptable Letter of Credit pursuant to Section 2.2.2(b) or Section 2.2.2(e) or fails to replenish the Project Deposit pursuant to Section 2.2.2(d), the same shall be an Event of Default hereunder, whereupon District shall be entitled to draw on the Project Deposit in its full amount and terminate this Agreement in accordance with Section 9.2(a).

2.3 Condition of Property.

2.3.1 Feasibility Studies; Access to Property.

(a) Developer hereby acknowledges that, prior to the Effective Date, it has had the right to perform Studies (as hereinafter defined) on the Property using experts of its own choosing and to access the Property for the purposes of performing Studies pursuant to the terms of that certain Right-of-Entry Agreement (the "ROE") by and between Developer and District, attached hereto as Exhibit M and incorporated herein. From time to time prior to Closing, provided this Agreement is in full force and effect and no uncured Developer Default has occurred, Developer and Developer's Agents shall continue to have the right to enter the Property for purposes of conducting surveys, soil tests, environmental studies, engineering tests, and such other tests, studies, and investigations (hereinafter "**Studies**") as Developer deems necessary or desirable to conduct due diligence and to evaluate the Property pursuant to the terms of this Agreement and the terms and conditions of the ROE, as if such terms, conditions and agreements were expressly set forth herein. In the event of any conflict between the terms of the ROE or the terms of this Agreement, the terms of this Agreement shall control and be paramount.

(b) In the event that Developer or Developer's Agents disturbs, discovers or removes any materials or waste from the Property while conducting the Studies, or otherwise during its entry on the Property, which are determined to be Hazardous Materials, Developer shall notify District and DOEE immediately after its discovery of such Hazardous Materials. In the event such Hazardous Materials are discovered by Developer or Developer's

Agents, Developer shall submit a notice of a proposed plan for disposal (the “**Disposal Plan**”) to District and DOEE no later than sixty days (60) days after discovery. The Disposal Plan shall contain all identifying information as to the type and condition of the Hazardous Materials discovered and a detailed account of the proposed removal and disposal of the Hazardous Materials, including the name and location of the hazardous waste disposal site. DOEE may conduct an independent investigation of the Property, including but not limited to, soil sampling and other environmental testing as may be deemed necessary. Upon completion of DOEE’s investigation, District and/or DOEE shall notify Developer of its findings and shall notify Developer by notice of its approval or disapproval of the proposed Disposal Plan. In the event DOEE disapproves the proposed Disposal Plan, Developer shall resubmit a revised Disposal Plan to District and DOEE. Developer shall seek the advice and counsel of DOEE prior to any resubmission of a proposed Disposal Plan. Upon review of the revised Disposal Plan, District or DOEE shall notify Developer of its decision. Upon approval of the Disposal Plan, Developer shall remove and dispose of all Hazardous Materials in accordance with the approved Disposal Plan and all Applicable Law; provided, however, Developer shall not be required to begin its removal and disposal of Hazardous Materials not already disturbed or removed until after Closing. Within seven (7) Business Days after the disposal of any Hazardous Materials, Developer shall provide District such written evidence and receipts confirming the proper disposal of all Hazardous Materials removed from the Property.

(c) Developer shall not have the right to object to any condition that may be discovered, offset any amounts from the Purchase Price or terminate this Agreement as a result of any Studies conducted after the Effective Date.

(d) In the event of a termination of this Agreement prior to Closing, neither Developer nor any of Developer’s Agents shall have any continuing liability or obligations regarding the Disposal Plan or the removal or remediation of any Hazardous Materials on the Property, except for any Hazardous Materials introduced by, or disturbed by, Developer or Developer’s Agents.

(e) Developer covenants and agrees that Developer shall keep confidential all information obtained by Developer as to the condition of the Property; provided, however, that (i) Developer may disclose such information to its Members, officers, directors, attorneys, consultants, Settlement Agent, contractors and subcontractors, and potential lenders and investors so long as Developer directs such parties to maintain such information as confidential; and (ii) Developer may disclose such information as it may be legally compelled so to do. The foregoing obligation of confidentiality shall not be applicable to any information which is a matter of public record or, by its nature, necessarily available to the general public. This provision shall survive Closing or the earlier termination of this Agreement.

(f) Developer shall indemnify and hold harmless District, its officials, officers, employees, and agents from all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses (including reasonable attorneys’ fees), of whatsoever kind and nature for injury, including personal injury or death of any person or persons, and for loss or damage to any property occurring in connection with, or in any way arising out of the use and occupancy of the Property during, and performance of, the Studies; provided, however, the foregoing indemnity shall exclude any claims or liabilities caused by the gross negligence or willful misconduct of

District or its officials, officers, agents, employees, or contractors This provision shall survive Closing or earlier termination of this Agreement.

2.3.2 Soil Characteristics. District hereby states that the soil on the Property has been described by the Soil Conservation Service of the United States Department of Agriculture in the Soil Survey of the District of Columbia and as shown on the Soil Maps as Urban Land. Developer acknowledges that, for further soil information, Developer can contact a soil testing laboratory, DOEE or the Soil Conservation Service of the United States Department of Agriculture. The foregoing is set forth pursuant to requirements contained in D.C. Official Code § 42-608(b) and does not constitute a representation or warranty by District.

2.3.3 Underground Storage Tanks. In accordance with the requirements of Section 3(g) of the D.C. Underground Storage Tank Management Act of 1990, as amended by the District of Columbia Underground Storage Tank Management Act of 1990 Amendment Act of 1992 (D.C. Official Code §§ 8-113.01 et seq.) (collectively, the “UST Act”) and the applicable D.C. Underground Storage Tank Regulations, 20 DCMR Chapter 56 (the “UST Regulations”), District’s Underground Storage Tank Disclosure Form is attached hereto as Exhibit P. Information pertaining to underground storage tanks and underground storage tank removals of which the D.C. Government has received notification is on file with DOEE, Underground Storage Tank Branch, 1200 First St., NE, 5th Floor, Washington, DC 20002, telephone (202) 535-2600. District’s knowledge for purposes of this Section shall mean and be limited to the actual knowledge of the Deputy Mayor for Planning and Economic Development. The foregoing is set forth pursuant to requirements contained in the UST Act and UST Regulations.

2.3.4 AS-IS. OTHER THAN THE EXPRESS REPRESENTATIONS IN SECTION 3.1, DISTRICT IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ZONING, TAX CONSEQUENCES, LATENT OR PATENT PHYSICAL OR ENVIRONMENTAL CONDITION, UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF ANY DOCUMENTS OR OTHER INFORMATION PERTAINING TO THE PROPERTY, THE STATUS OF ANY LITIGATION OR OTHER MATTER, OR ANY OTHER INFORMATION PROVIDED BY OR ON BEHALF OF DISTRICT TO DEVELOPER, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. DEVELOPER ACKNOWLEDGES AND AGREES, THAT UPON CLOSING, DISTRICT SHALL CONVEY TO DEVELOPER AND DEVELOPER SHALL ACCEPT THE PROPERTY, “AS IS, WHERE IS, WITH ALL FAULTS.” FURTHER, DEVELOPMENT OF THE PROPERTY IN ACCORDANCE WITH THIS AGREEMENT AND THE CONSTRUCTION AND USE COVENANT SHALL BE “AS IS, WHERE IS, WITH ALL FAULTS.” DEVELOPER IS ADVISED THAT MOLD AND/OR OTHER MICROSCOPIC ORGANISMS MAY EXIST AT THE PROPERTY AND THAT MOLD AND/OR OTHER MICROSCOPIC ORGANISMS MAY CAUSE PHYSICAL INJURIES, INCLUDING, WITHOUT LIMITATION, ALLERGIC REACTIONS, RESPIRATORY

REACTIONS OR OTHER PROBLEMS, PARTICULARLY IN PERSONS WITH IMMUNE SYSTEM PROBLEMS, YOUNG CHILDREN AND ELDERLY PERSONS. OTHER THAN THE EXPRESS REPRESENTATIONS MADE BY DISTRICT IN SECTION 3.1, DEVELOPER HAS NOT RELIED AND WILL NOT RELY ON, AND DISTRICT IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO MADE OR FURNISHED BY DISTRICT, ANY MANAGER OF THE PROPERTY, OR ANY AGENT REPRESENTING OR PURPORTING TO REPRESENT DISTRICT, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING. DEVELOPER REPRESENTS TO DISTRICT THAT DEVELOPER HAS HAD THE OPPORTUNITY TO, AND/OR HAS CONDUCTED, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS DEVELOPER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY MOLD, FUNGI, VIRAL OR BACTERIAL MATTER, HAZARDOUS MATERIALS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF DISTRICT OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO. DEVELOPER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS (INCLUDING MOLD, FUNGI, VIRAL OR BACTERIAL MATTER, HAZARDOUS MATERIALS, RADIOLOGICAL CONDITIONS, OR ITEMS OR TOXIC SUBSTANCES), MAY NOT HAVE BEEN REVEALED BY DEVELOPER'S INVESTIGATIONS, AND DEVELOPER SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED DISTRICT FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS, AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH MIGHT HAVE ASSERTED OR ALLEGED AGAINST DISTRICT AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY LAWS (INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL LAWS) AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES, OR MATTERS REGARDING THE PROPERTY. DEVELOPER AGREES THAT SHOULD ANY CLEANUP, REMEDIATION OR REMOVAL OF MOLD, FUNGI, VIRAL OR OTHER BACTERIAL MATTER, HAZARDOUS MATERIALS, OR TOXIC SUBSTANCES OR OTHER ENVIRONMENTAL CONDITIONS ON THE PROPERTY BE REQUIRED FROM AND AFTER THE CLOSING, OR EARLIER IF CAUSED BY DEVELOPER, SUCH CLEAN-UP, REMOVAL, OR REMEDIATION SHALL BE THE RESPONSIBILITY OF AND SHALL BE PERFORMED AT THE SOLE COST AND EXPENSE OF DEVELOPER. DISTRICT SHALL HAVE NO RESPONSIBILITY TO PREPARE THE PROPERTY IN ANY WAY FOR DEVELOPMENT AT ANY TIME.

2.4 Title.

2.4.1 Developer hereby acknowledges that it has reviewed the title to the Property and conducted any survey studies of the Property and has deemed the same acceptable, subject only to the Permitted Exceptions.

2.4.2 At Closing, District shall convey fee simple title to the Property subject to the Permitted Exceptions. The “**Permitted Exceptions**” shall be the following collectively: (i) all title and survey matters, encumbrances or exceptions of record as of the Effective Date; (ii) encroachments, overlaps, boundary disputes, or other matters which would be disclosed by an accurate survey or an inspection of the Property as of the Effective Date; (iii) any documents described in this Agreement that are to be recorded in the Land Records pursuant to the terms of this Agreement; (iv) defects or exceptions to title to the extent such defects or exceptions are created by Developer or Developer’s Agents or created as a result of or in connection with the use of or activities on the Property or any portion thereof by Developer or Developer’s Agents; (v) all building, zoning, and other Applicable Law affecting the Property; (vi) any easements, rights-of-way, exceptions and other matters required in order to obtain necessary approvals from Governmental Authorities for the Project; and (vii) any matter to which Developer has objected, District is unable or unwilling to cure, and Developer elects to proceed to Closing pursuant to Section 2.4.3.

2.4.3 From and after the Effective Date through Closing, District agrees not to take any action that would cause a material adverse change to the status of title to the Property existing as of the Effective Date, without the approval of Developer, which approval shall not be unreasonably withheld, conditioned, or delayed, except as expressly required by Applicable Law or permitted by this Agreement.

2.4.4 Developer may, at or prior to Closing, notify District in writing of any material adverse changes to the status of title to the Property or survey matters that occurred after the Effective Date as a direct result of action by (or the failure to act of) District. With respect to any objections to title or survey set forth in such notice, District shall have the right, but not the obligation, to cure such objections. Within ten (10) Business Days after receipt of Developer’s notice of objections, District shall notify Developer in writing whether District elects to attempt to cure such objections. If District fails to timely give Developer such notice of election, then District shall be deemed to have elected not to attempt to cure such matters. If District elects to attempt to cure, District shall have until the Closing Date to attempt to remove, satisfy or cure the same and for this purpose District shall be entitled to a reasonable adjournment of Closing if additional time is required, but in no event shall the adjournment exceed sixty (60) days after the scheduled Closing Date (but in no event later than the Outside Closing Date). If District elects not to cure any objections specified in Developer’s notice, or if District is unable to effect a cure prior to Closing, Developer shall have the following options: (i) to proceed to Closing and accept the conveyance of the Property subject to the Permitted Exceptions, in which event Developer shall be obligated to develop the Property in accordance with this Agreement and the Construction and Use Covenant, (ii) to attempt to cure such objection if mutually and reasonably agreed to by the Parties, in which case the Developer shall have until the Closing Date to attempt to remove, satisfy or cure the same and for this purpose Developer shall be entitled to a reasonable extension of the Closing Date, if additional time is required, but in no event later than

the Outside Closing Date, or (iii) to terminate this Agreement by sending notice thereof to District, and upon delivery of such notice of termination, this Agreement shall terminate, the Project Deposit shall be returned to Developer and thereafter neither Party hereto shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement. In the event District provides notice (or is deemed to have provided such notice) to Developer that District does not intend to attempt to cure any objection, or if, having commenced to attempt to cure any objection, District later provides notice to Developer that District will be unable to effect a cure thereof, Developer shall, within fifteen (15) Business Days after such notice has been given, provide notice to District whether Developer shall elect to accept conveyance under clause (i), attempt to cure under clause (ii), or to terminate this Agreement under clause (iii). In the event Developer does not provide notice to District within such fifteen (15) Business Day period, then Developer shall be deemed to have elected to accept the conveyance under clause (i).

Risk of Loss. No casualty prior to Closing to all or any portion of the existing improvements on the Property (if any) shall excuse Developer from its obligation to proceed to Closing hereunder, but neither Developer nor District shall have any obligation to rebuild or restore any existing improvements damaged by such casualty.

2.5 Condemnation.

2.5.1 Notice. If, prior to Closing, any condemnation or eminent domain proceedings shall be commenced by any other competent public authority against the Property, District shall promptly give Developer notice thereof.

2.5.2 Total Taking. In the event of a taking of the entire Property prior to Closing: (a) District shall return the Project Deposit to Developer, (b) this Agreement shall terminate, and the Parties shall be released from any and all rights, obligations and liabilities hereunder (unless such rights, obligations, and liabilities expressly survive termination pursuant to this Agreement), and (c) District shall have the right to receive any and all condemnation proceeds.

2.5.3 Partial Taking. In the event of a partial taking of the Property prior to Closing, District and Developer shall jointly determine in good faith whether the development of the Project remains physically and economically feasible. If the Parties reasonably determine that the Project is no longer feasible, whether physically or economically, as a result of such condemnation, this Agreement shall terminate, District will return the Project Deposit to Developer, the Parties shall be released from any further liability or obligation hereunder, except as expressly provided otherwise herein, and District shall have the right to collect all condemnation proceeds. If the Parties jointly determine that the Project remains economically and physically feasible, the Parties shall be deemed to have elected to proceed to Closing with respect to the portions of the Property not subject to the condemnation, and Developer shall accept the Property without any adjustment to the Purchase Price. In no event shall District (as the seller hereunder, as opposed to as the condemning authority) have any liability or obligation to make any payment to Developer with respect to any such condemnation. In the event that within forty-five (45) days after the date of receipt by District of notice of such condemnation the Parties have not jointly determined, in accordance with the foregoing provisions, to elect to

terminate or proceed to Closing hereunder, such failure shall be deemed the Parties' election to terminate this Agreement, and the termination provisions of this Section 2.6.3 shall apply.

2.6 Service Contracts and Leases; Temporary Licensees. District will not hereafter procure or enter into any (i) service, management, maintenance, or development contracts, or (ii) lease, license, easement, or other occupancy agreements affecting the Property that will survive Closing. Notwithstanding the above, District may enter into licenses to third parties for temporary use of the Property, upon such terms as may be agreed to by District, which licenses shall be terminable by District upon thirty (30) days' advance notice to such licensees. Such licenses shall not contain any provisions that will survive the Closing without the approval of Developer.

ARTICLE III REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of District.

3.1.1 District hereby represents and warrants to Developer as follows:

(a) District (i) has all requisite right, power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement and (ii) has taken all necessary action to authorize the execution, delivery and performance of this Agreement. This Agreement has been duly executed and delivered by District, and constitutes the legal, valid and binding obligation of District, enforceable against it in accordance with its terms. The Person signing this Agreement on behalf of District is authorized to do so.

(b) No agent, broker, or other Person acting pursuant to express or implied authority of District is entitled to any commission or finder's fee in connection with the transactions contemplated by this Agreement or will be entitled to make any claim against Developer for a commission or finder's fee. District has not dealt with any agent or broker in connection with the sale of the Property.

(c) There is no litigation, arbitration, condemnation, administrative or other similar proceeding pending, or to the current actual knowledge of District, threatened against District, which relates to the Property. There is no other litigation, arbitration, administrative proceeding, or other similar proceeding pending or to District's current actual knowledge threatened against District which, if decided adversely to District, would impair District's ability to perform its obligations under this Agreement.

(d) The execution, delivery, and performance of this Agreement by District and the consummation of the transactions contemplated hereby do not violate any of the terms, conditions or provisions of any judgment, order, injunction, decree, regulation, or ruling of any court or other Governmental Authority, or Applicable Law, to which District is subject, or any agreement or contract to which District is a party or to which it is subject.

3.1.2 Survival. The representations and warranties contained in Section 3.1.1 shall survive Closing for a period of one (1) year. District shall have no liability or obligation

hereunder for any representation or warranty that becomes untrue because of reasons beyond District's control, but District shall promptly notify Developer upon learning of same.

3.2 Representations and Warranties of Developer.

3.2.1 Developer hereby covenants, represents, and warrants to District as follows:

(a) Developer is a limited liability company, duly formed and validly existing and in good standing, and has full power and authority under the laws of the District of Columbia to conduct the business in which it is now engaged.

(b) Attached as **Exhibit Q** is a true, accurate and complete organizational structure chart of Developer showing all Members and their respective ownership interests in Developer. Neither Developer, any Member of Developer nor any Person owning directly or indirectly any interest in Developer or any Member is a Prohibited Person.

(c) The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by Developer and Managing Member of Developer. Upon the due execution and delivery of this Agreement by Developer, this Agreement constitutes the valid and binding obligation of Developer, enforceable in accordance with its terms.

(d) The execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby do not violate any of the terms, conditions, or provisions of: (i) Developer's organizational documents, (ii) any judgment, order, injunction, decree, regulation, or ruling of any court or other Governmental Authority, or Applicable Law to which Developer or Managing Member is subject, or (iii) any agreement or contract to which Developer is a party or to which it is subject.

(e) No agent, broker, or other Person acting pursuant to express or implied authority of Developer is entitled to any commission or finder's fee in connection with the transactions contemplated by this Agreement or will be entitled to make any claim against District for a commission or finder's fee. Developer has not dealt with any agent or broker in connection with its purchase of the Property.

(f) There is no litigation, arbitration, administrative, or other similar proceeding pending or to Developer's knowledge, threatened against Developer that, if decided adversely to Developer would (i) impair Developer's ability to enter into and perform its obligations under this Agreement or (ii) materially adversely affect the financial condition or operations of Developer.

(g) Developer's acquisition of the Property and its other undertakings pursuant to this Agreement are for the purpose of constructing and operating the Improvements in accordance with the Development Plan and the Approved Plans and Specifications and not for speculation in land holding.

(h) Neither Developer nor any of its Members is the subject debtor under any federal, state, or local bankruptcy or insolvency proceeding, or any other proceeding for dissolution, liquidation, or winding up of its assets.

3.2.2 Survival. The representations and warranties contained in Section 3.2.1 shall survive Closing for a period of one (1) year. Developer shall have no liability or obligation hereunder for any representation or warranty that becomes untrue because of reasons beyond Developer's control, but Developer shall promptly notify District upon learning of same.

ARTICLE IV APPROVAL OF CONSTRUCTION PLANS AND SPECIFICATIONS AND OTHER SUBMISSIONS

4.1 Construction Plans and Specifications.

4.1.1 Developer's Submissions for the Project. Developer shall submit to District for District's review and approval, the Construction Plans and Specifications for the Improvements within the timeframes set forth on the Schedule of Performance. All Construction Plans and Specifications shall be prepared and completed in accordance with this Agreement and the Development Plan.

4.1.2 Requirements for Construction Plans and Specifications. Notwithstanding anything to the contrary herein, prior to the issuance of any Permit by a Governmental Authority, Developer shall cause the Construction Plans and Specifications applicable to such Permit to become Approved Plans and Specifications pursuant to Section 4.2. All of the Construction Plans and Specifications shall conform to and be consistent with Applicable Law, including the applicable zoning requirements, and shall comply with the following:

(a) The Construction Plans and Specifications shall be prepared or supervised by and signed by the Architect or engineer as appropriate.

(b) A structural, geotechnical, and civil engineer, as applicable, who is licensed by the District of Columbia, shall review and certify all final foundation and grading designs.

(c) Upon Developer's submission of all Construction Plans and Specifications to District, the Architect shall certify (with standard professional language reasonably acceptable to District) that the Improvements have been designed in accordance with all Applicable Law relating to accessibility for persons with disabilities.

4.1.3 Progress Meetings. During the preparation of the Construction Plans and Specifications, District's staff and Developer shall hold periodic progress meetings ("**Progress Meetings**"), during which meetings Developer and designated representatives of District and other District staff shall coordinate the preparation, submission and review of the Construction Plans and Specifications, as well as any other pending matters involving the Project.

4.2 District Review and Approval of Construction Plans and Specifications.

4.2.1 Generally. District shall have the right to review and approve or disapprove all or any part of each of the Construction Plans and Specifications, which approval shall not be unreasonably withheld, conditioned or delayed; provided such Construction Plans and Specifications are consistent with the Development Plan, the Concept Plans, and with the information exchanged in Progress Meetings and are in accordance with the requirements of the terms herein and Applicable Law. Any Construction Plans and Specifications approved (or any approved portions thereof) pursuant to this Section 4.2 shall be “**Approved Plans and Specifications**”.

4.2.2 Time Period for District Review and Approval. District shall complete its review of each submission of Construction Plans and Specifications and provide a written response thereto within thirty (30) days after its receipt of the same (the thirty (30) day review period may be referred to herein as the “**Review Period**”). If District fails to respond with its written response to a submission of any Construction Plans and Specifications within the Review Period, Developer shall notify District, in writing, of District’s failure to respond by delivering to District a Second Notice. Failure of District to respond within fifteen (15) Business Days after its receipt of the Second Notice shall constitute and shall be deemed to be District approval of the applicable Construction Plans and Specifications.

4.2.3 Disapproval Notices. Any notice of disapproval (“**Disapproval Notice**”) delivered to Developer by District shall state the basis for such disapproval in reasonably sufficient detail so as to enable Developer to respond to District. If District issues a Disapproval Notice, Developer shall have a period of time equal to the Resubmission Period to revise the Construction Plans and Specifications to address the comments of District and shall resubmit the revised Construction Plans and Specifications for approval by District prior to the expiration of such Resubmission Period. District shall complete its review of such revised Construction Plans and Specifications and provide written response thereto within the Review Period, which Review Period shall commence the day following District’s receipt of such revised Construction Plans and Specifications from Developer. If District fails to notify Developer of its approval or disapproval of such revised Construction Plans and Specifications within the Review Period, Developer may provide a written Second Notice to District with respect to such revised Construction Plans and Specifications. Failure of District to respond within fifteen (15) Business Days after its receipt of the Second Notice shall constitute and shall be deemed to be District approval of the revised Construction Plans and Specifications. The provisions of Section 4.2 relating to approval, disapproval and resubmission of any Construction Plans and Specifications shall continue to apply until such Construction Plans and Specifications (and each component thereof) have been approved by District. In no event will District’s failure to respond to any submission of Construction Plans and Specifications be deemed an approval except as otherwise expressly set forth in this Section 4.2. Any Construction Plans and Specifications may not be later disapproved by District unless any disapproval and revision is mutually agreed upon by the Parties. District’s review of any Construction Plans and Specifications that is responsive to a Disapproval Notice shall be limited to the matters disapproved by District as set forth in the Disapproval Notice, but shall not be so limited with regard to any new matters shown on such Construction Plans and Specifications that were not included or indicated on any prior Construction Plans and Specifications.

4.2.4 No Representation; No Liability. District's review and approval of the Construction Plans and Specifications is not and shall not be construed as a representation or other assurance that they comply with any building codes, regulations, or standards, including, without limitation, building engineering and structural design or any other Applicable Law. District shall incur no liability in connection with its review of any Construction Plans and Specifications and is reviewing such Construction Plans and Specifications solely for the purpose of ensuring that the Construction Plans and Specifications are consistent with the Development Plan and in accordance with the terms of this Agreement.

4.3 Changes In Construction Plans and Specifications; Government Required Changes.

4.3.1 No Material Changes. Once approved, Developer may make changes to the Approved Plans and Specifications without the prior approval of, but with notice to, District, provided such changes are (a) consistent with Applicable Law and (b) not Material Changes. Such notice shall specifically identify the changes made and shall include any modifications to the Project Budget as a result of such changes. Developer shall not make any Material Changes to the Approved Plans and Specifications without District's prior written approval, except those changes required by a Governmental Authority pursuant to Section 4.3.2. If Developer desires to make any Material Changes to the Approved Plans and Specifications, Developer shall submit in writing the proposed changes to District for approval, including a written description of the Material Change and the modified Constructions Plans and Specifications with notations highlighting such Material Change. The procedures set forth in Section 4.2 shall apply to District's review and approval (or disapproval) of any such proposed Material Changes in the same manner as if the submission of such proposed Material Change was the Submission of the original Construction Plans and Specifications for District's review. In the event Developer makes a Material Change to the Construction Plans and Specifications, but does not comply with the procedures in this Section 4.3.1, such Material Change shall be deemed disapproved, notwithstanding the inclusion of the Material Change in a subsequently submitted Construction Plans and Specifications receiving approval by District.

4.3.2 Government Required Changes. Notwithstanding any other provision of this Agreement to the contrary, District acknowledges and agrees that District shall not withhold its approval (if otherwise required by the terms of this Agreement) of any elements contained in the Construction Plans and Specifications or proposed changes to Approved Plans and Specifications that are required by any Governmental Authority; provided however, that (i) District shall have been afforded a reasonable opportunity to discuss such element of, or change in, the submission with the Governmental Authority requiring such element or change and with the Architect, (ii) the Architect shall have reasonably cooperated with District and such Governmental Authority in seeking such reasonable modifications of the required element or change as District shall deem reasonably necessary, and (iii) such element or change is consistent with Applicable Law. Developer and District each agree to use diligent, good faith efforts to resolve District's approval of such elements or changes, and District's request for reasonable modifications to such elements or changes required by a Governmental Authority, as soon as reasonably possible and in no event later than ten (10) Business Days after the submission of the applicable Construction Plans and Specifications or Approved Plans and Specifications.

Developer shall promptly notify District of any changes required by a Governmental Authority whether before or during construction.

4.4 Project Professionals.

4.4.1 Approval of Project Professionals. Any Person that Developer proposes for any of the following shall be subject to District's approval, which approval shall not be unreasonably withheld, conditioned, or delayed: (i) the Architect; (ii) the Contractor; and (iii) any replacement of either of the foregoing. District's review of any proposed Person under this Section 4.4.1 shall be limited to whether the Person (i) reasonably has the experience and technical qualifications to provide the services required and (ii) is not a Prohibited Person.

4.4.2 Copies of Contracts. Upon District's request, Developer shall provide to District copies of the contracts with any Person required to be approved by District pursuant to the foregoing provisions of this Section 4.4.1.

4.4.3 No Prohibited Persons. No Person who is a Prohibited Person shall be engaged as contractor or a subcontractor or otherwise provide materials or services with respect to the Project.

4.5 Retail Plan. [Omitted] Community Participation Program. No later than ninety (90) days after the Effective Date, Developer shall provide District a description of Developer's program for public involvement, education and outreach with respect to the Project (including input from the community that is impacted by the Project as it is designed, developed, constructed and operated) (the "**Community Participation Program**"), including a plan for implementing the Community Participation Program and shall include, without limitation, the organization(s) with whom Developer proposes to discuss the Project, a schedule for public meetings and the type of information that Developer proposes to submit to the public. The Community Participation Program shall include a mechanism to document all public meetings, including a narrative description of (a) the events of each meeting, (b) the concerns raised by members of the public, and (c) Developer's responses to such concerns. Developer shall submit such documentation of each public meeting to District and shall, at each Progress Meeting, otherwise include a summary of Developer's activities with respect to, and in furtherance of, the Community Participation Program at each Progress Meeting.

4.6 Construction Consultant. Prior to Closing, Developer shall appoint a construction consultant reasonably approved by District (the "**Construction Consultant**") who shall review and report to the Parties on a monthly basis on the following matters: (a) the construction documents relating to the construction of the Improvements and the conformity of such matters to the Approved Plans and Specifications and (b) the schedule of construction and the conformity of the current construction progress with the Schedule of Performance. The Construction Consultant shall provide regular written status updates and promptly report, in writing, any issues to District and Developer. If the Construction Consultant determines there is a non-conformity with the Approved Plans and Specifications or a deviation from the Schedule of Performance, District may request Developer to propose and adopt a recovery and modification plan that is reasonably satisfactory to the Construction Consultant and District. The Construction Consultant's time, expenses, reports, and certification shall be at Developer's sole cost and expense Any

construction consultant engaged by the senior construction lender for supervision of construction of the Improvements may be considered the “Construction Consultant” hereunder, provided that such construction consultant is approved by District, and provided further that such construction consultant agrees in writing to undertake the duties of the Construction Consultant set forth in this Section 4.7.

4.7 Project Funding Plan; Project Budget.

4.7.1 Project Funding Plan. As of the Effective Date, Developer has provided District its initial funding plan describing the sources and uses of funds for the Project and the methods for obtaining such funds (including lending sources), which plan is attached hereto as Exhibit N (such plan, as may be modified from time to time in accordance with this Agreement being the “**Project Funding Plan**”).

4.7.2 Project Budget. As of the Effective Date, Developer has provided District its initial Project Budget describing the expenditure of direct and indirect costs for the Project, which shall include a cost itemization prepared by Developer specifying all “hard” and “soft” costs (direct and indirect) by item, including (i) the costs of all labor, materials, and services necessary for the Project and (ii) all other expenses anticipated by Developer incident to the Project (including, without limitation, anticipated interest on all financing, taxes and insurance costs) and the construction thereof (such budget, as may be modified from time to time in accordance with this Agreement being the “**Project Budget**”). The Project Budget is attached hereto as Exhibit O.

4.7.3 Final Project Budget and Funding Plan. On or before the date set forth on the Schedule of Performance, Developer shall provide District with a revised Project Budget and Project Funding Plan and such supporting documentation as District may reasonably request. Developer shall further modify the Project Budget and Project Funding Plan (i) upon receipt of the commitment letters for the Equity Investment and Debt Financing and (ii) within sixty (60) days but no later than thirty (30) days prior to Closing. Upon District’s approval of the modified Project Budget and Project Funding Plan submitted pursuant to clause (ii), such modified Project Budget and Project Funding Plan shall be the “**Final Project Budget**” and “**Final Project Funding Plan**”, respectively.

4.8 Approvals. In order to undertake the Project in accordance with the Development Plan, Developer will need to seek Approvals. Prior to submission of the applications for Approvals, Developer shall submit its draft applications to District for District’s review and approval in accordance with Section 4.2. Any submissions in support of the applications shall be consistent with the Development Plan and this Agreement and any Construction Plans and Specifications submitted therewith shall be approved by District as Approved Plans and Specifications prior to such submission. Once approved by District, Developer shall not modify the applications without District’s prior approval.

4.9 Submission Deadline Extensions. If Developer is proceeding diligently and in good faith and desires to extend a specified deadline in the Schedule of Performance for any submission of Construction Plans and Specifications or Other Submissions, Developer may

request such extension in writing, and, for good cause shown, District may, in its sole and absolute discretion, grant such extension by notice to Developer.

ARTICLE V CONDITIONS TO CLOSING

5.1 Conditions Precedent To Developer's Obligation To Close.

5.1.1 The obligations of Developer to consummate Closing on the Closing Date shall be subject to the following conditions precedent:

(a) the representations and warranties made by District in Section 3.1.1 of this Agreement shall be true and correct in all material respects on and as if made on the Closing Date;

(b) District shall have performed all of its material obligations and observed and complied with all material covenants and conditions required at or prior to Closing under this Agreement;

(c) this Agreement shall not have been previously terminated pursuant to any provision hereof;

(d) District shall have delivered (or caused to be delivered) the original, executed documents required to be delivered pursuant to Section 6.2.1 herein;

(e) as of the Closing Date, there shall be no rezoning or other statute, law, judicial, or administrative decision, ordinance, or regulation (including amendments and modifications of any of the foregoing) by any Governmental Authorities or any public or private utility having jurisdiction over the Property that would materially adversely affect the acquisition, development, sale, or use of the Property such that the Project is no longer physically or economically feasible (this provision shall not apply to any normal and customary reassessment of the Property for ad valorem real estate tax purposes); and

(f) title to the Property shall be subject only to the Permitted Exceptions.

5.1.2 Failure of Condition. If all of the conditions to Closing set forth above in Section 5.1.1 have not been satisfied by the Closing Date, provided the same is not the result of Developer's failure to perform any obligation of Developer hereunder, Developer shall have the option, in its sole discretion, to: (i) waive such condition(s) and proceed to Closing hereunder; (ii) terminate this Agreement by delivering notice of such termination to District, whereby District will release the Project Deposit to Developer and the Parties shall be released from any further liability or obligation hereunder except those that expressly survive termination of this Agreement; or (iii) delay Closing for up to sixty (60) days (or such longer time as may be agreed to by the Parties) to permit District to satisfy the conditions to Closing set forth in Section 5.1.1. In the event Developer proceeds under clause (iii), Closing shall occur within sixty (60) days after the conditions precedent set forth in Section 5.1.1 have been satisfied, but in no event later than the Outside Closing Date. If such conditions precedent have not been satisfied by the end of

the sixty (60) day period, provided the same is not the result of Developer's failure to perform any obligation of Developer hereunder, Developer may again proceed under clause (i), (ii), or (iii) above, in its sole discretion. The foregoing notwithstanding, Closing shall not occur after the Outside Closing Date. If Closing has not occurred by the Outside Closing Date, this Agreement shall immediately terminate and be of no further force and effect, except for those provisions that expressly survive termination of this Agreement. Notwithstanding anything set forth above to the contrary, if any such failed condition precedent is a result of a District Default, then Developer may exercise its remedies in Section 9.3.

5.2 Conditions Precedent To District's Obligation To Close.

5.2.1 The obligation of District to convey the Property and consummate Closing on the Closing Date shall be subject to the following conditions precedent:

(a) Developer shall have performed all of its material obligations hereunder and observed and complied with all material covenants and conditions required at or prior to Closing under this Agreement;

(b) the representations and warranties made by Developer in Section 3.2.1 of this Agreement shall be true and correct in all material respects on and as if made on the Closing Date;

(c) this Agreement shall not have been previously terminated pursuant to any other provision hereof;

(d) District's authority, pursuant to the Resolution, to proceed with the disposition, as contemplated in this Agreement, shall have not previously expired;

(e) the Construction Plans and Specifications for the Improvements shall have been approved as Approved Plans and Specifications in their entirety pursuant to Article IV;

(f) all Submissions required to be submitted prior to Closing shall have been approved by District in their entirety;

(g) Developer shall have certified to District in writing that it is ready, willing, and able in accordance with the terms and conditions of this Agreement to purchase the Property and achieve Commencement of Construction on or before the date set forth in the Schedule of Performance;

(h) Developer shall be in compliance with the terms of the First Source Agreement;

(i) Developer shall be in compliance with the terms of the CBE Agreement;

(j) Developer shall have obtained all Approvals necessary to complete the Project and shall have delivered copies of the same to District;

(k) Developer shall have obtained, and furnished to District certificates of insurance or duplicate originals of insurance policies, for the insurance coverage required under the Construction and Use Covenant;

(l) Developer shall have provided District with satisfactory evidence of its authority to purchase the Property and to perform its obligations under this Agreement and the Construction and Use Covenant;

(m) Developer shall have obtained all Permits for demolition (if any), excavation, sheeting and shoring, and the building permit for construction of the Improvements, except for those Permits which are normally obtained during the course of construction of the Improvements, such as Permits for elevators and landscaping, and shall have delivered the copies of the same to District;

(n) Developer shall have delivered (or caused to be delivered) the original, executed documents required to be delivered pursuant to Section 6.2.2 herein;

(o) Developer shall have delivered to District the documents required under Section 10.2 and District shall have approved the Financing Commitments;

(p) District shall have approved the Final Project Funding Plan and the Final Project Budget, and there shall have been no changes to the same, except to the extent such changes have been approved by District;

(q) Developer shall have executed a Construction Contract;

(r) Developer shall have retained the Construction Consultant and District shall have approved the same in accordance with Section 4.7;

(s) Developer shall have provided to District updated Guarantor Submissions and District shall have confirmed that no material adverse change has occurred in the financial condition of any Guarantor, determined in accordance with the provisions of Section 4.5 or, if a material adverse change has occurred, District has approved a substitute guarantor pursuant to Section 4.5; and

(t) Developer shall have delivered the Bonds pursuant Section 8.3.

5.2.2 Failure of Condition. If all of the conditions to Closing set forth above in Section 5.2.1 have not been satisfied by the Closing Date, provided the same is not the result of District's failure to perform any obligation of District hereunder, District shall have the option, in its sole discretion, by notice to Developer, to: (i) waive such condition(s) and proceed to Closing hereunder; (ii) terminate this Agreement by delivering notice of such termination to Developer whereby the Project Deposit shall be retained by District and the Parties shall be released from any further liability or obligation hereunder except those that expressly survive termination of this Agreement; or (iii) delay Closing for up to sixty (60) days (or such longer period as may be agreed to by the Parties), to permit Developer to satisfy the conditions to Closing set forth in Section 5.2.1. In the event District proceeds under clause (iii), Closing shall occur within sixty (60) days after the conditions precedent set forth in Section 5.2.1 have been satisfied but in no

event later than the Outside Closing Date. If such conditions precedent have not been satisfied by the end of the sixty (60) day period, provided the same is not the result of District's failure to perform any obligation of District hereunder, District may again proceed under clause (i), (ii), or (iii) above, in its sole discretion. The foregoing notwithstanding, Closing shall not occur after the Outside Closing Date. If Closing has not occurred by the Outside Closing Date, this Agreement shall immediately terminate and be of no further force and effect, except for those provisions that expressly survive termination of this Agreement. Notwithstanding anything set forth above to the contrary, if any such failed condition precedent is result of a Developer Default, then District may exercise its remedies in Section 8.2.

ARTICLE VI CLOSING

6.1 Closing Date and Outside Closing Date. Developer and District shall consummate Closing upon satisfaction (or waiver by the Party entitled to waive the same) of all conditions to Closing, but no later than the Closing Date shown on the Schedule of Performance ("**Closing Date**"). In no event shall the Closing be held after **[THE DATE THAT IS TWO (2) YEARS AFTER DATE OF THE RESOLUTION]** (the "**Outside Closing Date**"). Closing shall occur at 10:00 a.m. at the offices of District or another location in the District of Columbia acceptable to the Parties.

6.2 Deliveries At Closing.

6.2.1 District's Deliveries. On or before the Closing Date, subject to the terms and conditions of this Agreement, District shall execute, notarize, as applicable, and deliver to Settlement Agent:

(a) the Deed in recordable form to be recorded in the Land Records against the Property;

(b) the Construction and Use Covenant in recordable form to be recorded in the Land Records against the Property;

(c) the Affordable Housing Covenant in recordable form to be recorded in the Land Records against the Property;

(d) a certificate, duly executed by District, stating that all of District's representations and warranties set forth herein are true and correct as of and as if made on the Closing Date; and

(e) any and all other deliveries required from District on the Closing Date under this Agreement and such other documents and instruments as are customary and as may be reasonably requested by Developer or Settlement Agent, and reasonably acceptable to District, to effectuate the transactions contemplated by this Agreement.

6.2.2 Developer's Deliveries. On or before the Closing Date, subject to the terms and conditions of this Agreement, Developer shall execute, notarize, as applicable, and deliver to Settlement Agent:

(a) the Purchase Price in full and any additional funds, if so required by the Settlement Statement to be delivered at Closing;

(b) the Performance Letter of Credit;

(c) the Deed in recordable form for recordation in the Land Records against the Property;

(d) the Construction and Use Covenant in recordable form to be recorded in the Land Records against the Property;

(e) the Affordable Housing Covenant in recordable form to be recorded in the Land Records against the Property;

(f) the fully executed Guaranty;

(g) the Financing Documents and any other documents required to close on the Debt Financing and Equity Investment for the Project;

(h) a certificate, duly executed by Developer, stating that all of Developer's representations and warranties set forth herein are true and correct as of and as if made on the Closing Date;

(i) a certificate, duly executed by Developer stating that (i) there is no default, or event which with the passage of time or giving of notice or both would become a default, by any party under the Financing Documents and (ii) the terms of the Financing Documents are consistent with the terms of the Financing Commitments approved by District;

(j) the following documents evidencing the due organization and authority of Developer and Managing Member to enter into, join and consummate this Agreement and the transactions contemplated herein:

(i) organizational documents and a current certificate of good standing for Developer issued by the District of Columbia;

(ii) authorizing resolutions, in form and content reasonably satisfactory to District, demonstrating the authority of the entity and of the Person executing each document on behalf of Developer and Managing Member in connection with this Agreement and the Project; and

(iii) if requested by District, an opinion of Developer's counsel that Developer and Managing Member are validly organized, existing and in good standing in the District of Columbia, that Developer and Managing Member have the full authority and legal right to carry out the terms of this Agreement and the documents to be recorded in the Land Records, that Developer and Managing Member have taken all actions to authorize the execution, delivery, and performance of said documents and any other document relating thereto in accordance with their respective terms, that none of the aforesaid actions, undertakings, or agreements violate any restriction, term, condition, or provision of the organizational documents

of Developer or Managing Member or any contract or agreement to which they are a party or by which they are bound; provided, however, that if a separate opinion is provided by Developer's counsel to an Institutional Lender covering such matters, that Developer may satisfy the requirements of this clause (iii) by delivering a counsel letter to District stating that District shall be entitled to rely on the legal opinion provided to the Institutional Lender; and

(k) any and all other deliveries required from Developer on the Closing Date under this Agreement and such other documents and instruments as are customary and as may be reasonably requested by District or Settlement Agent, and reasonably acceptable to Developer, to effectuate the transactions contemplated by this Agreement.

6.2.3 On the Closing Date, Settlement Agent shall record and distribute documents and funds in accordance with closing instructions provided by the Parties so long as they are consistent with this Agreement.

6.3 Recordation of Closing Documents; Closing Costs.

6.3.1 At Closing, Settlement Agent shall file for recordation among the Land Records the Deed, the Affordable Housing Covenant, and the Construction and Use Covenant. Such documents shall be recorded prior to any security instruments to be recorded in connection with the Debt Financing.

6.3.2 At Closing, Developer shall be responsible for and pay all costs pertaining to the transfer of the Property and financing of the Project, including, without limitation: (i) title search costs, (ii) title insurance premiums and endorsement charges, (iii) survey costs, (iv) all recordation and transfer taxes, and (v) all of Settlement Agent's fees and costs.

6.3.3 All real estate and personal property taxes and all utilities and other operating expenses, if any, applicable to the Property shall be prorated between District and Developer as of the Closing Date based on estimates of the amounts that will be due and payable on the next payment date, unless final readings or invoices therefor as of the Closing Date shall have been obtained, in which event such final readings shall be utilized as the basis for adjustment. All items to be apportioned and adjusted pursuant to this Section 6.3.3 shall be prorated as of midnight of the day immediately preceding the Closing Date, based on the actual number of days of the month which shall have elapsed as of the Closing Date and the actual number of days in the month and a three hundred sixty-five (365) day year.

**ARTICLE VII
DEVELOPMENT OF PROPERTY AND CONSTRUCTION OF IMPROVEMENTS;
AFFORDABLE HOUSING REQUIREMENT**

7.1 Obligation To Construct Improvements. Developer hereby agrees to develop, construct, use, maintain, and operate the Improvements in accordance with the requirements contained in the Construction and Use Covenant and the Schedule of Performance, subject only to Force Majeure. Developer's failure to perform its obligations in accordance with the Schedule of Performance shall constitute a Developer Default, and the Parties' rights and obligations in such event shall be governed by Article IX. Developer shall construct the Improvements in

accordance with the Approved Plans and Specifications and in compliance with all Permits, Approvals and Applicable Law. All costs of the Project, including all due diligence, predevelopment and soft costs, shall be borne solely by Developer.

7.2 Approvals. Developer shall obtain all necessary Approvals to construct the Improvements. Any application for an Approval, or modifications to existing Approvals, shall be prepared and filed by Developer on behalf of District as the owner of the Property. All applications for Approvals shall be subject to prior approval by District. Developer shall submit a copy of the proposed application to District for its review and approval prior to submission of the application. District shall have thirty (30) days to review and comment on the application. District shall cooperate, at no cost to District, with Developer in connection with all such applications approved by District and shall join such applications (as fee owner of the Property) as reasonably requested by Developer.

7.3 Issuance of Permits. Developer shall have the sole responsibility for obtaining all Permits and shall make application therefor directly to the applicable Governmental Authority. District shall, upon request by Developer, execute applications (as fee owner of the Property) for such Permits, at no cost, expense, obligation, or liability to District. In no event shall Developer commence site work or construction of all or any portion of the Improvements until Developer shall have obtained all Permits for the work in question. Developer shall submit its application for Permits within a period of time that Developer believes in good faith is reasonably sufficient to allow issuance of such Permits prior to the Closing Date. From and after the date of Developer's submission of an application for a Permit, Developer shall diligently prosecute such application until receipt. In addition, from and after submission of any such application until issuance of the Permit, Developer shall report Permit status in writing on a periodic basis to District, not more frequently than once every thirty (30) days.

7.4 Site Preparation. Developer, at its sole cost and expense, shall be responsible for all preparation of the Property for development and construction in accordance with the Development Plan and Approved Plans and Specifications, including costs associated with excavation, construction of the Improvements, utility relocation and abandonment, relocation and rearrangement of water and sewer lines and hook-ups, and construction or repair of alley ways on the Property and abutting public property necessary for the Project. All such work, including but not limited to, excavation, backfill, and upgrading of the lighting and drainage, shall be performed under all required Permits and Approvals and in accordance with Applicable Law.

7.5 Affordable Housing Requirement. Developer will comply with all affordable housing requirements of D.C. Official Code §10-801 and the requirements of District of Columbia's Inclusionary Zoning program. As of the Effective Date, Developer has delivered to District, and District has approved, the Affordable Housing Plan governing the requirements for the Affordable Units, including specific affordability levels, tenure type, unit mix, bedroom size breakdowns and formula for the rents of the Affordable Units. Floor plans depicting the Affordable Units for the Property shall also be presented to District for review and approval prior to Closing. At Closing, Developer shall execute the Affordable Housing Covenant, which shall reflect the Affordable Housing Plan.

7.6 Opportunity for CBEs. Developer shall comply with the terms and conditions set forth in the CBE Agreement.

7.7 Employment of District Residents; First Source Agreement. Pursuant to D.C. Official Code § 10-801(b)(7), the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Law 19-84, D.C. Official Code §§ 2-219.01 *et seq.*) and the rules and regulations promulgated thereunder, and Mayor's Order 83-265, Developer has entered into a First Source Agreement with DOES that shall, among other things, require Developer to: (i) hire, and require its architects, engineers, consultants, contractors, and subcontractors to hire, at least fifty-one percent (51%) District of Columbia residents for all new jobs created by the Project, all in accordance with such First Source Employment Agreement and (ii) ensure that at least fifty-one percent (51%) of apprentices and trainees employed are residents of the District of Columbia and are registered in apprenticeship programs approved by the DC Apprenticeship Council as required under D.C. Official Code §§ 32-1401 *et seq.*

7.8 Davis Bacon Act; Living Wage Act. If applicable, Developer shall, and shall cause the Contractor to, comply with the provisions of the Davis-Bacon Act, 40 U.S.C. §§ 3141 *et seq.*, and the regulations promulgated therewith. In addition, as required under D.C. Official Code § 2-220.06, Developer shall, and shall cause the Contractor to, to comply with all requirements under the Living Wage Act of 2006, D.C. Official Code §§ 2-220.01 *et seq.*, as amended. To the extent applicable, the Contractor shall notify all subcontractors of the requirements under the Davis-Bacon Act and the Living Wage Act and shall post the notice required thereunder in a conspicuous site at its place of business.

7.9 Green Building Act. Developer shall construct the Improvements in accordance with the Green Building Act of 2006, D.C. Official Code §§ 6-1451.01 *et seq.*, as amended, and the regulations promulgated therewith.

ARTICLE VIII POST-CLOSING GUARANTIES OF PERFORMANCE

8.1 Development and Completion Guaranty.

8.1.1 Delivery at Closing. Developer shall deliver to District, as a condition of Closing, a Guaranty executed by Guarantor.

8.1.2 Approval of Guarantor. The Guaranty shall be from one or more Persons approved by District in District's sole and absolute discretion, which approval shall include District's determination as to whether such Person has sufficient net worth and liquidity to satisfy its obligations under the Guaranty, taking into account all relevant factors, including, without limitation, such Person's obligations under other guaranties and the other contingent obligations of such Person. In no event shall a Guarantor be a Prohibited Person.

8.1.3 Guarantor Submissions. In order for District to approve a Person as a Guarantor under Section 8.1.2, Developer shall deliver or cause the Person to deliver to District the Guarantor Submissions. Developer shall submit to District updated Guarantor Submissions (a) at any time upon District's request and (b) no later than thirty (30) days prior to Closing.

8.1.4 Material Adverse Change in Financial Condition of Guarantor. In the event District determines, in its sole and absolute discretion, that a material adverse change in the financial condition of the Guarantor has occurred that impacts, or could threaten to impact, the Guarantor's ability to perform under the Guaranty, Developer shall, within thirty (30) Business Days after notice from District, identify a proposed substitute guarantor and request District's approval of the same, which request shall include delivery of the Guarantor Submissions for such proposed substitute guarantor.

8.2 Performance Letter of Credit. At Closing, Developer shall deliver to District an Acceptable Letter of Credit in the amount of _____ (\$ _____) (the "**Performance Letter of Credit**") to secure Developer's performance of the obligations contained in the Construction and Use Covenant. District shall return the Performance Letter of Credit to Developer at the time the District Certificate of Final Completion is issued.

8.3 Payment and Performance Bonds. Prior to Closing, Developer shall obtain, or require its Contractor to obtain, and deliver to District payment and performance bonds with respect to the work to be performed under the Construction Contract. The payment and performance bonds (the "**Bonds**") shall (a) be issued by one or more surety companies that are admitted as bonding carriers listed on the then-most current version of U.S. Treasury Circular 570 or any replacement or substitute U.S. government listing, have an A.M. Best's rating of at least A-:VIII or better and are duly licensed and authorized to conduct and transact surety business in the District of Columbia by the Commissioner of the D.C. Department of Insurance, Securities and Banking, (b) be on a form consistent with AIA Document 312 or another form that provides substantially equivalent protection to the owner, with such changes as District may reasonably request, (c) name District as a beneficiary, and (d) be in the amount equal to the total price of the Construction Contract.

ARTICLE IX DEFAULTS AND REMEDIES

9.1 Default.

9.1.1 Default by Developer. Developer shall be in default under this Agreement if (each, a "**Developer Default**"):

(a) any of Developer's representations and warranties under Section 3.2.1 is not true and correct as of the Effective Date or as of the Closing Date;

(b) Developer fails to achieve a milestone on the Schedule of Performance by the Outside Date therefor, and such failure shall continue for a period of ten (10) days after notice from District;

(c) Developer shall (i) admit in writing in a legal proceeding its inability to pay its debts as they mature, (ii) file a voluntary petition in bankruptcy or insolvency or for reorganization under the United States Bankruptcy Code, (iii) be adjudicated bankrupt or insolvent by any court, (iv) be the subject of involuntary proceedings under the United States Bankruptcy Code, or the appointment of a receiver or trustee for all or substantially all of its property and such proceedings shall not be dismissed or stayed, or the receivership or trustee

ship vacated, within one hundred twenty (120) days, or (v) make a general assignment for the benefit of creditors;

(d) Developer becomes a Prohibited Person and such breach is not cured within thirty (30) days after notice from District; or

(e) Developer fails to perform any obligation or requirement under this Agreement or fails to comply with any term or provision of this Agreement that is not specified under (a) – (d) above, and such default remains uncured for thirty (30) days after notice from District (except as provided in Section 5.1.2, no notice shall be necessary nor shall any cure period apply to Developer’s obligation to close on its acquisition of the Property by the Outside Closing Date, time being of the essence), or if such a default does not involve the payment of money and cannot reasonably be cured within thirty (30) days, Developer shall have such additional time as is reasonably necessary, not to exceed an additional sixty (60) days, to cure such default, provided that Developer commences the cure within the initial thirty (30) day period and diligently pursues completion of such cure thereafter.

9.1.2 Default by District. District shall be in default under this Agreement if District fails to perform any obligation or requirement under this Agreement or fails to comply with any term or provision of this Agreement and such default remains uncured for thirty (30) days after receipt of notice of such failure from Developer (any such default that remains uncured after all notice and cure periods have expired, a “**District Default**”). Notwithstanding the foregoing, if a default cannot reasonably be cured within thirty (30) days, District shall have such additional time as is reasonably necessary, not to exceed an additional sixty (60) days, to cure such default; provided, however, District must commence the cure within the initial thirty (30) day period and diligently pursue completion of such cure thereafter.

9.2 District Remedies in the Event of a Developer Default. In the event of a Developer Default under this Agreement, District may elect to:

(a) terminate this Agreement and, as liquidated damages, draw on the Project Deposit in the full amount, whereupon the Parties shall be released from any further liability or obligation hereunder including the remedies in (b) through (d) herein, except those that expressly survive termination of this Agreement. Upon such termination, the Development Work Product shall be automatically assigned to District in accordance with Section 9.6;

(b) cure any Developer Default at Developer’s sole cost and expense, whereupon District shall be entitled to draw on the Project Deposit for reimbursement of such costs, in addition to pursuing any other legal remedies;

(c) pursue specific performance; and/or

(d) pursue any other legal or equitable relief.

9.3 Developer Remedies in the Event of a District Default. In the event of a District Default prior to Closing, Developer may elect to:

(a) extend the Closing Date for a reasonable period of time to allow District to cure the District Default, not to exceed the Outside Closing Date;

(b) terminate this Agreement, whereupon District shall return the Project Deposit to Developer and the Parties shall be released from any further liability or obligation hereunder, except those that expressly survive termination of this Agreement; or

(c) pursue specific performance or other injunctive relief.

9.4 Limitation on Remedies; Cure Periods. The remedies of Developer and District provided herein shall be the sole and exclusive remedies of the Parties in the event of a District Default or Developer Default hereunder. In no event shall either Party be liable for any consequential, punitive or special damages. Notwithstanding anything to the contrary contained in this Agreement, any cure period provided to District or Developer under this Article IX shall not delay Closing beyond, and shall automatically expire on, the Outside Closing Date.

9.5 No Waiver By Delay; Waiver. Notwithstanding anything to the contrary contained herein, any delay by any Party in instituting or prosecuting any actions or proceedings with respect to a default by the other hereunder or otherwise asserting its rights or pursuing its remedies under this Article, shall not operate as a waiver of such rights or to deprive such Party of or limit such rights in any way (it being the intent of this provision that neither Party shall be constrained by waiver, laches, or otherwise in the exercise of such remedies). Any waiver by either Party hereto must be made in writing. Any waiver in fact made with respect to any specific default under this Section shall not be considered or treated as a waiver with respect to any other defaults or with respect to the particular default except to the extent specifically waived in writing.

9.6 Assignment of Work Product. Upon termination of this Agreement pursuant to Section 9.2(a), Developer shall assign to District all of Developer's assignable right, title and interest in and to all plans, drawings, specifications, engineering studies, investigations, reports, Approvals and Permits in connection with the Project (collectively, the "**Development Work Product**") at Developer's sole cost and expense. Developer shall cause all professional contracts for Development Work Product to expressly provide that Developer shall have the right to so assign (or failing that, to license) the Development Work Product to District and that, from and after the effective date of such assignment (or license), District shall have the right to use such Development Work Product and rely thereon to the same extent as Developer. Upon termination of this Agreement pursuant to Section 9.2(a), if requested by District, Developer shall execute such assignments as District may request to perfect such assignment. Developer hereby indemnifies, defends and holds harmless District from and against any and all third party costs, claims or liabilities, caused by the failure of Developer to pay when due third parties for any Development Work Product. Developer's obligations pursuant to this Section 9.6 shall survive termination of this Agreement.

9.7 Attorneys' Fees. In the event District prevails in any legal action or proceeding to enforce the terms of this Agreement, District shall be entitled to recover from Developer the reasonable attorneys' fees and costs incurred by District in such action or proceeding. In the event District is represented by the Office of the Attorney General for the District, reasonable

attorneys' fees shall be calculated based on the then-applicable hourly rates established in the most-current Adjusted Laffey Matrix prepared by the Civil Division of the United States Attorney's Office for the District of Columbia and the number of hours employees of the Office of the Attorney General for the District of Columbia prepared for or participated in any such litigation.

9.8 Rights and Remedies Cumulative. The rights and remedies of the Parties under this Agreement shall be cumulative, and the exercise by a Party of any one or more of such remedies shall not preclude the exercise of any other remedies for the same such default or breach.

ARTICLE X CONSTRUCTION FINANCING

10.1 Limitations on Encumbrances.

10.1.1 As further provided in the Construction and Use Covenant, beginning at Closing, Developer shall not obtain any Debt Financing or engage in any other transaction that shall create a Mortgage or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Property without the prior written approval of District, in its sole and absolute discretion.

10.1.2 Bona Fide Indebtedness. The Debt Financing obtained in connection with Closing and construction of the Improvements shall (i) secure a bona fide indebtedness to an Institutional Lender, the proceeds of which shall be applied only to the costs identified in the Final Project Budget and (ii) be of an amount which, together with all other funds available to Developer, shall be sufficient to complete construction of the Improvements. In no event shall the proceeds of any Debt Financing or Mortgage shall not be used to fund the acquisition, development, construction, operation, or any other costs relating to any real property, personal property or business operation other than the Project.

10.2 Submissions. At least thirty (30) days prior to Closing, Developer shall submit to District, for the purpose of obtaining District's approval of any Debt Financing or Equity Investment, such documents as District may reasonably request, including, but not limited to, copies of:

- (a) the Financing Commitments, certified by Developer to be a true and correct copy thereof;
- (b) the proposed agreements evidencing the commitment to provide the Equity Investment for the Project; and
- (c) a statement detailing the disbursement of the proceeds of the proposed Debt Financing and Equity Investment, certified by Developer to be true and accurate.

ARTICLE XI ASSIGNMENT AND TRANSFER

11.1 Assignment. Prior to Closing, Developer represents, warrants, covenants, and agrees, for itself and its successors and assigns, that Developer (or any successor in interest thereof) shall not assign its rights under this Agreement, or delegate its obligations under this Agreement, except to an entity that is Controlled by the Managing Member (provided such transferee is not a Prohibited Person), without District's prior written approval, which may be granted or denied in District's sole and absolute discretion. After Closing, Developer may assign or transfer the Property (or portions thereof) in accordance with the Construction and Use Covenant and the Deed.

11.2 Transfer of Membership Interests. Prior to Closing, neither Developer nor any Member of Developer (including any successors in interest of Developer or its Members) shall cause or suffer to be made any assignment, sale, conveyance or other transfer, or make any contract or agreement to do any of the same, whether directly or indirectly, of the membership interests of Developer, except to an entity that is Controlled by Managing Member, without District's prior written approval, which may be granted or denied in District's sole and absolute discretion; provided, however, no membership interest shall be held by a Prohibited Person ("**Transfer of Membership Interests**"). After Closing, Developer may conduct a Transfer of Membership Interests in accordance with the Construction and Use Covenant.

11.3 No Unreasonable Restraint. Developer hereby acknowledges and agrees that the restrictions on transfers set forth in this Article do not constitute an unreasonable restraint on Developer's right to transfer or otherwise alienate the Property or its rights under this Agreement. Developer hereby waives any and all claims, challenges, and objections that may exist with respect to the enforceability of such restrictions, including any claim that such restrictions constitute an unreasonable restraint on alienation.

ARTICLE XII INSURANCE OBLIGATIONS; INDEMNIFICATION

12.1 Insurance. Beginning on the Effective Date, Developer shall maintain, and cause its Contractor and Subcontractors to maintain, as applicable, the insurance required under **Exhibit S** herein.

12.2 Waiver of Subrogation. All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

12.3 Liability. The required insurance coverage and limits pursuant to this Section 11.1 is the minimum coverage limits Developer is required to carry. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE, WILL NOT IN ANY WAY LIMIT DEVELOPER'S LIABILITY UNDER THIS AGREEMENT.**

12.4 Indemnification. Developer shall indemnify, defend, and hold harmless District and District's agents and employees from and against any and all losses, costs, claims, damages, liabilities, and causes of action (including reasonable attorneys' fees and court costs) arising out of death of or injury to any person or damage to any property that is directly or indirectly caused by any acts or omissions of Developer, its Members, or Developer's Agents; provided, however, that the forgoing indemnity shall not apply to any losses, costs, claims, damages, liabilities, and

causes of action (including reasonable attorneys' fees and court costs) due solely to the gross negligence or willful misconduct of District as determined by a court of competent jurisdiction. The obligations of Developer under this Section shall survive Closing or the earlier termination of this Agreement.

ARTICLE XIII NOTICES

13.1 To District. Any notices given under this Agreement shall be in writing and delivered (i) by U.S. Certified Mail (return receipt requested, postage pre-paid), (ii) by hand, (iii) by reputable private overnight commercial courier service, or (iv) such other means as the Parties may agree in writing, to District at the following addresses:

District of Columbia
Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attn: Project Manager – Miguel Garcia

With a copy to:

Office of the General Counsel
for the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attn: General Counsel

13.2 To Developer. Any notices given under this Agreement shall be in writing and delivered (i) by U.S. Certified Mail (return receipt requested, postage pre-paid), (ii) by hand, (iii) by reputable private overnight commercial courier service, or (iv) such other means as the Parties may agree in writing, to Developer at the following addresses:

Capitol Hill Cohousing LLC
608 6th Street, NE
Washington, DC 20002

With a copy to:

Klein Hornig LLP
1325 G Street NW, Suite 770
Washington, DC 20005
Attn: Eric Herrmann

Notices served upon Developer or District in the manner aforesaid shall be deemed to have been received for all purposes hereunder at the time such notice shall have been: (i) if hand delivered to a Party against receipted copy, when the copy of the notice is received; (ii) if given by overnight courier service, on the next Business Day after the notice is deposited with the overnight courier service; or (iii) if given by certified mail, return receipt requested, postage prepaid, on the date of actual delivery or refusal thereof. If notice is tendered under the terms of this Agreement and is refused by the intended recipient of the notice, the notice shall nonetheless be considered to have been received and shall be effective as of the date provided in this Agreement. The Parties agree that counsel to any of them may provide notice to the other Parties under this Agreement.

ARTICLE XIV MISCELLANEOUS

14.1 Party in Position of Surety With Respect to Obligations. Developer, for itself and its successors and assigns and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under the Agreement, hereby waives, to the fullest extent permitted by law and equity, any and all claims or defenses otherwise available on the grounds of its being or having become a person in the position of surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation any and all claims and defenses based upon extension of time, indulgence or modification of this Agreement.

14.2 Conflict of Interests; Representatives Not Individually Liable. No official or employee of District shall participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any District of Columbia agency, partnership, or association in which he or she is, directly or indirectly, interested. No official or employee of District shall be personally liable to Developer or any successor-in-interest in the event of any default or breach by District or for any amount which may become due to Developer or such successor-in-interest or on any obligations hereunder.

14.3 Survival; Merger. Except to the extent any provision contained herein expressly survives the expiration or termination of this Agreement, the provisions of this Agreement are intended to and shall merge with the Deed.

14.4 Titles of Articles and Sections. Titles and captions of the several parts, articles, and sections of this Agreement are inserted for convenient reference only and shall be disregarded in construing or interpreting Agreement provisions.

14.5 Law Applicable; Forum for Disputes. This Agreement shall be governed by, interpreted under, construed, and enforced in accordance with the laws of the District of Columbia, without reference to the conflicts of laws provisions thereof. District and Developer irrevocably submit to the jurisdiction of (a) the courts of the District of Columbia and (b) the United States District Court for the District of Columbia for the purposes of any suit, action, or other proceeding arising out of this Agreement or any transaction contemplated hereby. District

and Developer irrevocably and unconditionally waive any objection to the laying of venue of any action, suit, or proceeding arising out of this Agreement or the transactions contemplated hereby in the courts named in (a) and (b) above, and hereby further waive and agree not to plead or claim in any such court that any such action, suit, or proceeding brought in any such court has been brought in an inconvenient forum.

14.6 Entire Agreement; Recitals; Exhibits.

14.6.1 This Agreement (including the Exhibits annexed hereto and made part hereof), and any document delivered pursuant to this Agreement collectively contain all the agreements and understandings between District and Developer relative to the transactions contemplated herein and thereby and there are no agreements or understandings, oral or written, expressed or implied, between them with respect thereto other than as herein set forth or expressly referenced herein and made a part hereof. Upon execution of this Agreement, all previous agreements shall be deemed null and void.

14.6.2 The Recitals of this Agreement are incorporated herein by this reference and are made a substantive part of the agreements between the Parties.

14.6.3 All Exhibits are incorporated herein by reference, whether or not so stated. In the event of any conflict between the Exhibits and this Agreement that occurs prior to Closing, this Agreement shall control. In the event of any conflict between the Exhibit and this Agreement that occurs after Closing, the Exhibits shall control.

14.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall together constitute one and the same instrument. Execution and delivery of this Agreement by facsimile or e-mail .pdf shall be sufficient for all purposes and shall be binding on any Person who so executes.

14.8 Time of Performance. All dates for performance (including cure) shall expire at 5:00 p.m. (Eastern time) on the performance or cure date. A performance date which falls on a Saturday, Sunday, District of Columbia government holiday, or day in which the District of Columbia government is officially closed for business is automatically extended to the next Business Day.

14.9 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of, the successors and assigns of District and Developer, and where the term "Developer" or "District" is used in this Agreement, it shall mean and include their respective successors and assigns.

14.10 Third Party Beneficiary. No Person shall be a third party beneficiary of this Agreement.

14.11 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, ALL PARTIES HERETO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING IN RESPECT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

14.12 Further Assurances. Each Party agrees to execute and deliver to the other Party such additional documents and instruments as the other Party reasonably may request in order to fully carry out the purposes and intent of this Agreement.

14.13 Modifications and Amendments. None of the terms or provisions of this Agreement may be changed, waived, modified, or removed except by an instrument in writing executed by the Party or Parties against which enforcement of the change, waiver, modification, or removal is asserted. None of the terms or provisions of this Agreement shall be deemed to have been abrogated or waived by reason of any failure or refusal to enforce the same. In addition, if any Party seeks to amend or change any material terms set forth in the Council Term Sheet, the Parties must seek and receive Council approval as required under D.C. Official Code §10-801(b-4).

14.14 Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future Applicable Law, such provision shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement, unless this construction would constitute a substantial deviation from the general intent of the Parties as reflected in this Agreement. Furthermore, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible that is legal, valid, and enforceable.

14.15 Antideficiency Limitation; Authority.

14.15.1 Though no financial obligations on the part of District are anticipated, Developer acknowledges that District is not authorized to make any obligation in advance or in the absence of lawfully available appropriations and that District's authority to make such obligations is and shall remain subject to the provisions of (i) the federal Antideficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1350, 1351; (ii) D.C. Official Code § 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08, as the foregoing statutes may be amended from time to time; and (iv) Section 446 of the District of Columbia Home Rule Act.

14.15.2 Developer acknowledges and agrees that any unauthorized act by District is void. It is Developer's obligation to accurately ascertain the extent of District's authority.

14.16 Time of the Essence; Standard of Performance. Time is of the essence with respect to all matters set forth in this Agreement. For all deadlines set forth in this Agreement, the standard of performance of the Party required to meet such deadlines shall be strict adherence and not reasonable adherence.

14.17 No Partnership. District and Developer are independent parties under this Agreement, and nothing in this Agreement shall be deemed or construed for any purpose to establish between them, or any third party, a relationship of principal and agent, employment, partnership, or joint venture.

14.18 Each Party to Bear Its Own Costs. Each Party shall bear its own costs and expenses incurred in connection with the negotiation of this Agreement and the performance of such Party's duties and obligations hereunder.

14.19 Discretion. Unless explicitly provided to the contrary in this Agreement, where either Party has the right to approve or consent to any matter herein, such approval or consent shall not be unreasonably withheld, conditioned, or delayed nor any charge made therefor.

14.20 Force Majeure. Neither District nor Developer, as the case may be, shall be considered in default of their obligations under this Agreement, in the event such Party's performance is materially and adversely affected by a Force Majeure event. In the event of the occurrence of any such Force Majeure event, the time or times for performance of the obligations of District or of Developer shall be extended day-for-day for the period of the Force Majeure; provided however, that (a) the Party seeking the benefit of this Section 14.20 shall notify the other Party in writing within ten (10) days after it becomes aware of the beginning of any such Force Majeure event, of the cause or causes thereof, with supporting documentation, and such Party's estimate of the length of the delay that will be caused by such Force Majeure event and (b) the Party seeking the delay must take commercially reasonable actions to minimize the delay. If either Party requests any extension on the date of completion of any obligation hereunder due to Force Majeure, it shall be the responsibility of such Party to reasonably demonstrate that the delay was caused specifically by such Force Majeure event. Force Majeure delays shall not delay the Closing Date and shall not apply to any obligation to pay money.

14.21 Joint Preparation. District and Developer each acknowledge that it has thoroughly read and reviewed this Agreement, including all Exhibits and attachments thereto, and has sought and received whatever competent advice and counsel as was necessary for it to form a full and complete understanding of all rights and obligations herein. The language of this Agreement has been agreed to by the Parties to express their mutual intent and no rule of strict construction shall be applied against any Party hereto.

14.22 Estoppel Certificates. At any time and from time to time upon not less than thirty (30) days' prior notice, either Party shall execute, acknowledge and deliver to the other requesting Party, a written statement certifying: (a) this Agreement is in full force and effect; (b) this Agreement has not been modified or amended (or if it has, identifying the modifications and amendments); (c) to such Party's knowledge, the Party requesting the certificate is not then in default under this Agreement; (d) to such Party's knowledge, the Party requesting the certificate has fully performed all of its respective obligations hereunder (or, if it has not, identifying such failures to perform); and (e) such other factual statements as such requesting Party may reasonably request.

14.23 D.C. Human Rights Act. Developer shall comply with the District of Columbia Human Rights Act, including its prohibitions on sexual harassment, consistent with 4 D.C.M.R. 1100, et seq.

[Signature Pages Follow]

IN WITNESS WHEREOF, District and Developer have each caused this Agreement to be signed, acknowledged and delivered in its name by its duly authorized representative as of the day and year first above written.

DISTRICT:

DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: _____
Brian T. Kenner
Deputy Mayor for Planning and Economic Development

Reviewed:

By: _____
Office of the General Counsel
ODMPED

DEVELOPER:

CAPITOL HILL COHOUSING LLC,
a District of Columbia limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A

Legal Description

261 17th Street SE in the District of Columbia and known for taxation and assessment purposes as Lot 0802 in Square 1088

AFFORDABLE HOUSING COVENANT

[Add project name & address]

THIS AFFORDABLE HOUSING COVENANT (the "**Covenant**") is made as of this ___ day of _____, 20__ ("**Effective Date**"), by _____, a "**Developer**") having an address of _____, for the benefit of the District of Columbia, a municipal corporation, acting by and through the _____ (the "**District**").

RECITALS

R-1. District is the fee simple owner of certain real property located in the District of Columbia as further described in **Exhibit A** (the "**Property**").

R-2. District has determined to further its public policy of increasing the affordable housing stock in the District of Columbia and, in particular, on the Property.

R-3. District and Developer entered into that certain Land Disposition Agreement dated _____, 20__, as the same may be amended ("**Development Agreement**") whereby District and Developer agreed upon the terms under which District agreed to [convey the fee simple interest in][ground lease] the Property to Developer and for Developer to develop and construct the Project (defined below) and to sell and/or manage and lease the Affordable Units to be constructed in the Project.

R-4. In accordance with the Development Agreement and contemporaneously with the execution of this Covenant, District has conveyed or will convey the Property to Developer.

R-5. District and Developer desire to set forth herein the terms, restrictions, and conditions upon which Developer will construct, maintain, sell and/or lease the Affordable Units in the Project.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the District and Developer hereby declare, covenant and agree as follows:

**ARTICLE I
DEFINITIONS**

For the purposes of this Covenant, the capitalized terms used herein shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as the singular.

Acknowledgment of Covenant: is that certain Acknowledgment of Covenant executed by a Qualified Purchaser, in such form as the Agency requires.

Affirmative Fair Housing Marketing Plan: means Developer's plan for marketing the rental or initial sale of the Affordable Units, as approved by the Agency pursuant to Section 2.3.

Affordability Period: is defined in Article X.

Affordability Requirement: is the requirement that [_____] [all OR insert number or percentage] of the Residential Units to be contained in the Project are to be Affordable Units and allocated as follows: (i) [_____] of the Affordable Units shall be reserved for Households with an Annual Household Income at or below [_____] MFI and (ii) [_____] of the Affordable Units shall be reserved for Households with an Annual Household Income at or below [_____] MFI. [Add additional categories as appropriate.]

Affordable Unit: means each Residential Unit that will be used to satisfy the Affordability Requirement, all of which shall be identified in the Affordable Unit Index.

Affordable Unit Index: is an index of the Affordable Units contained in the Project that identifies: (i) unit number (or similar identifier) and floor for each Affordable Unit and whether each Affordable Unit is a Rental Affordable Unit or For Sale Affordable Unit; (ii) the Designated Affordability Level of each Affordable Unit; (iii) the approximate square footage and number of bedrooms of each Affordable Unit and a schematic drawing showing the layout of each Affordable Unit; (iv) a listing or schedule of the standard and upgrade options of finishes, fixtures, equipment, and appliances for all Residential Units; (v) a listing or schedule of the amenities, services, upgrades, parking, and other facilities that will be offered as an option at an additional upfront or recurring cost or fee to the Residential Units; and (vi) residential floor plans showing the location of each Residential Unit.

Affordable Unit Owner: means a Qualified Purchaser who own(s) a For Sale Affordable Unit.

Affordable Unit Tenant: means a Qualified Tenant who lease(s) a Rental Affordable Unit.

Agency: means, as of the Effective Date, the D.C. Department of Housing and Community Development, pursuant to Mayor's Order 2009-112 (effective June 18, 2009), or such other agency of the District of Columbia government that may subsequently be delegated the authority of the Mayor to monitor, enforce, or otherwise administer the affordable housing requirements of the District of Columbia government.

Annual Household Income: means the aggregate annual income of a Household as determined by using the standards set forth in 24 CFR § 5.609, as may be amended, or as otherwise set forth by the Agency.

Annual Report: has the meaning given in Section 4.10.

Business Day: means Monday through Friday, inclusive, other than holidays recognized by the District of Columbia government.

Certification of Income, Affordability and Housing Size: means a certification made

by a Certifying Entity that verifies that (a) the Annual Household Income of a Household meets the Designated Affordability Level for an applicable Affordable Unit, and (b) the Household meets the requirements of Section 4.5 or Section 5.2.1, as applicable, in such form as the Agency approves.

Certification of Inspection: means a certification by Developer that it has performed or caused to be performed an inspection of a Rental Affordable Unit and that, to the best of Developer's knowledge, such Rental Affordable Unit is in compliance with all applicable statutory and regulatory requirements, in such form as the Agency approves.

Certification of Residency: means a certification made by an Affordable Unit Owner that states that the Affordable Unit Owner occupies the Affordable Unit as its principal residence, in such form as the Agency approves.

Certifying Entity: means an entity or entities approved by the Agency pursuant to Section 2.4.

Conflict: is defined in Section 12.11.

Declaration of Eligibility: means a declaration executed by a Household prior to its purchase, initial rental or subsequent rent renewal, as applicable, of an Affordable Unit, in a form approved by the Agency, that shall be given to the Agency, Owner, and the Certifying Entity representing and warranting the following: (a) the Household is a Qualified Purchaser or Qualified Tenant and has disclosed all of its Annual Household Income to the Certifying Entity and has provided reasonably satisfactory documentation evidencing such Annual Household Income, (b) the Household's Annual Household Income is at or below the Maximum Annual Household Income for the applicable Affordable Unit, (c) the Household has been informed of its rights and obligations under this Covenant, (d) the Household intends to occupy the Affordable Unit as its principal residence, (e) the Household size meets the Occupancy Standard for the Affordable Unit, (f) neither the Household, nor any person within the Household, has an ownership interest in any other residential real property or residential cooperative or, if they do, they will divest such interest and will provide satisfactory proof of the same to the Agency before closing on the purchase of or signing lease for the Affordable Unit and (g) any other reasonable and customary representations requested by the Agency.

Designated Affordability Level: means the percentage of MFI assigned to each Affordable Unit and used to determine the Maximum Annual Household Income for prospective Qualified Purchasers or Qualified Tenants, as applicable.

Developer: is identified in the preamble of this Covenant.

Federal Affordability Restrictions: is defined in Section 12.11.

For Sale Affordable Unit: means an Affordable Unit that shall be sold solely to a Qualified Purchaser.

Household(s): means all persons who will occupy the Affordable Unit, including the purchaser's or tenant's, as applicable, spouse or domestic partner, all children under eighteen

(18) years of age, and all other persons over eighteen (18) years of age who will be occupying the Affordable Unit. A Household may be a single family, one (1) person living alone, two (2) or more families living together, or any other group of related or unrelated persons who share living arrangements as allowable by this Covenant.

Household Selection Plan: means Developer's plan for selecting Qualified Tenants or Qualified Purchasers for the rental or initial sale of the Affordable Units, as approved by the Agency pursuant to Section 2.3.

Housing Cost: means (a) for Rental Affordable Units, the total monthly payments for rent and Utilities, less any rental subsidies paid on behalf of that Household, and (b) for For Sale Affordable Units, the total monthly mortgage payments, property tax, hazard insurance, if applicable, Utilities and condominium or homeowner fees required for purchase and occupancy.

Housing Locator Website: means a website established or designated by the Agency pursuant to the Affordable Housing Clearinghouse Directory Act of 2008, effective August 15, 2008 (D.C. Law 17-215; D.C. Official Code § 42-2131, *et seq.*).

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

Land Records: means the real property records for the District of Columbia located in the Recorder of Deeds.

Market-Rate Unit: is each Residential Unit that is not an Affordable Unit.

Maximum Allowable Rent: as defined in Section 4.4.2.

Maximum Annual Household Income: is the maximum Annual Household Income of a Household occupying an Affordable Unit as indicated on the then-current Rent and Price Schedule.

Maximum Resale Price: is the maximum resale price of a For-Sale Affordable Unit as determined pursuant to the procedures contained in Schedule 1 attached hereto.

Maximum Sales Price: as defined in Section 5.1.1.

Median Family Income or MFI: means the median family income for a household of four persons in the "Washington Metropolitan Statistical Area" as periodically published by HUD, and adjusted for Household size without regard to any adjustments made by HUD for the purposes of the programs it administers. MFI is also known as Area Median Income or AMI.

Minimum Annual Household Income: is the minimum Annual Household Income of a Household occupying a Rental Affordable Unit as indicated on the then-current Rent and Price Schedule.

Mortgage: means a mortgage, deed of trust, mortgage deed, or such other classes of instruments as are commonly given to secure a debt under the laws of the District of Columbia.

Mortgagee: means the holder of a Mortgage.

OAG: means the Office of the Attorney General for the District of Columbia.

Occupancy Standard: means the minimum number of individuals in a Household permitted to occupy any given Affordable Unit, as identified in the following chart:

Affordable Unit Size (Number of Bedrooms)	Minimum Number of Individuals in a Household
Studio/Efficiency	1
1	1
2	2
3	3
4	4
5	5
6	6

Over-Income Tenant: means a tenant of a Rental Affordable Unit who, at the time of execution of the lease qualified as an Affordable Unit Tenant, but, at the time of lease renewal, has an Annual Household Income greater than one hundred forty percent (140%) of the applicable Maximum Annual Household Income for the applicable Rental Affordable Unit.

Owner: means, in the context of Rental Affordable Units, Developer, and in the context of For Sale Affordable Units, Developer for so long as Developer owns the applicable For Sale Affordable Unit, and then thereafter, the Affordable Unit Owner that owns such For Sale Affordable Unit.

Person: means any individual, corporation, limited liability company, trust, partnership, association, or other legal entity.

Project: means the structures, landscaping, hardscape, and site improvements to be constructed or placed on the Property pursuant to the Development Agreement.

Property: is defined in the Recitals.

Qualified Purchaser: means a Household that (i) at the time of purchase, has an Annual Household Income, as certified by the Certifying Entity, less than or equal to the Maximum Annual Household Income for the applicable Affordable Unit, (ii) shall occupy the Affordable Unit as its principal residence during its ownership of such Affordable Unit, (iii) shall not permit occupancy of the Affordable Unit by any other Person, except with the prior written consent of the Agency, (iv) shall use, occupy, hold, and sell the Affordable Unit as an Affordable Unit subject to the Affordability Requirement (including the requirement to sell the Affordable Unit to a Qualified Purchaser) and this Covenant, and (v) at the time of purchase, meets the Occupancy Standard for the applicable Affordable Unit.

Qualified Tenant: means a Household that (i) at the time of leasing, has an Annual Household Income, as certified by the Certifying Entity, less than or equal to the Maximum Annual Household Income for the applicable Affordable Unit and at subsequent lease renewals, is not an Over-Income Tenant, (ii) shall occupy the Affordable Unit as its principal residence during its lease of such Affordable Unit, (iii) shall not permit occupancy of the Affordable Unit by any other Person, except with the prior written consent of the Agency, (iv) shall use and occupy the Affordable Unit as an Affordable Unit subject to the Affordability Requirement and this Covenant, and (v) shall occupy the Affordable Unit within the Occupancy Standard.

Rent and Price Schedule: means the Rent and Price Schedule published in the D.C. Register in accordance with the Inclusionary Zoning Implementation Amendment Act of 2006 (D.C. Law 16-275; D.C. Official Code § 6-1041.01 et seq.), as amended, which schedule sets forth, among other things, the Maximum Sales Prices and Maximum Allowable Rent for inclusionary zoning units and Affordable Units.

Rental Affordable Unit: means an Affordable Unit that shall be leased to a Qualified Tenant.

Rental Affordable Unit Lease Rider: is that certain lease rider, which is attached to this Covenant as **Exhibit B** and incorporated herein, as the same may be amended from time to time with the written approval of the Agency.

Residential Unit: means an individual residential unit constructed as part of the Project.

Sale: is defined in Section 5.1.

Transferee: is defined in Section 5.7.

Utilities: means water, sewer, electricity, natural gas, trash, and any other fees required by the Developer, property manager, or condominium or homeowners' association in order to occupy the Affordable Unit, including, but not limited to, mandatory amenity or administrative fees, which amounts are included in the Rent and Price Schedule.

ARTICLE II AFFORDABILITY REQUIREMENT

2.1 Requirement of Affordability. Developer shall construct, reserve, and either maintain and lease as Rental Affordable Units, or sell as For Sale Affordable Units that number of Affordable Units that are required by the Affordability Requirement.

2.2 Affordable Unit Standards and Location.

2.2.1 Affordable Unit Index. As of the Effective Date, District has approved the Affordable Unit Index, which is attached hereto as **Exhibit C**. Developer shall not amend or modify the Affordable Unit Index, except to the extent permitted under **Section 4.6.6**, without the Agency's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed. Any such approved amendment or modification as a result of re-designations of

Residential Units under Section 4.6.6 shall be recorded in the Land Records as an amendment to this Covenant, at such time as determined by the Agency.

2.2.2 *Unit Mix.* The distribution of Affordable Units shall be proportional to that of the Market-Rate Units (e.g., if the Market-Rate Units have a mix of 30% studios, 40% one-bedrooms, and 30% two-bedrooms, the Affordable Units shall have a similar mix).

2.2.3 *Size.* The Affordable Units shall be of a size substantially similar to the Market-Rate Units, provided that Affordable Units may be the smallest size of each market-rate type (studio, 1-bedroom and 2-bedroom units) and have no luxury-scaled unit counterpart.

2.2.4 *Exterior Finishes.* Exterior finishes of Affordable Units will be substantially similar to the appearance, finish, and durability of the exterior finishes of the Market-Rate Units.

2.2.5 *Interior Finishes.* Developer agrees that the interior base finishes, appliances, and equipment in the Affordable Units shall be substantially similar to the Market-Rate Units.

2.2.6 *Affordable Unit Location.* Affordable Units shall be disbursed throughout the Project and shall not be concentrated on any one floor or within a tier or section of the Project.

2.3 **Marketing Affordable Units.**

2.3.1 *Marketing Plan.* Developer shall submit to Agency an Affirmative Fair Housing Marketing Plan and Household Selection Plan that set forth its plan for marketing the Affordable Units and for selecting Households who may be Qualified Tenants or Qualified Purchasers, as applicable. The Affirmative Fair Housing Marketing Plan and Household Selection Plan shall be subject to the Agency's prior written approval and shall be submitted to and approved by the Agency prior to marketing any Affordable Units for sale or rent. Developer may contract with the Certifying Entity to implement the Affirmative Fair Housing Marketing Plan and Household Selection Plan.

2.3.2 *Housing Locator.* When an Affordable Unit becomes available for rent or for sale, Owner shall register the Affordable Unit on the Housing Locator Website and indicate the availability of such Affordable Unit and the application process for the Affordable Unit.

2.4 **Certifying Entity.** Each Owner shall select a Certifying Entity, which shall be subject to the Agency's prior written approval, not to be unreasonably withheld, conditioned, or delayed. Owner may contact the Agency with questions and information about the selection of a Certifying Entity. The Certifying Entity shall review documentation and verify a Household's Annual Household Income and Household's size in order to determine whether that Household is a Qualified Tenant or Qualified Purchaser, as applicable, for the subject Affordable Unit. If a Household is determined to be a Qualified Tenant or Qualified Purchaser, as applicable, the Certifying Entity shall issue a Certification of Income, Affordability and Housing Size for the subject Household.

ARTICLE III USE

3.1 **Use.** Except as provided herein, all Affordable Unit Owners and Affordable Unit Tenants shall have the same and equal use and enjoyment of all of the amenities of the Property and services provided at the Property as the owners or tenants of the comparable Market-Rate Units. No restrictions, requirements, or rules shall be imposed on Affordable Unit Owners or Affordable Unit Tenants that are not imposed equally on the owners or tenants of the comparable Market-Rate Units. If amenities, services, upgrades, or ownership or rental of parking and other facilities are offered as an option at an additional upfront and/or recurring cost or fee to the comparable Market-Rate Units, such amenities, services, upgrades, or ownership or rental of parking and other facilities shall be offered to the Affordable Unit Owners and Affordable Unit Tenants of comparable Affordable Units at the same upfront and/or recurring cost or fee charged to the Market-Rate Units. If there is no cost or fee charged to the owners or tenants of the comparable Market-Rate Units for such amenities, services, upgrades, or ownership or rental of parking and other facilities, there shall not be a cost or fee charged to Affordable Unit Owners or Affordable Unit Tenants of comparable Affordable Units.

3.2 **Demolition/Alteration.** Owner shall maintain, upkeep, repair, and replace interior components (including fixtures, appliances, flooring, and cabinetry) of the Affordable Unit with interior components of equal or better quality than those interior components being replaced. Owner shall not demolish or otherwise structurally alter an Affordable Unit or remove fixtures or appliances installed in an Affordable Unit other than for maintenance and repair without the prior written approval of the Agency, which approval shall be in the sole discretion of the Agency.

ARTICLE IV RENTAL OF AFFORDABLE UNITS

4.1 **Lease of Rental Affordable Units.** In the event the Project contains Rental Affordable Units, Developer shall reserve, maintain, and lease the Rental Affordable Units to Qualified Tenants (a) in accordance with this Covenant and (b) at a rental rate at or below the Maximum Allowable Rent.

4.2 **Rental Affordable Unit Lease Requirements.**

4.2.1 *Form of Lease.* To lease a Rental Affordable Unit to a Qualified Tenant, Developer shall use a lease agreement to which is attached and incorporated a Rental Affordable Unit Lease Rider. The Rental Affordable Unit Lease Rider shall be executed by Developer and each Qualified Tenant prior to the Qualified Tenant's occupancy of the Rental Affordable Unit. Any occupant of the Rental Affordable Unit who is eighteen (18) years or older shall be a party to the lease agreement and shall execute the Rental Affordable Unit Lease Rider.

4.2.2 *Effectiveness of Lease.* The lease of a Rental Affordable Unit shall only be effective if a Rental Affordable Unit Lease Rider, a Certification of Income, Affordability and Housing Size and a Declaration of Eligibility are attached as exhibits to the lease agreement. Failure to attach the foregoing shall be deemed a default by Developer under this Covenant.

4.2.3 *Developer to Maintain Copies.* Developer shall maintain or cause to be maintained copies of all initial and renewal leases executed with Qualified Tenants for a period of no less than five (5) years from the expiration or termination of such lease.

4.3 **Rental Affordable Unit Admissions Process.**

4.3.1 *Referrals.* Developer may obtain referrals of prospective tenants of Rental Affordable Units from federal and District of Columbia agencies, provided such referrals comply with the requirements of this Covenant. In all events, before a prospective tenant leases a Rental Affordable Unit, a Certifying Entity shall certify the prospective tenant's Annual Household Income, Household size and Housing Costs for the applicable Rental Affordable Unit.

4.3.2 *Consideration of Applicants.* For the initial occupancy of the Rental Affordable Units, Developer shall select Qualified Tenants through a lottery system or other system as otherwise approved by the Agency as shall be further provided in the Affordable Fair Housing Marketing Plan. Following the initial occupancy of the Affordable Units, Developer shall consider each applicant in the order in which received by Developer, whether received pursuant to the Affordable Fair Housing Marketing Plan or referred pursuant to Section 4.3.1.

4.3.3 *Rejection of Applicants.* In connection with the leasing of a Rental Affordable Unit, Developer may reject any applicant if, after diligent review of such applicant's application, Developer determines in good faith that such applicant does not meet Developer's criteria to lease or occupy a Rental Affordable Unit, provided such criteria do not violate applicable District of Columbia and federal laws and is the same criteria used by Developer to lease or occupy the Market-Rate Units. In the event any rejected applicant raises an objection or challenges Developer's rejection of such applicant, Developer shall be solely responsible for ensuring that its rejection of such applicant is not in violation of federal law and/or the D.C. Human Rights Act, D.C. Official Code § 2-1400 *et seq.* Developer shall provide the Agency with all documents evidencing Developer's review and rejection of an applicant, upon the request of the Agency.

4.3.4 *Determination of Eligibility.* Each tenant seeking to occupy a Rental Affordable Unit shall have its Annual Household Income and Household eligibility verified by, and shall obtain a Certification of Income, Affordability and Housing Size from, the Certifying Entity prior to leasing such unit.

4.4 **Initial Rental Affordable Unit Lease Terms.**

4.4.1 *Term.* The term of any Rental Affordable Unit lease agreement shall be for a period of one (1) year.

4.4.2 *Establishment of Maximum Rent.* The maximum allowable monthly rent ("**Maximum Allowable Rent**") for each Rental Affordable Unit shall be determined by the then-current Rent and Price Schedule.

4.5 Determination of Income and Household Size. The Annual Household Income for a prospective tenant of a Rental Affordable Unit shall be determined as of the date of the lease and any lease renewals for such Rental Affordable Unit. The Certifying Entity shall verify that (a) the Household's Annual Household Income is less than the Maximum Annual Household Income for the applicable Rental Affordable Unit; (b) the Household will not expend more than fifty percent (50%) of its monthly Annual Household Income on Housing Cost for the applicable Rental Affordable Unit; and (c) the Household meets the Occupancy Standard for the applicable Rental Affordable Unit.

4.6 Subsequent Lease Years

4.6.1 Establishment of Maximum Allowable Rent. The Maximum Allowable Rent for lease years after the first lease year shall be determined by the then-current Rent and Price Schedule.

4.6.2 Renewal by Affordable Unit Tenant. For each Affordable Unit Tenant who intends to renew its residential lease, Developer shall obtain the following: (i) a Declaration of Eligibility from each such Affordable Unit Tenant and (ii) a Certification of Income, Affordability and Housing Size completed by the Certifying Entity, each dated no earlier than ninety (90) days prior to the anniversary of the first day of the applicable residential lease. Developer shall not permit a renewal of an Affordable Unit Tenant's lease unless the Affordable Unit Tenant has provided Developer with these documents as required herein and the tenant is determined to be a Qualified Tenant. If the Affordable Unit Tenant fails to provide such documents, Developer shall treat such tenant as an Over-Income Tenant and charge market-rate rent, and Developer shall designate another Residential Unit as a Rental Affordable Unit in accordance with Section 4.6.6.

4.6.3 Annual Recertification of Tenants. Within fifteen (15) days after receipt of an Affordable Unit Tenant's renewal documents at annual recertification, the Certifying Entity shall determine the Affordable Unit Tenant's eligibility pursuant to Section 4.5 for the subject Rental Affordable Unit and notify Affordable Unit Tenant of the same. Any Affordable Unit Tenant who meets the income and Household size requirements for the Affordable Unit at recertification will be eligible to remain in the Rental Affordable Unit and to renew his/her lease at the then-current lease rate for the particular Rental Affordable Unit.

4.6.4 Annual Recertification of Under Income Tenants. Upon annual recertification, any Affordable Unit Tenant whose Annual Household Income is less than the Minimum Annual Household Income for the subject Rental Affordable Unit, may elect either to (i) remain in the Rental Affordable Unit paying rent, as established by the Owner, up to the then-current Maximum Allowable Rent for the subject Rental Affordable Unit or (ii) vacate the Rental Affordable Unit at the end of the tenant's lease term.

4.6.5 Annual Recertification of Over-Income Tenants. Upon annual recertification, if an Affordable Unit Tenant is an Over-Income Tenant, then the Over-Income Tenant may elect to remain in the Rental Affordable Unit and pay the rent applicable to (a) a higher Designated Affordability Level, if a higher Designated Affordability Level exists for the Property, for which the Over-Income Tenant's Annual Household Income qualifies, whereupon Developer shall

change the Designated Affordability Level of the Rental Affordable Unit to the higher Designated Affordability Level pursuant to Section 4.6.6, or (b) a like-sized Market-Rate Unit, if the Over-Income Tenant's Annual Household Income does not qualify for a higher Designated Affordability Level or if a higher Designated Affordability Level does not exist at the Property, but qualifies for a like-sized Market-Rate Unit, whereupon Developer shall designate a Market-Rate Unit as a Rental Affordable Unit pursuant to Section 4.6.6.

4.6.6 Changes to Unit Location. Developer may only change the designation of a Rental Affordable Unit to a new Designated Affordability Level or to a Market-Rate Unit as necessary to allow an Over-Income Tenant to remain in the unit. Following any change in designation of a Rental Affordable Unit to a higher Designated Affordability Level or to a Market-Rate Unit, as applicable, Developer shall designate, as expeditiously as possible, the next available Rental Affordable Unit at that same higher Designated Affordability Level or Market-Rate Unit of similar size and location in the Property to the lower Designated Affordability Level from which the original Rental Affordable Unit had been changed in order to bring the Property in conformity with the Affordability Requirement.

4.6.7 Rent from Subsidies. Nothing herein shall be construed to prevent Developer from collecting rental operating subsidy or rental-related payments from any federal or District of Columbia agency paid to Developer and/or an Affordable Unit Tenant, or on behalf of an Affordable Unit Tenant, to the extent receipt of such payment is otherwise in compliance with the requirements of this Covenant. So long as Developer is in compliance with the requirement that a Qualified Tenant is paying no more than fifty percent (50%) of its Annual Household Income toward Maximum Allowable Rent, any rental operating subsidy or rental-related payments received by Developer, together with the Qualified Tenant's payment, may exceed the Maximum Allowable Rent for the applicable Affordable Unit.

4.7 No Subleasing of Rental Affordable Units. An Affordable Unit Tenant may not sublease any portion of its Rental Affordable Unit or assign its lease to any other Household and Developer shall not knowingly allow such Rental Affordable Unit to be subleased, except with the Agency's prior written consent, in the Agency's sole and absolute discretion. This prohibition includes short-term renting to, or permitting occupancy by, Persons who are not included in an Affordable Unit Tenant's Household, of all or a portion of the Affordable Unit, either directly or through services such as AirBnb or other rental agency providers.

4.8 Representations of Affordable Unit Tenant. By execution of a lease for a Rental Affordable Unit, each Affordable Unit Tenant shall be deemed to represent and warrant to the Agency and Developer, each of whom may rely thereon, that the Affordable Unit Tenant meets, and will continue to meet, all eligibility requirements contained in this Covenant for the rental of a Rental Affordable Unit.

4.9 Representations of Developer. By execution of a lease for a Rental Affordable Unit, Developer shall be deemed to represent and warrant to the Agency, which may rely on the following, that: (i) the Household is determined to be a Qualified Tenant by the Certifying Entity, and (ii) Developer is not collecting more than the Maximum Allowable Rent.

4.10 Annual Reporting Requirements. Beginning with the first occupancy of any Affordable Unit, Developer shall provide an annual report (“**Annual Report**”) to the Agency regarding the Rental Affordable Units, which shall be submitted on each anniversary date of the Effective Date of this Covenant. The Annual Report shall include the following:

(a) the number and identification of the Rental Affordable Units, by bedroom count, that are occupied;

(b) the number and identification of the Rental Affordable Units, by bedroom count, that are vacant;

(c) for each Rental Affordable Unit that is vacant or that was vacant for a portion of the reporting period, the manner in which the Rental Affordable Unit became vacant (e.g. eviction or voluntary departure) and the progress in re-leasing that unit;

(d) for each occupied Rental Affordable Unit, the names and ages of all persons in the Household, the Household size, date of initial occupancy, and total Annual Household Income as of the date of the most recent Certification of Income, Affordability and Housing Size;

(e) a sworn statement that, to the best of Developer’s information and knowledge, the Household occupying each Rental Affordable Unit meets the eligibility criteria of this Covenant;

(f) a copy of each Certification of Income, Affordability and Housing Size received by Developer during the previous year for each Household renting a Rental Affordable Unit;

(g) a copy of each Declaration of Eligibility received by Developer during the previous year for each Household renting a Rental Affordable Unit;

(h) a copy of each inspection report and Certification of Inspection for each Rental Affordable Unit; and

(i) a copy of all forms, policies, procedures, and other documents reasonably requested by the Agency related to the Rental Affordable Units.

The Annual Reports shall be retained by Developer for a minimum of five (5) years after submission and shall be available, upon reasonable notice, for inspection by the Agency or its designee. Notwithstanding anything contained herein to the contrary, in the event that Developer provides a report to an agency within the District government with content substantially similar to the content of the Annual Reports described in this section, subject to the Agency’s prior written approval, then the reporting requirements under this section shall be satisfied upon Developer’s delivery of such report to the Agency. The Agency may request Developer to provide additional information in support of its Annual Report.

4.11 Confidentiality. Except as may be required by applicable law, including, without limitation to, the *District of Columbia Freedom of Information Act of 1976*, D.C. Code § 2-531 *et seq.*, Developer, the Certifying Entity and the Agency shall not disclose to third parties the personal information of the Households, including the identity of the Households, submitted as a part of the Annual Report.

4.12 Inspection Rights. The Agency or its designee shall have the right to inspect the Rental Affordable Units, upon reasonable advance notice to Developer. If Developer receives such notice, Developer shall, in turn, give reasonable advance notice of the inspection to the tenant(s) occupying the specific Rental Affordable Unit(s). The Agency or its designee shall have the right to inspect a random sampling of the Rental Affordable Units to confirm that the units are in compliance with applicable statutory and regulatory housing requirements and as otherwise permitted under this Covenant. The Agency or its designee shall have the right to conduct audits of a random sampling of the Rental Affordable Units and associated files and documentation to confirm compliance with the requirements of this Covenant.

ARTICLE V SALE OF AFFORDABLE UNITS

5.1 Sale of For Sale Affordable Units. In the event the Project contains For Sale Affordable Units, the Owner shall comply with the provisions of this Article V for the sale of such Affordable Units. Owner shall not convey all or any part of its fee interest (“Sale”), whether or not for consideration, in a For Sale Affordable Unit to any Person other than a Qualified Purchaser. Developer and each Affordable Unit Owner of such For Sale Affordable Unit shall only sell to a buyer who has obtained a Certification of Income, Affordability and Housing Size from a Certifying Entity and who is a Qualified Purchaser.

5.1.1 Maximum Sales Price. The sale price of each For Sale Affordable Unit upon an initial Sale shall not exceed the amount (the “**Maximum Sales Price**”) in the then-current Rent and Price Schedule. The Developer shall submit to the Agency the proposed sales price for each For Sale Affordable Unit for approval prior to the marketing and sale of such For Sale Affordable Unit.

5.1.2 Maximum Resale Price. The Maximum Resale Price for each Sale subsequent to the initial Sale shall be calculated in accordance with Schedule 1 attached hereto and incorporated herein. The Agency shall approve the Maximum Resale Prices for each For Sale Affordable Unit prior to the marketing and resale of such For Sale Affordable Unit.

5.1.3 Housing Purchase Assistance Program and other subsidized funding. The Maximum Sales Price and Maximum Resale Price of a For Sale Affordable Unit shall be determined as described in Sections 5.1.1 and 5.1.2, regardless of the prospective buyer’s use of Housing Purchase Assistance Program and/or other subsidized funding for the purchase of the For Sale Affordable Unit.

5.2 Procedures for Sales. The following procedures shall apply to (i) Developer with respect to the initial Sale of a For Sale Affordable Unit, and (ii) an Affordable Unit Owner of a For Sale Affordable Unit desiring to sell his or her For Sale Affordable Unit.

5.2.1 *Income Eligibility.* For any Qualified Purchaser, the Annual Household Income shall be determined within thirty (30) days of the date of the sales contract for such For Sale Affordable Unit. Each Qualified Purchaser shall have its Annual Household Income verified by and obtain a Certification of Income, Affordability and Housing Size from the Certifying Entity prior to entering into the contract. To the extent closing on the sale of a For Sale Affordable Unit will not occur within one hundred twenty (120) days after the date of the sales contract, the Annual Household Income of the prospective Qualified Purchaser shall be determined again, so that the Certification of Income, Affordability and Housing Size is dated no more than one hundred twenty (120) days prior to the closing. The Certifying Entity shall determine a Household's eligibility to purchase a For Sale Affordable Unit by verifying that (a) the Household's Annual Household Income is less than the Maximum Annual Household Income for the applicable For Sale Affordable Unit; (b) the Household will not expend more than fifty percent (50%) of its monthly Annual Household Income on Housing Cost for the applicable For Sale Affordable Unit; and (c) the Household meets the Occupancy Standard for the applicable For Sale Affordable Unit.

5.2.2 *Sale.* A Sale of a For Sale Affordable Unit shall only be effective if (a) a Declaration of Eligibility submitted by a Household to Owner and dated no more than one hundred twenty (120) days prior to the closing of such Sale is recorded prior to or contemporaneous with the deed conveying the Affordable Unit and (b) a Certification of Income, Affordability and Housing Size is completed by a Certifying Entity within one hundred twenty (120) days before closing of such Sale. Owner, Mortgagee(s), District and any title insurer shall each be a third party beneficiary of each such Declaration of Eligibility and Certification of Income, Affordability and Housing Size.

5.2.3 *Resale.* Prior to a Sale of a For Sale Affordable Unit by an Affordable Unit Owner, the Affordable Unit Owner intending to sell such unit shall (i) contact the Agency to obtain the Maximum Resale Price and (ii) refer the prospective purchaser to the Agency to initiate the process of determining their Household's eligibility to purchase the For Sale Affordable Unit.

5.3 Closing Procedures and Form of Deed.

5.3.1 *Owner to Provide Copy of Covenant.* Owner shall provide the Qualified Purchaser with a copy of this Covenant at least thirty (30) days prior to the closing on the Sale of the For Sale Affordable Unit. Qualified Purchasers shall execute an Acknowledgment of Covenant on or before the date of closing on such Sale.

5.3.2 *Form of Deed.* All deeds used to convey a For Sale Affordable Unit must have a fully executed Declaration of Eligibility attached and shall include the following statement in twelve (12) point or larger type, in all capital letters, on the front page of the deed:

THIS DEED IS DELIVERED AND ACCEPTED SUBJECT TO THE PROVISIONS AND CONDITIONS SET FORTH IN THAT CERTAIN AFFORDABLE HOUSING COVENANT, DATED AS OF _____, 20__ RECORDED AMONG THE LAND RECORDS OF THE DISTRICT OF COLUMBIA AS INSTRUMENT NUMBER _____, ON _____ 20__, WHICH AMONG OTHER THINGS

IMPOSES RESTRICTIONS ON THE SALE AND CONVEYANCE OF THE SUBJECT PROPERTY.

5.3.3 Deed for For Sale Affordable Unit. A deed for a For Sale Affordable Unit shall not be combined with any other property, including parking spaces or storage facilities, unless the price of such other property is included in the Maximum Sales Price (for initial Sales) or Maximum Resale Price (for subsequent Sales).

5.3.4 Post-Closing Obligations. The purchaser of a For Sale Affordable Unit shall submit to the Agency within thirty (30) days after the closing a copy of the final executed Closing Disclosure, a copy of the deed recorded in the Land Records, the executed Declaration of Eligibility, the executed Certification of Income, Affordability and Housing Size, and the executed Acknowledgment of Covenant.

5.4 Representations of Owner. By execution of a deed for a For Sale Affordable Unit, Developer (for initial Sales) and the Affordable Unit Owner (for subsequent Sales) shall be deemed to represent and warrant to, and agree with, the Agency and, if applicable, the title company, each of whom may rely on the following: that (i) the Household has been determined to be a Qualified Purchaser of the applicable For Sale Affordable Unit by the Certifying Entity, and (ii) the sale price satisfies the terms of this Covenant.

5.5 Annual Certification of Residency. During the Affordability Period, the Affordable Unit Owner shall submit to the Agency annually on the anniversary of the closing date for a For Sale Affordable Unit, a Certification of Residency. The Certification of Residency shall be submitted on or with such form as may be prescribed by Agency.

5.6 Leasing For Sale Affordable Units. An Affordable Unit Owner shall not lease, or permit a sublease of, a For Sale Affordable Unit, or any portion thereof, without the Agency's prior written approval, in the Agency's sole and absolute discretion. If the Agency approves the lease of a For Sale Affordable Unit, then that Affordable Unit shall be leased in compliance with District (e.g. rental unit registration) and federal laws, and any applicable corporate governing documents (e.g. condominium, cooperative or home owners' association bylaws or rules) and any Mortgage or other loan documents applicable to the Affordable Unit. This prohibition includes short-term renting to, or permitting occupancy by, Persons who are not included in an Affordable Unit Owner's Household, of all or a portion of the Affordable Unit, either directly or through services such as AirBnb or other rental agency providers.

5.7 Transfers.

5.7.1 Except as provided in Article VIII, in the event an Affordable Unit Owner voluntarily or involuntarily transfers all or part of the For Sale Affordable Unit pursuant to operation of law, court order, divorce or death to a transferee, heir, devisee, or other personal representative of such owner of a For Sale Affordable Unit (each a "**Transferee**"), such Transferee shall be automatically bound by all of the terms, obligations, and provisions of this Covenant; and shall either: (i) occupy the For Sale Affordable Unit if he or she is a Qualified Purchaser or (ii) if the Transferee is not a Qualified Purchaser, or does not wish to, or is unable

to, occupy the For Sale Affordable Unit, he or she shall promptly sell it in accordance with this Covenant.

5.7.2 In no event shall a Transferee who is not a Qualified Purchaser reside in a For Sale Affordable Unit for longer than ninety (90) days.

5.8 **Progress Reports.** Until all initial Sales of For Sale Affordable Units are completed, Developer shall provide Agency with annual progress reports, or more frequently upon request, on the status of its sale of Affordable Units.

ARTICLE VI DEFAULT; ENFORCEMENT AND REMEDIES

6.1 **Default; Remedies.** In the event Owner, Affordable Unit Tenant, a Person or a Household defaults under any term of this Covenant and does not cure such default within thirty (30) days following written notice of such default from the Agency, the District shall have the right to seek specific performance, injunctive relief and/or other equitable remedies, including compelling the re-sale or re-leasing of an Affordable Unit and the disgorgement of rents and sale proceeds in excess of the rental rates and sale prices permitted hereunder plus ten percent (10%) of such excess amount, for defaults under this Covenant.

6.2 **No Waiver.** Any delay by the Agency in instituting or prosecuting any actions or proceedings with respect to a default hereunder, in asserting its rights or pursuing its remedies hereunder shall not operate as a waiver of such rights.

6.3 **Right to Attorney's Fees.** If the District shall prevail in any such legal action to enforce this Covenant, then Owner, Affordable Unit Tenant, Person or Household against whom the District prevails, shall pay District all of its costs and expenses, including reasonable attorney fees, incurred in connection with District efforts to enforce this Covenant. If OAG is counsel for the District in such legal action, the reasonable attorney fees shall be calculated based on the then applicable hourly rates established in the most current adjusted Laffey matrix prepared by the Civil Division of the United States Attorney's Office for the District of Columbia and the number of hours employees of OAG prepared for or participated in any such action.

ARTICLE VII COVENANTS BINDING ON SUCCESSORS AND ASSIGNS

This Covenant is and shall be binding upon the Property and each Affordable Unit and shall run with the land as of the Effective Date through the Affordability Period. The rights and obligations of District, Developer, Affordable Unit Owner, and their respective successors, heirs, and assigns shall be binding upon and inure to the benefit of the foregoing parties and their respective successors, heirs, and assigns; provided however that all rights of District pertaining to the monitoring and/or enforcement of the obligations of Developer or Affordable Unit Owner hereunder shall be retained by District, or such designee of the District as the District may so determine. No Sale, transfer, or foreclosure shall affect the validity of this Covenant, except as provided in Article VIII.

ARTICLE VIII MORTGAGES

8.1 Subordination of Mortgages. All Mortgages placed against the Property, or any portion thereof, shall be subject and subordinate to this Covenant, except as provided in Section 8.3.3.

8.2 Amount of Mortgage. In no event shall the aggregate amount of all Mortgages placed against a For Sale Affordable Unit exceed an amount equal to one hundred five percent (105%) of the Maximum Resale Price for such unit. Prior to obtaining any Mortgage or refinancing thereof, the Affordable Unit Owner shall request from the Agency the then-current Maximum Resale Price for its For Sale Affordable Unit.

8.3 Default of Mortgage and Foreclosure.

8.3.1 Notice of Default. The Mortgagee shall provide the Agency written notice of any notice of default and notice of intent to foreclose under the Mortgage on the For Sale Affordable Unit. Notwithstanding the foregoing, in no event shall failure to provide such notices preclude the Mortgagee's right to proceed with its remedies for default under the Mortgage.

8.3.2 Right of Purchase by the District. The Agency shall have the right to purchase a For Sale Affordable Unit in the event a notice of default or notice of intent to foreclose for a Mortgage in first position was recorded in the Land Records. The purchase price shall be an amount that is the greater of (a) the amount of the debt secured by all Mortgages recorded against the subject For Sale Affordable Unit, including commercially reasonable costs and expenses, if any, incurred by Mortgagee as a result of a default and due and payable by the Affordable Unit Owner under the terms of the Mortgage or (b) the Maximum Resale Price. The Agency shall have thirty (30) days from the date a notice of default or a notice of foreclosure sale was recorded in the Land Records to exercise its option and to purchase the For Sale Affordable Unit. The Agency's right to purchase shall automatically expire upon the transfer of the For Sale Affordable Unit by foreclosure or deed in lieu thereof. The Agency may designate another District of Columbia agency or third party to take title to the For Sale Affordable Unit.

8.3.3 Termination Upon Foreclosure and Assignment. In the event title to a For Sale Affordable Unit is transferred following foreclosure by, or deed in lieu of foreclosure to a Mortgagee in first position, or a Mortgage in first position is assigned to the Secretary of HUD, the terms of this Covenant applicable to such unit shall automatically terminate subject to Sections 8.3.4 and 8.4.

8.3.4 Apportionment of Proceeds. In the event title to a For Sale Affordable Unit is transferred according to the provisions of Section 8.3.3, the proceeds from such foreclosure or transfer shall be apportioned and paid as follows: first, to the Mortgagee, in the amount of debt secured under the Mortgage, including commercially reasonable costs and expenses, if any, incurred by Mortgagee and due and payable by the Affordable Unit Owner under the terms of the Mortgage; second, to any junior Mortgagees, in the amount of the debt secured under such Mortgages; third, to the For Sale Affordable Unit Owner, up to the amount of the Maximum Resale Price as of the date of such sale or transfer; and fourth, to the District.

8.3.5 *Effect of Foreclosure on this Covenant.* Except as provided in Section 8.3.3, in the event of foreclosure or deed in lieu thereof, this Covenant shall not be released or terminated and the Mortgagee or any Person who takes title to an Affordable Unit through a foreclosure sale shall become a Transferee in accordance with Section 5.7.

8.4 **Assignment of Mortgage to the Secretary of HUD.** In the event a Mortgage recorded in the first position against a For Sale Affordable Unit is assigned to the Secretary of HUD, the following shall occur upon the date of assignment: (a) the District's right to purchase, whether or not such right has been triggered, shall automatically expire and (b) the terms of this Covenant applicable to such unit shall automatically terminate pursuant to Section 8.3.3, except that upon sale of such unit by the For Sale Affordable Owner or foreclosure or deed in lieu thereof, the proceeds of such sale shall be apportioned as provided in Section 8.3.4.

ARTICLE IX AMENDMENT OF COVENANT

Except as otherwise provided herein, neither this Covenant, nor any part hereof, can be amended, modified or released other than as provided herein by an instrument in writing executed by a duly authorized official of the Agency on behalf of the District, and by a duly authorized representative of Owner of such Affordable Unit affected by such amendment. Any amendment to this Covenant that alters the terms and conditions set forth herein shall be recorded among the Land Records before it shall be deemed effective.

ARTICLE X AFFORDABILITY PERIOD

All Affordable Units in the Project shall be sold or leased in accordance with the terms of this Covenant for the "Affordability Period." The "Affordability Period" for each Affordable Unit shall run [for ___ years][in perpetuity]. Notwithstanding the foregoing, this Covenant may be released and extinguished upon the approval of the Agency, in its sole and absolute discretion.

ARTICLE XI NOTICES

Any notices given under this Covenant shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight commercial courier service to the applicable Person at the addresses specified in this Article, or to such other persons or locations as may be designated by the Agency or the Developer from time to time. All notices to be sent to the Agency shall be sent to the following address:

Director
Department of Housing and Community Development
1800 Martin Luther King Jr. Avenue, SE
Washington, DC 20020
Re: Housing Regulation Administration, Affordable Dwelling Unit Monitoring

All notices to be sent to Developer shall be sent to the address given in the preamble. All notices to be sent to the Affordable Unit Owner shall be sent to the address on record with the District of Columbia Office of Tax and Revenue. All notices to be sent to any Affordable Unit Tenant shall be sent to the unit number referenced in its lease. It shall be the responsibility of the applicable Person and any successor to the applicable Person to provide the Agency with a current address. The failure of the applicable Person to provide a current address shall be a default under this Covenant.

Notices shall be deemed delivered as follows: (i) if hand delivered, then on the date of delivery or refusal thereof; (ii) if by overnight courier service, then on the next business day after deposit with the overnight courier service; and (iii) if by certified mail (return receipt requested, postage pre-paid), then on the date of actual delivery or refusal thereof.

ARTICLE XII MISCELLANEOUS

12.1 Applicable Law: Forum for Disputes. This Covenant shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the District of Columbia, without reference to the conflicts of laws provisions thereof. Owner, Affordable Unit Tenants and the District irrevocably submit to the jurisdiction of the courts of the District of Columbia (including the Superior Court of the District of Columbia) for the purposes of any suit, action, or other proceeding arising out of this Covenant or any transaction contemplated hereby. Owner, Affordable Unit Tenants, and the District irrevocably and unconditionally waive any objection to the laying of venue of any action, suit, or proceeding arising out of this Covenant or the transactions contemplated hereby in the courts of the District of Columbia (including the Superior Court of the District of Columbia), and hereby further waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

12.2 Counterparts. This Covenant may be executed in any number of counterparts, each of which shall be an original but all of which shall together constitute one and the same instrument.

12.3 Time of Performance. All dates for performance (including cure) shall expire at 5:00 p.m. (Eastern Time) on the performance or cure date. A performance date which falls on a Saturday, Sunday or District holiday is automatically extended to the next Business Day.

12.4 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, ALL PARTIES HERETO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING IN RESPECT OF THIS COVENANT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12.5 Further Assurances. Each party agrees to execute and deliver to the other party such additional documents and instruments as the other party reasonably may request in order to fully carry out the purposes and intent of this Covenant; provided that such additional documents and instruments do not materially increase the obligations or burdens upon the second party.

12.6 **Severability.** If any provision of this Covenant is held to be unenforceable or illegal for any reason, said provision shall be severed from all other provisions. Said other provisions shall remain in effect without reference to the unenforceable or illegal provision, unless this construction would constitute a substantial deviation from the general intent of the parties as reflected in this Covenant.

12.7 **Limitation on Liability.** Provided that Owner has exercised reasonable due diligence in the performance of its obligations and duties herein, no Owner shall be liable in the event a Household submits falsified documentation, commits fraud, or breaches any representation or warranty contained in this Covenant. Notwithstanding the foregoing, Owner shall be liable if Owner has knowledge, or should have knowledge, that a Household submitted falsified documentation, committed fraud, or breached any representation or warranty contained in this Covenant.

12.8 **Agency Limitation on Liability.** Any review or approval by the District or the Agency shall not be deemed to be an approval, warranty, or other certification by the District or the Agency as to compliance of such submissions, the Project, any Affordable Unit, or the Property with any building codes, regulations, standards, laws, or any requirements contained in this Covenant or any other covenant granted in favor of the District that is filed among the Land Records; or otherwise contractually required. The District shall incur no liability in connection with the Agency's review of any submissions required under this Covenant as its review is solely for the purpose of protecting the District's interest under this Covenant.

12.9 **No Third Party Beneficiary.** Except as expressly set forth in this Covenant, there are no intended third party beneficiaries of this Covenant, and no Person other than District shall have standing to bring an action for breach of or to enforce the provisions of this Covenant.

12.10 **Representations of Developer.** As of the date hereof, Developer hereby represents and warrants to District as follows:

(a) This Covenant has been duly executed and delivered by Developer, and constitutes the legal, valid, and binding obligation of Developer, enforceable against Developer, and its successors and assigns, in accordance with its terms;

(b) Neither the entering into of this Covenant nor performance hereunder will constitute or result in a violation or breach by Developer of any agreement or order which is binding on Developer; and

(c) Developer (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and is qualified to do business and is in good standing under the laws of the District of Columbia; (ii) is authorized to perform under this Covenant; and (iii) has all necessary power to execute and deliver this Covenant.

12.11 **Federal Affordability Restrictions.** In the event the Property is encumbered by other affordability restrictions ("**Federal Affordability Restrictions**") as a result of federal funding or the issuance of Low-Income Housing Tax Credits for the Project, it is expressly understood and agreed that in the event the requirements in this Covenant would cause a default of or finding of non-compliance ("**Conflict**") with the Federal Affordability Restrictions during the compliance

period for the Federal Affordability Restrictions, then the requirements of the Federal Affordability Restrictions shall control to the extent of the Conflict. In all other instances, the requirements of this Covenant shall control.

[Signatures on Following Pages]

IN TESTIMONY WHEREOF, Developer has caused these presents to be signed, acknowledged and delivered in its name by _____, its duly authorized _____, witnessed by _____, its _____

WITNESS

DEVELOPER

By: _____
Name: _____
Title: _____

By: _____ [SEAL]
Name: _____
Title: _____

CITY OF WASHINGTON

ss.

DISTRICT OF COLUMBIA

I, _____, a Notary Public in and for the District of Columbia, DO HEREBY CERTIFY THAT _____ who is personally known to be (or proved by oaths of credible witnesses to be) the person named as _____ for _____ in the foregoing and annexed Affordable Housing Covenant, bearing the date of the _____ personally appeared before me in said District of Columbia, and as _____, acting on behalf of _____, as aforesaid, acknowledged the same to be his/her free act and deed.

Given under my hand and seal this ____ day of _____.

Notary Public

My Commission Expires: _____

APPROVED AND ACCEPTED THIS _____ DAY OF _____, 20__:

DISTRICT OF COLUMBIA, by and through
the Office of the Deputy Mayor for Planning
and Economic Development

By: _____
Name:
Title: Deputy Mayor

LEGAL REVIEW

By: _____
Office of the General Counsel

District of Columbia, ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that _____, the Deputy Mayor for Planning and Economic Development, on behalf of the District of Columbia, personally appeared before me in said jurisdiction, and, being personally known to me (or satisfactorily proven) to the person whose name is subscribed to the foregoing Affordable Housing Covenant, and that he/she, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained, and acknowledged the same to be the act and deed of the District of Columbia.

Given under my hand and seal this _____ day of _____, 20__.

Notary Public, D.C.

My commission expires: _____

EXHIBIT A
Legal Description of Property

[See attached]

EXHIBIT B

Rental Affordable Unit Lease Rider

This Rental Affordable Unit Lease Rider ("Rider") is attached to and incorporated into the lease dated _____ ("Lease") between _____ ("Resident" or "You") and _____, as Management Agent ("Manager") for _____ ("Owner") for Affordable Unit number _____ ("Premises"), located at _____, Washington DC _____.

In consideration of the mutual covenants set forth in the Lease and below, you agree that your use and possession of the Premises is subject to the terms and conditions set forth in the Lease and the following terms and conditions, which are in addition to and supplement the Lease:

AFFORDABLE UNIT: Resident acknowledges that the Premises is subject to that certain Affordable Housing Covenant between Owner and the District of Columbia dated _____, 20__, as may be subsequently amended, (the "Affordable Housing Covenant"). The Premises is currently designated as an Affordable Unit, which requires the Resident's household income to be less than or equal to [_____] of the median family income (MFI) or area median income (AMI).

DEFINED TERMS: Those terms not specifically defined herein shall be assigned the definition provided in the Affordable Housing Covenant.

ELIGIBILITY: In order for you, as Resident, to be eligible to rent an Affordable Unit, you must be and remain an "Affordable Unit Tenant" as defined in the Affordable Housing Covenant.

INCOME RECERTIFICATION: No more than ninety (90) days and no less than forty-five (45) days before each anniversary of the first day of the lease, the Manager shall request that the Resident provide the Certifying Entity with the following:

- (i) an executed Declaration of Eligibility that states that Resident is not an Over-Income Tenant and is and will continue to occupy the Premises as his/her/their principal residence,
- (ii) all information pertaining to the Resident's household composition and documentation of income for all household members,
- (iii) a release authorizing third party sources to provide relevant information regarding the Resident's eligibility for the Affordable Unit, as well as how to contact such sources, and
- (iv) any other reasonable and customary representations, information or documents requested by the Certifying Entity.

Resident shall submit the foregoing listed documentation to the Certifying Entity within fifteen (15) days of Manager's request. Within ten (10) days of Certifying Entity's receipt of the foregoing documentation and based on the results of the annual income recertification review, Certifying Entity will determine whether the Resident remains income eligible for the Premises and notify the Resident of his or her household's MFI percentage, and (a) if the Resident is no longer income eligible for the Premises, the income category for which the Resident is income eligible to lease a unit in the apartment community, or (b) if the Resident is income eligible for the Premises, provide a Certification of Income, Affordability and Housing Size completed by the Certifying Entity, verifying that the income of the Resident meets income eligibility for the Premises.

Upon annual recertification, if the Resident remains income eligible for the Premises, the Resident will be eligible to remain in the Premises at the time of lease renewal and to renew his/her lease at the then-current lease rate for the Premises. If the Resident's Annual Household Income is determined to exceed 140% of the Maximum Annual Household Income applicable to the Premises, then the Resident shall be deemed an "Over-Income Tenant" as provided in the Covenant and may either (a) remain in the Premises and pay the rent applicable to an Affordable Unit at a higher Designated Affordability Level for which the Resident's Annual Household Income qualifies, if available at the Property, or (b) if an Affordable Unit at a higher Designated Affordability Level is not available at the Property, remain in the Premises and pay the rent applicable to a market-rate unit of like size and location.

Manager will notify Resident of all options (i.e., an Affordable Unit at a different Designated Affordability Level or a market rate unit) for which Resident is income eligible at least __ days prior to the expiration of the Resident's lease term. Prior to the expiration of the Resident's lease term, the Resident shall notify Manager in writing of the Resident's election to either (i) remain in the Premises and pay the rental rate applicable to the Resident's then current Designated Affordability Level if the Resident is not an Over-Income Tenant, (ii) remain in the Premises paying the market rate rent for that unit if the Resident is an Over-Income Tenant, or (iii) vacate the Premises at the end of the Resident's Lease term. Resident's failure to notify Manager of Resident's election prior to the expiration of the lease term will be deemed by Manager as Resident's election to vacate the Premises.

In the event that Resident fails to pay the applicable rental rate or vacate the Premises upon expiration of the lease term, Manager may pursue an action for eviction of Resident. Resident's agreement to pay the applicable rental rate or vacate was a condition precedent to Manager's initial acceptance of Resident's eligibility and Manager has relied on Resident's agreement. Resident acknowledges and agrees that the criteria to be income eligible to occupy the Premises is and serves as a District policy and objective, and that failure to vacate the Premises or pay the applicable rental rate is both a default under the Lease and in violation of the Affordable Housing Covenant.

PROHIBITION ON SUBLETS AND ASSIGNMENTS: Resident may not sublease all or any portion of the Premises or assign its lease to any other person, except with the prior written consent of the D.C. Department of Housing and Community Development, in its sole and absolute discretion. This prohibition includes short-term renting to, or permitting occupancy by, persons who are not members of Tenant's household, of all or a portion of the Premises, either directly or through services such as "AirBnb" or other rental agency providers.

LEASE EFFECTIVE: The Lease of the Premises shall only be effective if this executed Rider, a Certification of Income, Affordability and Housing Size, a Declaration of Eligibility are attached as exhibits to the lease agreement.

Resident Signature

Date

Resident Signature

Date

Resident Signature

Date

EXHIBIT C

Affordable Unit Index

SCHEDULE 1

Provisions Governing Calculation of Maximum Resale Price

1. The Maximum Resale Price (“MRP”) for a subsequent sale of a For Sale Affordable Unit shall be determined through use of the formula $MRP = P \times (F) + V$ (“Formula”), where:
 - (a) P = the price Owner paid for the Affordable Unit;
 - (b) V = the sum of the value of the Eligible Capital Improvements and Eligible Replacement and Repair Costs, as determined by the Agency pursuant to this section; and
 - (c) F = the average of the Ten Year Compound Annual Growth Rates of the Median Family Income (“MFI”) from the first year of ownership of the For Sale Affordable Unit to the year of the sale of the For Sale Affordable Unit by the Affordable Unit Owner. This average may be expressed:
 - (1) As the result of the formula $F = (1 + [((MFI \text{ Year } m / MFI \text{ Year } m-10)^{(1/10) - 1} + \dots + ((MFI \text{ Year } k / MFI \text{ Year } k-10)^{(1/10) - 1}) / n])^{1/n}$, where m = the year after the Affordable Unit was purchased by Owner, k = the year in which the Affordable Unit is sold by Owner, and n = the number of years the Affordable Unit is owned by Owner; or
 - (2) As published by the Agency.
2. For the purposes of determining the value of “V” in the Formula, the following improvements made to a For Sale Affordable Unit after the date of purchase may be included at the percentage of cost indicated, to the extent they are permanent in nature and add to the market value of the property:
 - (a) Eligible Capital Improvements, which will be valued at 100% of reasonable cost, as determined by the Agency; and
 - (b) Eligible Replacement and Repair Costs, which shall be valued at 50% of reasonable cost, as determined by the Agency.
3. Ineligible costs shall not be included in the determining the value of “V” in the Formula.
4. The value of improvements may be determined by the Agency based upon documentation provided by the Affordable Unit Owner or, if not provided, upon a standard value established by the Agency.
5. The Agency may disallow an Eligible Capital Improvement or Eligible Replacement and Repair Cost if the Agency finds that the improvement diminished or did not increase the fair

market value of the For Sale Affordable Unit or if the improvements make the Affordable Unit unaffordable to all Qualified Purchasers at the Designated Affordability Level .

6. The Agency may reduce the value of a capital improvement if there is evidence of abnormal physical deterioration of, or abnormal wear and tear to, the capital improvement.

7. Owner shall permit a representative of the Agency to inspect the For Sale Affordable Unit upon request to verify the existence and value of any capital improvements that are claimed by Owner.

8. No allowance shall be made in the Maximum Resale Price for the payment of real estate brokerage fees associated with the sale of the For Sale Affordable Unit.

9. The value of personal property transferred to a purchaser in connection with the resale of a For Sale Affordable Unit shall not be considered part of the sales price of the For Sale Affordable Unit for the purposes of determining whether the sales price of the For Sale Affordable Unit exceeds the MRP.

10. Any capitalized terms used in this Schedule that are not defined herein shall have the meanings set forth in the Covenant. As used in this Schedule, the following capitalized terms shall have the meanings indicated below:

Eligible Capital Improvement: major structural system upgrades, special assessments, new additions, and improvements related to increasing the health, safety, or energy efficiency of an Affordable Unit. Such improvements generally include: (i) major electrical wiring system upgrades; (ii) major plumbing system upgrades; (iii) room additions; (iv) installation of additional closets and walls; (v) alarm systems; (vi) smoke detectors; (vii) removal of toxic substances, such as asbestos, lead, mold, or mildew; (viii) insulation or upgrades to double-paned windows or glass fireplace screens; and (ix) upgrade to Energy Star built-in appliances, such as furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods. Improvements that meet these criteria will be given 100% credit by the Agency.

Eligible Replacement and Repair Cost: in-kind replacement of existing amenities and repairs and general maintenance that keep an Affordable Unit in good working condition. Such improvements generally include: (i) electrical maintenance and repair, such as switches and outlets; (ii) plumbing maintenance and repair, such as faucets, supply lines, and sinks; (iii) replacement or repair of flooring, countertops, cabinets, bathroom tile, or bathroom vanities; (viii) non-Energy Star replacement of built-in appliances, including furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods; (ix) replacement of window sashes; (x) fireplace maintenance or in-kind replacement; (xi) heating system maintenance and repairs; and (xii) lighting system. Costs that meet these criteria will be given 50% credit for repairs as determined by the Agency.

Ineligible Costs: means costs of cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures not eligible for capital improvement credit as determined by the Agency. These improvements generally include: (i) cosmetic enhancements such as fireplace tile and mantel, decorative wall coverings or hangings, window treatments (blinds, shutters,

curtains, etc.), installed mirrors, shelving, refinishing of existing surfaces; (ii) non-permanent fixtures, such as track lighting, door knobs, handles and locks, portable appliances (refrigerator, microwave, stove/ oven, etc.); and (iii) installations with limited useful life spans, such as carpet, painting of existing surfaces, window glass and light bulbs.

EXHIBIT C

AFFORDABLE HOUSING PLAN

Unit Number	Bedrooms	Unit Size	Affordability Level
101	1	665	50%
103	2	885	50%
107	1	665	50%
108	1	665	80%
201	2	895	80%
204	2	885	80%
301	2	885	50%
302	1	665	80%
408	2	885	50%
410	2	885	80%

**CERTIFIED BUSINESS ENTERPRISE
UTILIZATION AND PARTICIPATION AGREEMENT**

THIS CERTIFIED BUSINESS ENTERPRISE UTILIZATION AND PARTICIPATION AGREEMENT (this “Agreement”) is made by and between the **DISTRICT OF COLUMBIA** (the “District”), a municipal corporation acting by and through the **DISTRICT OF COLUMBIA DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT** (“DSLBD”) and **Capitol Hill Cohousing, LLC**, a District of Columbia limited liability company, or its designees, successors or assigns (the “Developer”).

RECITALS

A. Pursuant to a Land Disposition and Development Agreement to be entered on _____, between the Developer and the District, by and through the Deputy Mayor for Planning and Economic Development, Developer intends to provide for the development of a 29 unit senior cohousing development located at 261 17th street, SE, Washington, DC (the “Project”).

B. Pursuant to the Land Disposition and Development Agreement, the Developer covenants that it has executed and will comply in all respects with this Agreement.

C. Capitalized terms not defined herein shall have the meaning assigned to them in the Land Disposition and Development Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the receipt and adequacy of which is hereby acknowledged by both parties hereto, DSLBD and the Developer agree, as follows:

**ARTICLE I
UTILIZATION OF CERTIFIED BUSINESS ENTERPRISES**

Section 1.1 CBE Utilization. Developer, on its behalf and/or on behalf of its successors and assigns (if any), shall hire and contract with Small Business Enterprises (“SBE”) certified pursuant to the Small and Certified Business Enterprise Development and Assistance Act of 2014, as amended, (D.C. Law 20-108; D.C. Official Code § 2-218.01 et seq.) (the “Act”), in connection with the predevelopment and development phases of the Project, including but not limited to, design, professional and technical services, construction management and trade work, development, renovation and suppliers. Developer shall expend funds contracting and procuring goods and services from SBEs in an amount equivalent to no less than thirty-five percent (35%) of the adjusted development budget (“Adjusted Development Budget” or “Adjusted Budget”) detailed in Attachment 1 (the “CBE Minimum Expenditure”). If there are insufficient qualified SBEs to fulfill the 35% requirement, the requirement may be satisfied by subcontracting 35% to qualified Certified Business Enterprises certified pursuant to the Act. SBE and Certified Business Enterprises collectively referred to herein as (“CBE”). The Adjusted Development Budget is **\$8,400,072**. The CBE Minimum Expenditure is therefore **\$2,940,025**.

Section 1.2 Time Period. Developer shall achieve its CBE Minimum Expenditure no later than thirty (30) days after the issuance of a final Certificate of Occupancy by the District (“Expenditure Period”). If within three (3) years of the execution of this Agreement the Developer has not achieved the CBE Minimum Expenditure and has not obtained a final Certificate of Occupancy, the Developer shall meet with DSLBD to provide a status of the Project as related to this Agreement.

Section 1.3 Adjustments to the Total Development Budget or CBE Minimum Expenditure. If the Total Development Budget or the CBE Minimum Expenditure increases or decreases by an amount greater than 5%, within ten (10) business days Developer shall submit to DSLBD to review and determine if there is a greater than 5% adjustment to the Adjusted Development Budget or the CBE Minimum Expenditure (“Adjustment”). The CBE Minimum Expenditure shall be automatically increased in the case of an increase, or decreased in the case of a decrease, by an identical percentage of the Adjustment. A modified Attachment 1, approved by DSLBD, shall become a part of this Agreement and be provided to the Developer and ODCA.

ARTICLE II CBE OUTREACH

Section 2.1 Outreach Efforts. Developer shall utilize the resources of DSLBD, including DSLBD’s website (<http://dslbd.dc.gov>). In particular, Developer shall submit all contracting opportunities for this Project to DSLBD for publication. Developer may identify individuals or businesses that could qualify as CBEs and is encouraged to refer any such firms to DSLBD’s Certification unit to apply for certification. In the event that Developer develops a website for the Project, such website shall (i) advertise upcoming bid packages, (ii) present instructions on how to bid, and (iii) directly link to DSLBD’s website.

ARTICLE III QUARTERLY REPORTING

Section 3.1 Quarterly Report.

(a) Throughout the Expenditure Period, regardless of whether the CBE Minimum Expenditure is achieved before the end of the Expenditure Period, Developer will submit quarterly contracting and subcontracting expenditure reports (“Quarterly Report”) for the Project.

(b) The Quarterly Report shall be submitted to DSLBD and ODCA no later than thirty (30) days after the end of each quarter. The Quarterly Report shall be submitted on a form provided by DSLBD (a prototype of this form is included as Attachment 4). However, DSLBD reserves the right to amend this form.

(c) If the Developer fails to submit a Quarterly Report by the date required in sub-section (b) of this section, the Developer shall pay a penalty to DSLBD.

(i) The penalty the Developer shall pay to DSLBD for each Quarterly Report that the Developer fails to submit by the date required in sub-section (b) of this section shall be

\$1000 for the first offense, \$2000 for the second offense, and \$3000 for each offense thereafter.

(d) Companies that may be eligible for certification, but are not yet certified, or whose certification is pending before DSLBD **shall not be included in the Quarterly Report unless and until the company is certified by DSLBD as a CBE.**

(i) In order to obtain credit towards the CBE Minimum Expenditure requirement, a contractor/ subcontractor that is utilized by the Developer must have an active CBE certification **at the time the goods or services are provided (contract/ subcontract performed) and at the time payment is made to the contractor/ subcontractor. CREDIT WILL ONLY BE GIVEN FOR THE PORTION OF THE CONTRACT/ SUBCONTRACT PERFORMED BY A CBE USING THEIR OWN ORGANIZATION AND RESOURCES.**

(ii) The Developer will **not** receive credit towards the CBE Minimum Expenditure if the Developer's utilized contractor/ subcontractor:

- (1) is not certified by DSLBD as a CBE at the time the goods or services are provided (contract/ subcontract performed) and at the time payment is made to the contractor/ subcontractor;
- (2) has a pending application before DSLBD seeking CBE certification;
- (3) has an expired CBE certification;
- (4) has a CBE certification application that DSLBD denied; or
- (5) has a CBE certification that has been revoked by DSLBD.

(iii) CBE certification must be valid to receive credit towards the CBE Minimum Expenditure . If not renewed, the CBE certification will expire. To determine whether a contractor/ subcontractor has a valid and/or current CBE certification, before goods/ services are provided and payment made, Developer must check the DSLBD website: <http://lsdbe.dslbd.dc.gov/public/certification/search.aspx>

(e) Developer must require every CBE that it contracts or subcontracts with to maintain its CBE certification through the term of and final payment of the contract/ subcontract. If Developer pays a contractor/ subcontractor that is not certified as a CBE for goods/ services provided when the contractor/ subcontractor was not a CBE, those payments will **not** be applied towards the CBE Minimum Expenditure requirement and the expenditures shall **not** be included on the Quarterly Report.

(f) Concurrently with the submission of the Quarterly Report, Developer shall also submit vendor verification forms (each, a "Vendor Verification Form") substantially in the form of Attachment 5 for each expenditure listed in the Quarterly Report. However, DSLBD reserves the right to amend this form. If a completed Vendor Verification Form is not submitted for each

contract/subcontract performed by a CBE, or portion thereof, the Developer will not receive credit towards the CBE Minimum Expenditure for that contract/subcontract.

(g) Concurrently with the submission of the Quarterly Report, Developer shall also submit a copy of each fully executed contract/subcontract with each CBE contractor/subcontractor identified in the Quarterly Report. **If a fully executed contract/subcontract is not submitted, the Developer will not receive credit towards the CBE Minimum Expenditure for that contract/subcontract.**

(h) Once the CBE Minimum Expenditure has been achieved, the subsequent Quarterly Report shall contain the caption “CBE MINIMUM EXPENDITURE ACHIEVED.” Additionally, the final Quarterly Report shall contain the caption “FINAL QUARTERLY REPORT” and be accompanied by a copy of the final Certificate of Occupancy issued by the District.

Section 3.2 Mandatory Meeting with DSLBD. Within ten (10) business days of executing this Agreement, the Developer shall meet with DSLBD to discuss the reporting requirements during the Expenditure Period. In the event that DSLBD is unavailable to meet within 10 business days, Developer shall schedule the meeting on the earliest mutually agreeable day. The individuals identified below respectively are the reporting point of contacts for the Developer and DSLBD.

Capitol Hill Cohousing, LLC
Joel Kelty, Managing Member
608 6th Street, ME
Washington, DC 20002
(202) 905-2724
joel.kelty@century-associates.com

Ronnie Edwards
Deputy Director
Department of Small and Local Business Development
441 4th street NW, Suite 850N
Washington, DC 20001
202- 727- 3900
Ronnie.Edwards2@dc.gov

ARTICLE IV PROJECT MANAGERS AND GENERAL CONTRACTORS/CONSTRUCTION MANAGERS

Section 4.1 Adherence to CBE Minimum Expenditure. For each component of the Project, Developer shall require in its contractual agreements with the Project Manager (“PM”), or with the general contractor and/or construction manager for the Project (the “General Contractor” or “GC”), as applicable, that the PM or GC comply with the relevant obligations and responsibilities of Developer contained in this Agreement with respect to achieving the applicable CBE Minimum Expenditure. In the event that the Developer and PM or GC have

already entered a contractual agreement prior to the execution of this Agreement, the Developer shall work with the PM or GC to assure that the PM or GC will assist the Developer in achieving the applicable CBE Minimum Expenditure. Developer further agrees to inform the PM or GC and subcontractors of the other obligations and requirements applicable to the Developer under this Agreement. Developer shall inform the PM or GC that non-compliance with this Agreement may negatively impact future opportunities with the District for the Developer and the PM or GC respectively. Specifically, Developer will require in its contractual agreement with its PM or GC, or if the Developer and PM or GC have already entered a contractual agreement prior to the execution of this Agreement, work with its PM or GC, to achieve the following actions in contracting efforts, in connection with the Project, undertaken after the effective date of this Agreement:

- (i) When soliciting bids for products or services for this Project, the PM or GC shall allow a reasonable time (*e.g.*, no less than 20 business days) for all bidders to respond to the invitations or requests for bids.
- (ii) The PM or GC will make full use of DSLBD's website, found at <http://dslbd.dc.gov>, for subcontracting opportunities and for compliance monitoring.
- (iii) The PM or GC will provide a CBE bidder, who is not the low bidder, an opportunity to provide its final best offer before contract award, provided the CBE bid price is among the top 3 bidders.
- (iv) The PM or GC will not require that CBEs provide bonding on contracts with a dollar value less than \$100,000, provided that in lieu of bonding the PM or GC may accept a job specific certificate of insurance.
- (v) The PM or GC will include in all contracts and subcontracts with CBEs, a process for alternative dispute resolution. This process shall afford an opportunity for CBEs to submit documentation of work performed and invoices regarding requests for payments. Included in the subcontract/contract shall be a mutually agreed upon provision for mediation (to be conducted by DSLBD) or arbitration in accordance with the rules of the American Arbitration Association.
- (vi) The PM or GC and subcontractors shall strictly adhere to their contractual obligations to pay all CBE contractors and subcontractors in accordance with the contractually agreed upon schedule for payments. In the event that there is a delay in payment to the PM or GC, the PM or GC is to immediately notify the CBE contractor/subcontractor and advise as to the date on which payment can be expected.
- (vii) The PM or GC commits to pay all CBEs within fifteen (15) days following the PM's or GC's receipt of a payment, which includes funds for such contractors/subcontractors, from the Developer. Developer also agrees to establish a procedure for giving notice to the CBE contractors/subcontractors of the Developer's payment to the PM or GC.

- (viii) The PM or GC commits to verify a contractor/ subcontractor’s CBE certification status prior to entering a contract/ subcontract with, accepting goods or services from, and making payment to a CBE contractor/ subcontractor, in accordance with Article III of this Agreement.

**ARTICLE V
EQUITY PARTICIPATION AND DEVELOPMENT PARTICIPATION**

Section 5.1 CBE Equity Participation and Development Participation Requirements:

- (i) **Minimum CBE Equity Participation and Development Participation Requirements.** Developer acknowledges and agrees that Certified Business Enterprises as defined in Section 2302 of the Act, D.C. Official Code § 2-218.02, (“CBEs”) shall receive no less than twenty percent (20%) in sponsor Developer equity participation (“Equity Participation”) and no less than twenty percent (20%) in development participation (“Development Participation”) in the Project, in accordance with D.C. Official Code § 2-218.49a;
- (ii) **Pari Passu Returns for CBE Equity Participant(s).** Developer agrees that the CBE Equity Participant(s) shall receive a return on investment in the Project that is *pari passu* with all other sources of sponsor Developer equity. In addition, if CBE Equity Participant(s) elect to contribute additional capital to the Project, they will receive the same returns as Developer with respect to such additional capital. However, a CBE Equity Participant’s equity interests shall not be diluted over the course of the Project, including for failure to contribute additional capital;
- (iii) **CBE Equity Participation maintained for duration of Project.** Developer agrees that the CBE Equity Participation shall be maintained for the duration of the Project. Culmination of the Project shall be measured by the issuance of a certificate of occupancy in accordance with the Expenditure Period as defined in Section 1.2 herein;
- (iv) **CBE Equity Participant’s Risk Commensurate with Equity Position.** The CBE Equity Participant(s) shall not bear financial or execution requirements that are disproportionate with its equity position in the Project;
- (v) **Management Control and Approval Rights.** Equity Participant(s) and Development Participant(s) shall have management control and approval rights in line with their equity positions; and
- (vi) **Representing the entity to the public.** Equity Participant(s) and Development Participant(s) shall be consistently included in representing the entity to the public (e.g., through joint naming, advertising, branding, etc.).

Section 5.2 Sweat Equity Contribution. No more than 25% of the total 20% equity participation requirement (“equal to 5%”) set forth in Section 5.1 of this Section may be met by a CBE providing development services in lieu of a cash equity investment that will be compensated by the Developer in the future at a date certain (“sweat equity contribution”). The Developer and the CBE shall sign, and provide to the DSLBD, a service agreement describing the following:

- (i) A detailed description of the scope of work that the CBE will perform;
- (ii) The dollar amount that the CBE will be compensated for its services and the amount the CBE is forgoing as an investment in the Project;
- (iii) The date or time period when the CBE will receive compensation;
- (iv) The return, if any, the CBE will receive on its sweat equity contribution; and
- (v) An explanation of when the CBE will receive its return as compared to other team members or investors.

Section 5.3 CBE Inclusion, Recognition, Access and Involvement. Developer acknowledges that a priority of the District is to ensure that CBE partners on development projects are granted and encouraged to maintain active involvement in all phases of the development effort, from initial-pre-development activities through development completion and ongoing asset management. To assist CBE partners in gaining the skills necessary to participate in larger development efforts, Developer agrees to provide all CBE partners full and open access to information utilized in project execution, including, for example, market studies, financial analyses, project plans and schedules, third-party consultant reports, etc. Developer agrees to consistently represent and include CBE partners of Developer as team members through such actions as joint naming (if applicable), advertising, and branding opportunities that incorporate CBE partners. CBE partners of Developer shall not be precluded from selling services back to Developer. The CBE partners shall participate in budget, schedule, and strategy meetings. CBE partners may also participate in the negotiation of development agreements, creating a site plan, managing design development, hiring and managing consultants, seeking and securing zoning and entitlements, developing and monitoring budgets, apply for and securing financing, performing due diligence, marketing and sales of all units, and any other tasks necessary to the development and construction of the Project.

Section 5.4 No Changes in CBE Equity Participation and Development Participation.

- (i) Once the selection of Equity Participant(s) and Development Participant(s) in the Project have been approved by DSLBD, there can be no change in the Equity Participation and Development Participation and no dilution of the participants’ Equity Participation and Development Participation without the express written consent of the Director; and

- (ii) Once DSLBD has approved the determination of returns for Equity Participant(s) in the Project, the determination of returns for Equity Participant(s) shall not be materially altered or adjusted from that previously presented to DSLBD without the Director's express written consent.

Section 5.5 Closing Requirements for CBE Equity Participation and Development Participation.

- (i) The closing documents executed in connection with the Project shall contain provisions indicating there can be no change of the CBE Equity Participation and Development Participation, no dilution of a participants' Equity Participation and Development Participation, and no material alteration of the determination of returns for the CBE Equity Participant(s) without the Director's express written consent;
- (ii) The closing documents shall expressly covenant and agree that DSLBD shall have third-party beneficiary rights to enforce the provisions, for and in its own right;
- (iii) The agreements and covenants in the closing documents shall run in favor of DSLBD for the entire period during which the agreements and covenants shall be in force and effect, without regard to whether the District was or is an owner of any land or interest therein or in favor of which the agreements and covenants relate; and
- (iv) DSLBD shall have the right, in the event of a breach of the agreement or covenant in the closing documents, to exercise all the rights and remedies, and to maintain any actions or suits, at law or in equity, or other proceedings to enforce the curing of the breach of agreement or covenant to which it may be entitled.

Section 5.6 CBE Equity Participation and Development Participation Restrictive Covenant.

- (i) If there is a transfer of title to any District-owned land that will become part of the Project, DSLBD may require a restrictive covenant be filed on the land requiring compliance with the Equity Participation and Development Participation requirements of the Act; and
- (ii) A restrictive covenant requiring compliance with the Equity Participation and Development Participation shall run with the land and otherwise remain in effect until released by DSLBD following the completion of construction and of the issuance of certificates of occupancy for the Project. A release of the restrictive covenant shall be executed by DSLBD only after either the Developer and the Equity Participant(s) and Development Participant(s) submit a sworn certification together with documentation demonstrating to the satisfaction of DSLBD that, or DSLBD otherwise determines that:

- (a) The CBE Development Participant(s) received at least 20% of the development fees for the Project based on the final development expenditures for such Project; and
- (b) The CBE Equity Participant(s) maintained at least a 20% ownership interest in the sponsor Developer equity in the Project throughout its development.

Section 5.7 CBE Equity Participation and Development Participation Reports. Developers must submit quarterly reports to DSLBD and ODCA regarding the fulfillment of the Equity Participation and Development Participation Program requirements on such forms that may be determined, and amended, by DSLBD. The reports shall be submitted in accordance with Section 3.1 of this Agreement and shall include information regarding:

- (i) Changes in ownership interest of the owners/partners;
- (ii) Additions or deletions of an owner/partner;
- (iii) Changes in the legal status of an existing owner/partner;
- (iv) Changes in the percentage of revenue distribution to an owner/partner;
- (v) A description of team member activities; and
- (vi) The amount of development fees paid to each team member, participant, partner, or owner.

Section 5.8 Article V of this Agreement Controls.

- (i) Article V of this Agreement is incorporated by reference and made a part of the Operating Agreement or any other similar agreement between the Developer and the undersigned CBE Equity Participant(s) and Development Participant(s).
- (ii) To the extent that Article V of this Agreement shall be deemed to be inconsistent with any terms or conditions of the Operating Agreement or any other similar agreement or any exhibits or attachments thereto between the Developer and the undersigned CBE Equity Participant(s) and Development Participant(s), the terms of Article V of this Agreement shall govern.

As it relates to or affects the CBE Equity Participant(s) and Development Participant(s), neither the Operating Agreement or any other similar agreement between the Developer and the undersigned CBE Equity Participant(s) and Development Participant(s), nor this Agreement shall be amended to decreased the participation percentage to less than 20% as mandated by D.C. Official Code § 2-218.49a.

Section 5.9 Equity Participation Unmet. If the Developer is unable to meet the 20% Equity Participation requirement, including sweat equity contribution and cash equity investment, the Developer shall pay to the District the outstanding cash equity amount as a fee in lieu of the unmet Equity Participation requirement.

ARTICLE VI PENALTIES

Section 6.1 Penalties for Failure to Meet CBE Minimum Expenditure. At the end of the Expenditure Period as defined herein, DSLBD shall measure the difference between the CBE Minimum Expenditure and Developer’s actual CBE expenditures. If Developer fails to meet its CBE Minimum Expenditure as provided in Section 1.1 herein (a “Shortfall”), the Developer shall pay a penalty equal to 10% of the Adjusted Development Budget (**\$840,007**), which shall be paid to the District of Columbia in the time and in a manner to be determined by DSLBD.

- (i) If the Developer’s Shortfall is less than 10% of the Adjusted Development Budget, and Developer has taken all actions reasonably necessary (as reasonably determined by DSLBD based on Developer’s reports and other verifiable evidence) to achieve the CBE Minimum Expenditure, the Developer may not be required to pay a penalty. The Developer may meet its burden to demonstrate it has taken all actions reasonably necessary to achieve its CBE Minimum Expenditure by (1) fulfilling all CBE outreach and recruitment efforts identified in Article II of this Agreement; (2) complying with Article IV of this Agreement; (3) providing evidence of the General Contractors’ compliance with the commitments set forth in Article IV of this Agreement, and (4) by taking the following actions, among other things¹:
 - a. In connection with the preparation of future bid packages, if any, develop a list of media outlets that target CBEs and *potential* CBEs hereafter referred to as “Target Audience” based on D.C. certification criteria;
 - b. During the initial construction of the Project, place advertisements in media outlets that address the Target Audience on a regular basis (*i.e.*, each time a new bid package is sent out) and advertise the programmatic activities established pursuant to the Agreement on an as needed basis;
 - c. Mail and/or email new procurement opportunity alerts to targeted CBEs according to trade category;
 - d. In connection with the preparation of future bid packages, if any, develop a list of academic institutions, business and community organizations that represent the Target Audience so that they may provide updated information on available opportunities to their constituents;

¹ See Attachment 6 for a list of additional suggested outreach activities.

- e. Make presentations and conduct pre-bid conferences advising of contracting opportunities for the Target Audience either one-on-one or through targeted business organizations;
 - f. Provide up to ten (10) sets, in the aggregate, of free plans and specifications related to the particular bid for business organizations representing Target Audiences upon request; and
 - g. Commit to promoting opportunities for joint ventures between non-CBE and CBE firms to further grow CBEs and increase contract participation.
- (ii) If the Developer’s Shortfall is less than 10% of the Adjusted Development Budget, but Developer has *not* taken all actions reasonably necessary (as reasonably determined by DSLBD based on Developer’s reports and other verifiable evidence) to achieve the CBE Minimum Expenditure, Developer shall pay a penalty that is equal to the Shortfall.

In the event a CBE hired as part of the Project goes out of business, loses its certification during the Project, or otherwise cannot perform in accordance with customary and acceptable standards for the relevant industry, the Developer may identify and hire a substitute CBE capable of performing in accordance with customary and acceptable standards for the relevant industry. If the Developer cannot identify and hire a substitute CBE, the Developer may request in writing that the Director identify a list of substitute CBEs capable of performing in accordance with customary and acceptable standards for the relevant industry (“Request”). Only if, within ten (10) business days after receiving the Request, the Director fails to send written notice to the Developer identifying a list of substitute CBEs to perform the work (and the Developer determines for an amount no greater than 5% above the remaining balance of the original CBE contracted amount) may the Developer contract with a non-CBE to perform the work, provided that the non-CBE contracted amount shall not exceed the balance of the original CBE contracted amount by greater than 5% (“Approved Deduction”), and the Approved Deduction shall be deducted from the CBE Minimum Expenditure.

Section 6.2 Failure to Meet Equity and Development Participation Requirements. Failure to comply with the equity and development participation requirements of Article V of this Agreement shall constitute a material breach of this Agreement and of the Land Disposition and Development Agreement.

Section 6.3 Other Remedies. Failure to pay any required penalties in the time and manner specified by DSLBD shall be a material breach of this Agreement. In the event that the Developer breaches any of its obligations under this Agreement, in addition to the remedies stated herein, DSLBD does not waive its right to seek any other remedy against the Developer, the general contractor of the Project and any manager of the Project that might otherwise be available at law or in equity, including specific performance.

Section 6.4 Waiver of Penalties. Any Penalties required under this Section may be rescinded or modified by the Director upon consideration of the totality of the circumstances affecting such noncompliance.

**ARTICLE VII
MISCELLANEOUS**

Section 7.1 Primary Contact. The Director’s designee shall be the primary point of contact for Developer for the purposes of collecting or providing information, or carrying out any of the activities under this Agreement.

Section 7.2 Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to either party shall be deemed to have been received when personally delivered, mailed or emailed (with email confirmation), addressed as follows:

To DSLBD: Department of Small and Local Business Development
441 4th Street, N.W., Suite 850 North
Washington, DC 20001
Attention: Director
Tel: (202) 727-3900
Fax: (202) 724-3786

and Office of the Deputy Mayor for Planning and Economic
Development Government of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attention: Deputy Mayor for Planning and Economic
Development
Tel: (202) 727-6365
Fax: (202) 727-6703

With a copy to: Office of the Deputy Mayor for Planning and Economic
Development - DMPED
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 317, Washington, DC
20004
Attention: Miguel Garcia
Tel: (202) 727-6365
Email: Miguel.Garcia@dc.gov

To ODCA: Office of the District of Columbia Auditor
717 14th ST NW, Suite 900
Washington, DC 20005
Attention: District of Columbia Auditor
202-727-3600

To Developer: Capitol Hill Cohousing, LLC
Joel Kelty, Managing Member
608 6th Street, ME
Washington, DC 20002
(202) 905-2724
joel.kelty@century-associates.com

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

Section 7.3 Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent possible.

Section 7.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of any permitted successors and assigns of the parties hereto. This Agreement shall not be assigned by the Developer without the prior written consent of the DSLBD, which consent shall not be unreasonably withheld or delayed. In connection with any such consent of DSLBD, DSLBD may condition its consent upon the acceptability of the financial condition of the proposed assignee, upon the assignee's express assumption of all obligations of the Developer hereunder or upon any other reasonable factor which DSLBD deems relevant in the circumstances. In any event, any such assignment shall be in writing, shall clearly identify the scope of the rights and obligations assigned and shall not be effective until approved by the DSLBD. DSLBD shall have no right to assign this Agreement except to another District agency.

Section 7.5 Amendment; Waiver. This Agreement may be amended from time to time by written supplement hereto and executed by DSLBD and Developer. Any obligations hereunder may not be waived, except by written instrument signed by the party to be bound by such waiver. No failure or delay of either party in the exercise of any right given to such party hereunder or the waiver by any party of any condition hereunder for its benefit (unless the time specified herein for exercise of such right, or satisfaction of such condition, has expired) shall constitute a waiver of any other or further right nor shall any single or partial exercise of any right preclude other or further exercise thereof or any other right. The waiver of any breach hereunder shall not be deemed to be a waiver of any other or any subsequent breach hereof.

Section 7.6 Governing Law. This Agreement shall be governed by the laws of the District of Columbia.

Section 7.7 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 7.8 Entire Agreement. All previous negotiations and understandings between the parties hereto or their respective agents and employees with respect to the transactions set forth herein are merged into this Agreement, and this Agreement alone fully and completely expresses the parties' rights, duties and obligations with respect to its subject matter.

Section 7.9 Captions, Gender, Number and Language of Inclusion. The captions are inserted in this Agreement only for convenience of reference and do not define, limit or describe the scope or intent of any provisions of this Agreement. Unless the context clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine and neuter adjectives include one another. As used in this Agreement, the word “including” shall mean “including but not limited to”.

Section 7.10 Attachments. The following exhibits shall be deemed incorporated into this Agreement in their entirety (THERE ARE NO ATTACHMENTS 2 AND 3 FOR THIS PROJECT):

- Attachment 1: CBE Minimum Expenditure*
- Attachment 4: Quarterly Report*
- Attachment 5: Vendor Verification Forms*
- Attachment 6: Suggested Outreach Activities*

Equity Participation and Development Participation Quarterly Report Attachment

DSLBD reserves the right to amend the templates for all Attachments.

Section 7.11 Collected Penalty/Fines. Any and all fines imposed and collected by DSLBD pursuant to this Agreement will be deposited into the fund established by D.C. Official Code § 2-218.75.

Section 7.12 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and personal representatives.

Section 7.13 Recitals. The Recitals set forth on the first page are incorporated by reference and made a part of this Agreement.

Signatures to follow

CBE AGREEMENT – Capitol Hill Cohousing 261 17th Street SE

Approved as to legal sufficiency for the District of Columbia Department of Small and Local Business Development:

By: Malik Edwards
Malik K. Edwards
General Counsel, DSLBD

AGREED TO AND EXECUTED THIS 7th DAY OF August 2018

DISTRICT OF COLUMBIA DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

By: Kristi C. Whitfield
Kristi C. Whitfield
Director

DEVELOPER, Capitol Hill Cohousing, LLC

By: Century Associates, LLC – Managing Member

By: _____
Joel Kelty
Owner

CBE AGREEMENT – Capitol Hill Cohousing 261 17th Street SE

Approved as to legal sufficiency for the District of Columbia Department of Small and Local Business Development:

By: _____
Malik K. Edwards
General Counsel, DSLBD


AGREED TO AND EXECUTED THIS _____ DAY OF _____ 2018

DISTRICT OF COLUMBIA DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

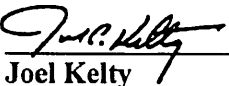
By: _____
Kristi C. Whitfield
Director

DEVELOPER, Capitol Hill Cohousing, LLC

By: Century Associates, LLC – Managing Member

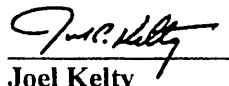
By:  _____
Joel Kelty
Owner

ACKNOWLEDGED AND AGREED TO, AS TO ARTICLE V, BY CBE DEVELOPMENT PARTICIPANT(S):

By: 

Joel Kelty
Century Associates, LLC Owner
33 1/3% of Development Participation in the Project
CBE Number LSR45602062019

ACKNOWLEDGED AND AGREED TO, AS TO ARTICLE V, BY CBE EQUITY PARTICIPANT(S):

By: 

Joel Kelty
Century Associates, LLC Owner
33 1/3% of Development Participation in the Project
CBE Number LSR45602062019

EXHIBIT F

DEVELOPMENT AND COMPLETION GUARANTY

THIS DEVELOPMENT AND COMPLETION GUARANTY (this “**Guaranty**”) is made as of _____, 20__ (“**Effective Date**”), by _____, _____, and _____ (jointly and severally, the “**Guarantor**”), for the benefit of the District of Columbia, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (the “**District**”).

RECITALS:

WHEREAS, District and _____ a District of Columbia limited liability company, (“**Developer**”) have entered into a certain Land Disposition and LDDA, dated as of _____, 201__ (the “**LDDA**”), pursuant to which, among other things, District has agreed to sell the Property to Developer at Closing (as defined in the LDDA), and Developer has agreed to develop the Project on the Property.

WHEREAS, the continuing obligations of Developer to develop and construct the Project as contemplated by the LDDA are set forth in a certain Construction and Use Covenant of even date herewith between District and Developer (as may be amended from time to time, the “**Construction Covenant**”) being recorded on or about the date hereof among the land records of the District of Columbia as an encumbrance on the Property.

WHEREAS, to induce District to proceed to Closing and sell the Property to Developer, Guarantor has agreed to guaranty the Guaranteed Obligations (as defined herein).

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein and other good and valuable consideration in hand paid, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby agrees as follows:

1. Recitals; Definitions.

1.1 The foregoing recitals are true and correct and are incorporated into this Guaranty by this reference and made a material part of this Guaranty.

1.2 Capitalized terms used and not defined in this Guaranty shall have the meanings attributed to them in the Construction Covenant.

2. Representations and Warranties.

2.1 Guarantor represents and warrants to District as follows:

(a) the making and performance of this Guaranty by Guarantor will not result in any breach of any term, condition, or provision of, or constitute a default under, any contract, agreement, or other instrument to which Guarantor is a party or by which it is bound, or result in a breach of any regulation, order, writ, injunction, or decree of any court or any commission,

board, or other administrative agency entered in any proceeding to which Guarantor is a party or by which it is bound;

(b) Guarantor has reviewed, with the advice and benefit of its legal counsel, the terms and provisions of the LDDA, this Guaranty, the Construction Covenant, the Schedule of Performance, the Approved Plans and Specifications, and the documents referenced in each of the foregoing;

(c) Guarantor (if Guarantor is not a natural person) is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization and is duly qualified to do business, and is in good standing, in the District of Columbia;

(d) Guarantor has been duly authorized to carry on its business, and to hold title to and own the property it owns, to execute, deliver, and perform this Guaranty, and to consummate the transactions contemplated hereby and thereby;

(e) this Guaranty has been duly authorized, executed and delivered by Guarantor, and this Guaranty, and each term and provision hereof is the legal, valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms;

(f) no actions, suits, or proceedings are pending or, to Guarantor's knowledge, threatened against or affecting Guarantor before any governmental authority which could, if adversely decided, result in a material adverse change in the financial condition of Guarantor (in comparison to any state of affairs existing before the Effective Date) or of the ability of Guarantor to perform, or of District to enforce, any provision of this Guaranty;

(g) no consent, approval, or authorization of, or registration, declaration, or filing with, any governmental authority or any other Person is required that has not been obtained in writing by Guarantor, in connection with the execution, delivery, and performance by Guarantor of this Guaranty and the transactions contemplated by this Guaranty;

(h) Guarantor is not insolvent (as such term is defined or determined for purposes of Bankruptcy Reform Act of 1978 (11 U.S.C. § 101-1330), as amended or recodified or any other bankruptcy law (collectively, the "**Bankruptcy Code**")), and the execution and delivery of this Guaranty will not make Guarantor insolvent;

(i) neither this Guaranty nor any financial information, certificate, or statement furnished to District by or on behalf of Guarantor contains any untrue statement of a material fact or intentionally or knowingly omits to state a material fact necessary to make the statements herein and therein, in the light of the circumstances under which they are made, not misleading;

(j) no conditions exist which would prevent Guarantor from complying with the provisions of this Guaranty within the time limits set forth herein and/or in the Construction Covenant, as may be extended or deemed extended pursuant to the terms thereof;

(k) Guarantor has filed all tax returns and reports required by law to have been filed by it, and has paid all taxes, assessments, and governmental charges levied upon it or any of its assets which are due and payable, except any such taxes or charges which are being contested in good faith by appropriate proceedings and for which adequate reserves have been set aside;

(l) there are no conditions precedent to the effectiveness of this Guaranty;

(m) Guarantor is not a Prohibited Person;

(n) all financial statements delivered to District at any time by or on behalf of Guarantor (i) are true and correct in all material respects, (ii) fairly present in a manner consistent with prior statements submitted to District the respective financial conditions of the subjects thereof and for the periods referenced therein, and (iii) have been prepared in accordance with generally accepted accounting principles or other accounting principles as District may agree) consistently applied, and there has been no material adverse change in the financial position of such Guarantor since the respective dates of (or periods covered by) such statements, and without limiting the foregoing, all assets shown on such financial statements, unless clearly designated to the contrary on such financial statements, (A) are free and clear of any exemption or any claim of exemption of Guarantor or any other Person, (B) accurately reflect all debt and prior pledges or encumbrances (direct or indirect) of or on any of Guarantor's assets at the date of the financial statements and at all times thereafter, and (C) are owned individually by Guarantor and not jointly with any spouse or other Person.

2.2 Guarantor agrees that all of the representations and warranties of Guarantor in this Guaranty are made and shall be true as of the Effective Date and shall survive the execution and delivery of this Guaranty. Guarantor shall inform District in writing within five (5) Business Days upon its discovering any breach of such representations or warranties.

2.3 Guarantor acknowledges that District is consummating the Closing in reliance upon the representations, warranties, and agreements contained in this Guaranty. District shall be entitled to such reliance notwithstanding any investigation which has been made, has not been made, or may be conducted by District or on District's behalf.

3. **Guaranteed Obligations.** Guarantor hereby absolutely and unconditionally guarantees to District and its successors and assigns: (i) the Commencement of Construction and prosecution of construction through Final Completion of the Project pursuant to the terms and conditions of the Construction Covenant and within the time period allotted therefor in the Schedule of Performance; (ii) in accordance with Section 4 below, the Property and the Improvements shall be kept free and clear of all liens (other than liens in favor of an Approved Mortgagee), claims of lien and other claims connected with or arising out of the construction or completion of the Project; (iii) the payment in full of all amounts due to any contractor, subcontractor, materialman, laborer, any employee or other Person who is engaged at any time in work or supplying materials in connection with the Project if and to the extent not paid by Developer; (iv) any obligation of the Developer under the Construction Covenant to indemnify, defend, and hold harmless District; and (v) the enforcement of this Guaranty by District

(including, without limitation, reasonable attorneys' fees), which obligations shall survive the release of this Guaranty (collectively, the "**Guaranteed Obligations**").

4. **Liens.** If any mechanic's or materialmen's liens should be filed, or should attach, against the Property connected with or arising out of the construction or completion of the Project and if such mechanic's or materialmen's liens have not been removed or bonded over by Developer or released or waived by the party filing same as required by the terms of the Construction Covenant, within thirty (30) days after Guarantor is advised by District of the filing of such liens, Guarantor shall take, or cause to be taken, action to cause the removal, release, or waiver of such liens, including, if necessary, the posting of a bond or other security against the consequences of their possible judicial enforcement. So long as Guarantor timely complies with the immediately preceding sentence, Guarantor shall have the right to contest in good faith any claim, lien, or encumbrance, provided that Guarantor does so diligently and without prejudice to District.

5. **Financial Statements.**

5.1 If Guarantor is not a natural person, within ninety (90) days after the end of Guarantor's fiscal year, Guarantor shall deliver to District a copy of such Guarantor's balance sheet, income statement, and statement of changes in financial position for such fiscal year (collectively, the "**Corporate Financial Statements**"). The Corporate Financial Statements shall (a) include a schedule of all material contingent liabilities and all other notes and schedules relating thereto, (b) be in a form reasonably satisfactory to District, (c) be prepared in accordance with generally accepted accounting principles (or other accounting principles as District may agree) consistently applied, (d) be audited, or if audits are not performed in the regular course of Guarantor's business, reviewed by an independent, certified public accountant who is a member of the American Institute of Certified Public Accountants and otherwise acceptable to District, and (e) be accompanied by a certification of Guarantor to District (made by the chief financial officer in the case of any corporate Guarantor) that such Corporate Financial Statements (i) have been prepared in accordance with generally accepted accounting principles (or other accounting principles as District may agree) consistently applied, (ii) accurately present the financial condition of such Guarantor as of the respective dates thereof, and (iii) show all direct and contingent material liabilities of Guarantor as of such dates.

5.2 If the Guarantor is a natural person, within thirty (30) days after the end of each calendar year, Guarantor shall deliver to District a copy of Guarantor's financial statement as of the end of such calendar year. Each such financial statement shall (a) include a statement of assets and liabilities, including a schedule of all material contingent liabilities and all other notes and schedules relating thereto, (b) be in a form reasonably satisfactory to District, (c) be accompanied by a certification of Guarantor to District that such financial statement accurately presents the financial condition of Guarantor as of the respective dates thereof, and (d) show all direct and contingent material liabilities of Guarantor as of such dates.

5.3 From time to time promptly after District's request, Guarantor shall deliver to District such additional information, reports and statements regarding its business operations reasonably related to the Project or the financial condition of Guarantor as District may reasonably request.

6. Nature of Guaranty; Independent Obligation. This is a direct, absolute, and unconditional, guaranty of completion, and is a guaranty of payment and performance, not of collection. The obligations of Guarantor under this Guaranty are independent and primary, and District shall not be required to take any action against Developer, any Approved Mortgagee, or any other Person or resort to any other collateral or security given for the performance of Developer as a precondition to the obligations of Guarantor under this Guaranty. Guarantor hereby waives any rights it may have to compel District to proceed against Developer, or any security, or to participate in any security for Guarantor's obligations hereunder, even though any rights which such Guarantor may have against Developer or others may be destroyed, diminished or otherwise affected by such action or lack thereof. The exercise of any remedies by District against Developer shall in no way affect Guarantor's responsibility for the obligations guaranteed hereunder, even though any rights which Guarantor may have against Developer or others may be destroyed, diminished or otherwise affected by such action. To the fullest extent permitted by law, this Guaranty shall be construed as a continuing, absolute, and unconditional guaranty of performance without regard to: (a) the legality, validity, or enforceability of any of the terms of the Construction Covenant, or any of the obligations of Developer evidenced thereby; (b) any defense, setoff, or counterclaim that may be available at any time to Developer or any other Person against and any right of setoff at any time held by District (including, without limitation, any defense, setoff, or counterclaim by Guarantor under this Guaranty); or (c) any other circumstances whatsoever (with or without notice to or knowledge of Guarantor), whether or not similar to any of the foregoing, that constitutes or might be construed to constitute an equitable or legal discharge of Developer or any other Person in bankruptcy or in any other instance.

7. No Release or Waiver of Obligations; Consents.

7.1 No action which Developer or District may take or omit to take in connection with the Project, nor any course of dealing with Developer or any other Person, shall release Guarantor's obligations hereunder or affect this Guaranty in any way, even if any such action may otherwise be deemed a legal or equitable discharge of a guarantor or surety. By way of example, but not in limitation of the foregoing, Guarantor hereby expressly agrees that District may, from time to time, and without notice to Guarantor, but with the written prior agreement of Developer, which shall not, in any case discharge or impair Guarantor's obligations or any rights against Guarantor:

- (a) amend, change, or modify, in whole or in part, the Construction Covenant;
- (b) waive any terms, conditions, or covenants of the Construction Covenant, or grant any extension of time or forbearance for performance of the same;
- (c) compromise or settle any amount or any matter in dispute under the Construction Covenant or other document;
- (d) surrender, release, or subordinate any or all security for the Construction Covenant, or accept additional or substituted security therefor;

(e) extend the time of payment or performance of any obligations under the Construction Covenant or any other document;

(f) exercise its rights and remedies under the Construction Covenant or any other document;

(g) approve, disapprove, inspect, review, or fail to inspect or review, the progress, status, or quality of construction or any costs, expenses, financing, contracts, or other matters relating thereto; and

(h) release, substitute, or add guarantors to guaranty performance of the obligations under the Construction Covenant or any other document.

7.2 Guarantor consents and agrees that District may, at any time and from time to time, without notice or demand to Guarantor, and without affecting the enforceability or continuing effectiveness hereof: (a) supplement, modify, amend, extend, renew, accelerate, or otherwise change the time for performance or the terms of the Construction Covenant or any part thereof; (b) supplement, modify, amend, or waive, or enter into or give any agreement, approval, or consent with respect to the Project or the Construction Covenant, or any additional security or guaranties, or any condition, covenant, default, remedy, right, representation, or term thereof or thereunder; (c) accept new or additional instruments, documents, or agreements in exchange for or relative to the Construction Covenant, or any part thereof or performance pursuant thereto; (d) accept partial payments on, or performance of, the obligations owed to District and apply any and all payments or recoveries from Developer or any other Person to such of the obligations owed to District as District may elect in its sole discretion; (e) receive and hold additional security or guaranties for the obligations owed to District or any part thereof; (f) release, reconvey, terminate, waive, abandon, fail to perfect, subordinate, exchange, substitute, transfer, or enforce any security or guaranties, and apply any security and direct the order or manner of sale thereof as District may elect in its sole and absolute discretion may determine; (g) release any Person from any personal liability with respect to the obligations owed to District or any party thereof; (h) settle, release on terms satisfactory to District, as the case may be, or by operation of applicable law or otherwise, liquidate or enforce any obligations owed to District and any security or guaranty in any manner, consent to the transfer of any security and bid and purchase at any sale (other than by reason of the timely and full payment and performance of all obligations owed to District); (i) consent to the merger, change of any other restructuring or termination of the corporate existence of Developer or any other Person and correspondingly restructure the obligations owed to District, and any such merger, change, restructuring, or termination shall not affect the liability of such Guarantor or the continuing effectiveness hereof, or the enforceability thereof with respect to all or any part of the obligations owed to District; (j) assign the rights to this Guaranty to another Person; or (j) otherwise deal with Developer or any other Person as District may elect in its sole discretion.

8. Bankruptcy; Relief from Automatic Stay.

8.1 The release or discharge of Developer, Guarantor, or any other Person from any obligation in any receivership, bankruptcy, winding-up or other creditor proceeding shall not affect the validity of this Guarantor or of Guarantor's obligations hereunder.

8.2 If (i) a Developer Default has occurred under the Construction Covenant and (ii) the automatic stay imposed by the applicable provisions of the Bankruptcy Code, or under any other applicable law, against the exercise of the rights and remedies otherwise available to creditors of Developer is deemed by the court having jurisdiction to apply to Guarantor who is not in bankruptcy so that Guarantor is not permitted to perform its obligations under this Guaranty and/or District may not immediately enforce the terms of this Guaranty or exercise such other rights and remedies against Guarantor as would otherwise be provided by law, District shall immediately be entitled, and Guarantor hereby consents, to relief from such stay, and Guarantor hereby authorizes District to present this Guaranty to the applicable court to evidence such agreement and consent.

9. **Waivers.**

9.1 To the fullest extent the Guarantor may do so under applicable law, Guarantor expressly waives notice of acceptance from District of this Guaranty. Other than notices expressly required by this Guaranty, District shall not be required to give any notice to Guarantor in order to preserve or enforce District's rights hereunder (including, without limitation, notice of any Developer Default under the Construction Covenant or other documents evidencing and securing the obligations of Developer thereunder), any such notice being expressly waived by Guarantor.

9.2 Guarantor agrees that District shall have no duty to disclose to Guarantor any information it receives or have reasonably available to it regarding the financial status of Developer, or any contractor, subcontractor or materialmen involved in the construction of the Project, or any information relating to the Project, whether or not such information indicates that the risk that Guarantor may be required to perform hereunder has been or may be increased. Guarantor assumes full responsibility for being and keeping informed of all such matters.

9.3 In addition to the foregoing, Guarantor expressly waives the following defenses:

(a) lack of validity, genuineness, or enforceability of any provision of any of the LDDA, the Construction Covenant, or any other agreement between District, Developer, Guarantor or any other Person;

(b) the incapacity, lack of authority, death, or disability of any Person or the failure of District to file or enforce a claim against the estate of any Person in any administrative, bankruptcy, or other proceeding;

(c) the election of remedies by District, whether or not such election may affect in any way the recourse, subrogation, or other rights of Guarantor against Developer or any other Person in connection with the Guaranteed Obligations;

(d) the negligence of District in administering or overseeing the Project or any part thereof, or taking or failing to take any action in connection therewith;

(e) any change to the Approved Plans and Specifications, the LDDA, the Schedule of Performance, the Construction Covenant, or any of the documents referenced in any of the foregoing made without the consent or knowledge of Guarantor;

(f) the unenforceability or invalidity of any security or guaranty for the Guaranteed Obligations or the lack of perfection or continuing perfection or failure of priority of any security for the Guaranteed Obligations;

(g) the failure of District to marshal assets in favor of Developer or any other Person;

(h) the failure of District to give notice or sale or other disposition of any collateral (now or hereafter securing the obligations of any Person) to Developer or any other Person, as applicable, or any defect in any notice that may be given in connection with any sale or disposition of collateral or to comply with applicable law or other requirements in connection with the sale or other disposition of any collateral or other security for any obligation owed to District;

(i) any act or omission of District, or others, that directly or indirectly results in or aids the discharge or release of Developer or any other Person, or the Guaranteed Obligations or any security or guaranty therefor by operation of law or otherwise (other than by reason of the timely performance of all Guaranteed Obligations);

(j) any applicable law or other laws or requirements of the District of Columbia or other states which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation, including, without limitation, all rights and benefits under the laws of the District of Columbia purporting to reduce Guarantor's obligation in proportion to the obligation of the principal;

(k) the avoidance of any lien in favor of District for any reason;

(l) all rights or defenses Guarantor may have by reason of protection afforded to a principal with respect to the Guaranteed Obligations pursuant to applicable law or other laws of the District of Columbia or other states limiting or discharging the principal's obligations; and

(m) any defense based on any other circumstances whatsoever (with or without notice to or knowledge of Guarantor), whether or not similar to any of the foregoing, that constitutes or might be construed to constitute an equitable or legal discharge of Developer or any other Person in bankruptcy or in any other instance.

10. **Rights Upon Default.**

10.1 Upon the occurrence and during the continuance of (a) any failure by Guarantor in the performance of the Guaranteed Obligations, (b) the dissolution or insolvency of Guarantor, (d) the inability of Guarantor to pay its debts as they mature, (d) a general assignment by Guarantor for the benefit of creditors, (e) the institution of any proceeding by or against

Guarantor in bankruptcy or for a reorganization or an arrangement with creditors, or for the appointment of a receiver, trustee, or custodian for Guarantor or its properties that is not dismissed or stayed within one hundred twenty (120) days after Guarantor's receipt of notice of filing, (f) the falsity in any material respect of or any material omission in any representation made to District by Guarantor in this Guaranty, or (g) any other default by Guarantor of any other obligations owed to District by Guarantor under this Guaranty (a "**Guarantor Default**"), District shall have such rights and remedies available to it as permitted by law and in equity and may enforce this Guaranty in accordance with the terms hereof, independently of any other remedy or security District at any time may have or hold in connection with the Guaranteed Obligations as to Developer, and it shall not be necessary for District to marshal assets in favor of Developer, Guarantor, or any other Person or to proceed upon or against and/or exhaust any security or remedy before proceeding to enforce this Guaranty in accordance with the terms hereof. Additionally, Guarantor agrees that during the continuance of any Guarantor Default, District may, without the consent of or notice to Guarantor, take or refrain from taking such other action to enforce the provisions of this Guaranty against Guarantor as it may from time to time determine in its sole discretion as to any obligations then unperformed.

10.2 Guarantor absolutely, irrevocably, and unconditionally agrees to the fullest extent permitted by law, to indemnify, defend, and hold harmless District from any and all loss, cost, liability, and expense arising out of or in connection with (a) any Guarantor Default and (b) the enforcement of this Guaranty by District (including, without limitation, reasonable attorneys' fees).

10.3 Guarantor shall immediately, upon demand therefor, reimburse District for any and all expenditures incurred by District under this Section 10, plus interest thereon at the rate of fifteen percent (15%) until all sums are paid to District.

10.4 Guarantor agrees that District and Developer or any other Person may deal with each other in connection with the Guaranteed Obligations or otherwise, or alter any contracts or agreements now or hereafter existing between them, in any manner whatsoever, all without in any way altering or affecting the security of this Guaranty. District's rights hereunder shall be reinstated and revived and the enforceability of this Guaranty shall continue with respect to any amount at any time paid on account of the Guaranteed Obligations, which thereafter shall be required to be restored or returned by District upon the bankruptcy, insolvency, or reorganization of Developer or any other Person, or for any other reason, all as though such amount had not been paid. The rights of District created or granted herein and the enforceability of this Guaranty at all times shall remain effective even though the Guaranteed Obligations, including any part thereof or any other security or guaranty therefor, may be or hereafter may become invalid or otherwise unenforceable as against Developer.

11. **Cumulative Rights.** The exercise by District of any right or remedy hereunder, under the Construction Covenant, any other documents executed by District and Developer, or at law or in equity, shall not preclude the concurrent or subsequent exercise of any other right or remedy. District shall have all rights, remedies, and recourses afforded to District by reason of this Guaranty, the Construction Covenant, any other documents executed between District and Developer, or by law or equity or otherwise, and the same (a) shall be cumulative and concurrent; (b) may be pursued separately, successively, or concurrently against Guarantor or

others obligated for the Guaranteed Obligations, or any part thereof, or against any one or more of them, at the sole and absolute discretion of District; (c) may be exercised as often as occasion therefor shall arise, it being agreed by Guarantor that the exercise of, discontinuance of the exercise of, or failure to exercise any of such rights, remedies, or recourses shall in no event be construed as a waiver or release thereof or of any other right, remedy, or recourse; and (d) are intended to be and shall be nonexclusive. No waiver of any default on the part of Guarantor or of any breach of any of the provisions of this Guaranty or of any other document shall be considered a waiver of any other or subsequent default or breach, and no delay or omission in exercising or enforcing the rights and powers granted herein or in any other document shall be construed as a waiver of such rights and powers, and no exercise or enforcement of any rights or powers hereunder or under any other document shall be held to exhaust such rights and powers, and every such right and power may be exercised from time to time. The granting of any consent, approval, or waiver by District shall be limited to the specific instance and purpose therefor and shall not constitute consent or approval in any other instance or for any other purpose. No notice to or demand on Guarantor in any case shall of itself entitle such Guarantor to any other or further notice or demand in similar or other circumstances.

12. **Statute of Limitations and Other Laws.** Until the Guaranteed Obligations have been irrevocably paid and/or performed in full, all of the rights, privileges, powers, and remedies granted to District hereunder shall continue to exist and may be exercised by District at any time and from time to time, irrespective of the fact that any of the Guaranteed Obligations may have become barred by any statutes of limitations. Guarantor expressly waives the benefit of any and all statutes of limitations, and any and all laws providing for exemption of property from execution or for valuation and appraisal upon foreclosure, and any and all rights and benefits, if any, arising under the laws of the District of Columbia. Furthermore, Guarantor acknowledges that any claims brought by District that arise under or as a result of this Guaranty are not subject to the statute of limitations contained in D.C. Official Code § 12-301, as amended.

13. **Indemnification.** Guarantor agrees to indemnify and hold harmless District for all reasonable, direct, and out-of-pocket costs and expenses, including, without limitation, all court costs, reasonable attorneys' fees and expenses, and costs of collection incurred or paid by District arising out of or in connection with (a) the Guaranteed Obligations and (b) the enforcement of this Guaranty by District. Notwithstanding the foregoing, Guarantor shall not have any obligation to indemnify District for any costs and expenses, including, without limitation, all court costs, reasonable attorneys' fees and expenses, if Guarantor should prevail in an enforcement action; provided, further, the immediately preceding proviso clause shall not be deemed to release Guarantor from its indemnification obligations under this Guaranty if District prevails against Guarantor in any enforcement action notwithstanding the fact that District may not have prevailed against Guarantor in a previous enforcement action.

14. **No Limitation of Obligations.** To the fullest extent Guarantor may do so under applicable law, Guarantor agrees that it shall make no claim or setoff, defense, recoupment, or counterclaim of any sort whatsoever against District, nor shall Guarantor seek to impair, limit, or defeat in any way its obligations hereunder. To the fullest extent Guarantor may do so under applicable law, Guarantor hereby waives any right to such a claim in limitation of its obligations hereunder.

15. **No Right of Subrogation.** Until all of the Guaranteed Obligations are fully paid, performed and/or fulfilled, Guarantor agrees solely with respect to itself that it: (i) shall have no right of subrogation against Developer by reason of any payments or acts of performance by Guarantor in compliance with the obligations of Guarantor under this Guaranty; (ii) waives any right to enforce any remedy which Guarantor now or hereafter shall have against Developer by reason of any payment or act of performance in compliance with the obligations of Guarantor hereunder; and (iii) subordinates any present or future, liquidated or unliquidated, liability, indebtedness, or obligation of Developer to Guarantor, irrespective of the respective dates of the incurrence, accrual, or maturity thereof, to the indebtedness and obligations of Developer to District under the Construction Covenant.

16. **No Assignment or Delegation; Merger.** Except in connection with an assignment of the Construction Covenant permitted pursuant to the terms thereof or otherwise approved by District, Guarantor shall not assign or delegate its obligations under this Guaranty. If Guarantor is not a natural person and is merged into or with any other company, firm or corporation, the resulting merged company, firm or corporation shall become liable as a Guarantor under this Guaranty to the same extent as the original named Guarantor hereunder.

17. **Choice of Law and Consent to Jurisdiction.** This Guaranty shall, in all respects, be governed by and construed in accordance with the laws of the District of Columbia, without reference to its conflicts of law principles. Guarantor hereby consents to jurisdiction of the federal or local jurisdiction courts within the District of Columbia for purposes of such litigation and waives any right it may have to seek a change of venue of such proceedings. Guarantor further agrees not to assert in any action, suit or proceeding arising out of or relating to the Construction Covenant that Guarantor is not personally subject to the jurisdiction of such courts, that the action, suit, or other proceeding is brought in an inconvenient forum, or that the venue of the action, suit, or other proceeding is improper. Guarantor agrees that service of process may be made, and personal jurisdiction over Guarantor obtained, by serving a copy of the summons and complaint upon Guarantor at the notice address set forth below in accordance with the applicable laws of the District of Columbia. Nothing herein contained, however, shall prevent District from bringing any action or exercising any right against Guarantor within any other jurisdiction or state. Initiating such proceeding or taking such action in any other jurisdiction or state shall not, however, constitute a waiver of the agreement herein contained that the laws of the District of Columbia shall govern the rights and obligations of the parties hereunder. Guarantor agrees that District may, and Guarantor agrees not to oppose District's attempts to, consolidate any litigation arising out of or relating to this Guaranty with any action(s), suit(s), or proceeding(s) against Developer or any other individual or entity and/or the property of any of the foregoing arising out of or relating to the Construction Covenant.

18. **Notices.** Any notice, demand, statement, or request required under this Guaranty shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight commercial courier service, at the following respective addresses:

IF TO DISTRICT:

Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attention: Deputy Mayor for Planning and Economic Development

With a copy to:

Office of the General Counsel
for the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attention: General Counsel

IF TO GUARANTOR:

With a copy to:

Notices served upon District or Guarantor in the manner aforesaid shall be deemed to have been received for all purposes under this Guaranty as follows: (i) if hand delivered to a party against receipted copy, when the copy of the notice is receipted; (ii) if given by nationally recognized overnight delivery service, on the next Business Day after the notice is deposited with the overnight delivery service; or (iii) if given by certified mail, return receipt requested, postage prepaid, on the date of actual delivery or refusal thereof. If notice is tendered under the terms of this Guaranty and is refused by the intended recipient of the notice, the notice shall nonetheless be considered to have been received and shall be effective as of the date provided in this Guaranty.

19. **Severability.** In the event that any provision of this Guaranty is held to be void or unenforceable, all other provisions shall remain unaffected and be enforceable, unless this construction would constitute a substantial deviation from the general intent of the Parties as reflected in this Guaranty.

20. **Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY LAW, EACH PARTY HEREBY: (I) COVENANTS AND AGREES NOT TO ELECT TRIAL BY JURY OF ANY ISSUE HEREUNDER TRIABLE OF RIGHT BY A JURY AND (II) WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY ISSUE FULLY TO THE EXTENT THAT ANY SUCH RIGHT

SHALL NOW OR HEREAFTER EXIST. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN, KNOWINGLY AND VOLUNTARILY, BY GUARANTOR, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE ACCRUE. EACH PARTY ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE OTHER PARTY TO PROVIDE OR ACCEPT THIS GUARANTY, AS APPLICABLE. FOR THE PURPOSES OF THIS SECTION 20, THE TERM "PARTY" IS DEEMED TO MEAN DISTRICT, AS WELL AS GUARANTOR.

21. **Time is of the Essence.** Time is of the essence with respect to all matters set forth in this Guaranty.

22. **No Amendment.** Neither this Guaranty nor any provision hereof may be modified, amended, waived, terminated, or changed orally, but only by an agreement in writing signed by the District and Guarantor.

23. **Irrevocable Survival; Termination.** This Guaranty shall be irrevocable by the Guarantor and shall terminate upon Final Completion unless earlier released in writing by the District.

24. **Execution and Delivery of Guaranty.** Execution and delivery of this Guaranty by facsimile or e-mail .pdf shall be sufficient for all purposes and shall be binding on Guarantor.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO
DEVELOPMENT AND COMPLETION GUARANTY

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the Effective
Date.

GUARANTOR:

By: _____

Name: _____

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DR. UNIQUE MORRIS-HUGHES
INTERIM DIRECTOR

August 9, 2018

Miguel Garcia
Office of the Deputy Mayor Planning & Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004

Re: First Source Employment Agreement

Dear Mr. Garcia:

Enclosed is your copy of the signed First Source Employment Agreement between the D.C. Department of Employment Services (DOES) and Capitol Hill Cohousing, LLC Developer or General Contractor or Subcontractor . Under the terms of the Agreement, you are required to use DOES as the first source to fill all new jobs created as a result of Project: 261 17th Street SE

You must register and post your job vacancies to the Department of Employment Services' Virtual One-Stop (VOS) at www.dcnetworks.org.

In addition, you are required to have the following percentage of hours worked by District residents: 20% of journey worker hours; 60% of apprentice hours; 51% of skilled laborer hours; and 70% of common laborer hours. Further, District residents registered in programs approved by the District of Columbia Apprenticeship Council shall work 35% of all apprenticeship hours worked in connection with the Project or 60% where applicable.

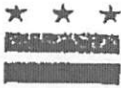
Reminder: All General Contractors must invite their subcontractors that are subject to the First Source Employment Agreement requirements, to join the project using the First Source Online Registration & Reporting System (FORRS), website <http://firstsource.dc.gov>. Additionally, contractors are required to report hours worked percentages throughout the duration of your contract. Contact the monitor listed below regarding LCP Tracker submission.

If you have any questions or need additional information please contact Alex Underwood,
(202) 698-3529, alex.underwood@dc.gov

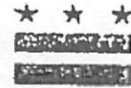
Sincerely,

Michael I Watts
Associate Director
Office of First Source Compliance

Enclosure



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRST SOURCE EMPLOYMENT AGREEMENT FOR
CONSTRUCTION PROJECTS ONLY**



GOVERNMENT-ASSISTED PROJECT/CONTRACT INFORMATION

CONTRACT/SOLICITATION NUMBER: DMPED Eastern Branch Boys and Girls Club RFP
 DISTRICT CONTRACTING AGENCY: Deputy Mayor For Planning and Economic Development
 CONTRACTING OFFICER: Miguel Garcia
 TELEPHONE NUMBER: (202) 727-9742
 TOTAL CONTRACT AMOUNT: \$11,950,265

THIS SECTION TO BE COMPLETED BY THE BENEFICIARY ONLY:

TOTAL GOVERNMENT ASSISTED FUNDED AMOUNT: \$3371,530 DATE 8/2/18
 CONTRACT GRANT LOAN TAX ABATEMENT OR EXEMPTION LAND TRANSFER
 LAND DISPOSITION AND DEVELOPMENT AGREEMENT TAX INCREMENT FINANCING
 ANY ADDITIONAL LEGISLATION, IF YES _____

D.C. CODE# _____

GENERAL CONTRACTOR WILL MEET THE HIRING OR HOURS WORKED PERCENTAGES REQUIREMENTS FOR ENTIRE PROJECT OR PER EACH SUBCONTRACTOR

PROJECT NAME: 261 17th Street SE
 PROJECT ADDRESS: 261 17th Street SE
 CITY: Washington STATE: DC ZIP CODE: 20002
 PROJECT START DATE: EST. 4/1/2020 PROJECT END DATE: EST. 3/31/2021
 EMPLOYER START DATE: _____ EMPLOYER END DATE: _____

EMPLOYER INFORMATION

EMPLOYER NAME: Capitol Hill Cohousing, LLC
 EMPLOYER ADDRESS: 608 6th Street NE
 CITY: Washington STATE: DC ZIP CODE: 20002
 TELEPHONE NUMBER: 202-905-2724 FEDERAL IDENTIFICATION NO.: _____
 CONTACT PERSON: Joel Kelly
 TITLE: Member
 E-MAIL: joel.kelly@century-associates.com TELEPHONE NUMBER: 202-905-2724
 CERTIFIED BUSINESS ENTERPRISES CERTIFICATION NUMBER: LSR45602062019
 D.C. APPRENTICESHIP COUNCIL REGISTRATION NUMBER: _____
 ARE YOU A SUBCONTRACTOR YES NO IF YES, NAME OF PRIME CONTRACTOR: _____

This First Source Employment Agreement (Agreement), in accordance with Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Official Code §§ 2-219.01 – 2-219.05), and relevant provisions of the Apprenticeship Requirements Amendment Act of 2004 (D.C. Official Code § 2-219.03 and § 32-1431) is a required agreement between the District of Columbia Department of Employment Services (DOES) and EMPLOYER.

EMPLOYER, which includes the Beneficiary and all contractors and subcontractors, is working on a contract or project that has received:

- D.C. Government assistance valued between \$300,000 and \$5 million dollars, required to make a good faith effort to ensure that 51% of all new hires are District residents. (D.C. Official Code § 2-219(e)(1)(A))
- D.C. Government assistance valued at \$5 million or more, required to have the following percentage of hours worked in each classification by DC residents; 20% of journey worker hours; 60% of apprentice hours; 51% of skilled laborer hours; 70% of common laborer hours for all jobs created by the Project. (D.C. Official Code §2-219.03 (1A)(A))

DOES is the first source for recruitment, referral, and placement of new hires or employees for all jobs created by the Government Assisted Project or Contract (Project).

The Parties agree to the terms and conditions of the Agreement as follows:

I. DEFINITIONS

The following definitions shall govern the terms used in this Agreement.

- A. **Apprentice** means a worker who is employed to learn an apprenticeable occupation under the terms and conditions of approved apprenticeship standards.
- B. **Beneficiary** means:
 - 1. The signatory to a contract executed by the Mayor which involves any District of Columbia government funds, or funds which, in accordance with a federal grant or otherwise, the District government administers and which details the number and description of all jobs created by a government-assisted Project for which the beneficiary is required to use the First Source Register;
 - 2. A recipient of a District government economic development action including contracts, grants, loans, tax abatements, land transfers for redevelopment, or tax increment financing that results in a financial benefit of \$300,000 or more from an agency, commission, instrumentality, or other entity of the District government, including a financial or banking institution which serves as the repository for \$1 million or more of District of Columbia funds.
- C. **Contracting Agency** means any District of Columbia agency that awarded a government assisted Project totaling \$300,000 or more.
- D. **Direct labor costs** means all costs, including wages and benefits, associated with the hiring and employment of personnel assigned to a process in which payroll expenses are traced to the units of output and are included in the cost of goods sold.
- E. **EMPLOYER** means any entity awarded a government assisted Project totaling \$300,000 or more, including all individual contractor and subcontractor entities at any tier who work on the Project.
- F. **First Source Employer Portal** is a website consisting of a connected group of static and dynamic web pages with the ability for Employers to enter data using the internet. The website is accessible by a Uniform Resource Locator (URL) and is maintained by DOES. The website provides reporting information to first Source EMPLOYERS.
- G. **First Source Register** means the DOES Automated Applicant Files, which consists of the names of DC residents registered with DOES.
- H. **Good faith effort** means an EMPLOYER has exhausted all reasonable means to comply with any affirmative action, hiring, or contractual goal(s) pursuant to the First Source law and Agreement.
- I. **Government-assisted project or contract (Project)** means any construction or non-construction Project that receives funds or resources, valued at \$300,000 or more, from the District of Columbia, or funds or resources which, in accordance with a federal grant or otherwise, the District of Columbia government administers, including contracts, grants, loans, tax abatements or exemptions, land transfers, land disposition and development agreements, tax increment financing, or any combination of the aforementioned.

- J. Hard to employ** means a District of Columbia resident who is confirmed by DOES as:
1. An ex-offender who has been released from prison within the last 10 years;
 2. A participant of the Temporary Assistance for Needy Families program;
 3. A participant of the Supplemental Nutrition Assistance Program;
 4. Living with a permanent disability verified by the Social Security Administration or District vocational rehabilitation program;
 5. Unemployed for 6 months or more in the last 12-month period;
 6. Homeless;
 7. A participant or graduate of the Transitional Employment Program established by § 32-1331; or
 8. An individual who qualified for inclusion in the Work Opportunity Tax Credit Program as certified by the Department of Employment Services.
- K. Indirect labor costs** means all costs, including wages and benefits, that are part of operating expenses and are associated with the hiring and employment of personnel assigned to tasks other than producing products.
- L. Jobs** means any union and non-union managerial, non-managerial, professional, nonprofessional, technical or nontechnical position including: clerical and sales occupations, service occupations, processing occupations, machine trade occupations, bench work occupations, structural work occupations, agricultural, fishery, forestry, and related occupations, and any other occupations as the Department of Employment Services may identify in the Dictionary of Occupational Titles, United States Department of Labor.
- M. New Hire:** Individual(s) newly hired by the EMPLOYER to perform work on a government assisted Project.
- N. Transfer:** Existing EMPLOYER employee who has been moved from one Project to another Project.
- O. Journeyman** means a worker who has attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation.
- P. Revised Employment Plan** means a document prepared and submitted by the EMPLOYER that includes the following:
1. A projection of the total number of hours to be worked on the Project by trade;
 2. A projection of the total number of journey worker hours, by trade, to be worked on the Project and the total number of journey worker hours, by trade, to be worked by DC residents;
 3. A projection of the total number of apprentice hours, by trade, to be worked on the Project and the total number of apprentice hours, by trade, to be worked by DC residents;
 4. A projection of the total number of skilled laborer hours, by trade, to be worked on the Project and the total number of skilled laborer hours, by trade, to be worked by DC residents;
 5. A projection of the total number of common laborer hours to be worked on the

Project and the total number of common laborer hours to be worked by DC residents:

6. A timetable outlining the total hours worked by trade over the life of the Project and an associated hiring schedule;
 7. Descriptions of the skill requirements by job title or position, including industry-recognized certifications required for the different positions;
 8. A strategy to fill the hours required to be worked by DC residents pursuant to this paragraph, including a component on communicating these requirements to contractors and subcontractors and a component on potential community outreach partnerships with the University of the District of Columbia, the University of the District of Columbia Community College, the Department of Employment Services, Jointly Funded Apprenticeship Programs, the District of Columbia Workforce Intermediary, or other government-approved, community-based job training providers;
 9. A remediation strategy to ameliorate any problems associated with meeting these hiring requirements, including any problems encountered with contractors and subcontractors;
 10. The designation of a senior official from the EMPLOYER(S) or general contractor who will be responsible for implementing the hiring and reporting requirements;
 11. Descriptions of the health and retirement benefits that will be provided to DC residents working on the Project;
 12. A strategy to ensure that District residents who work on the Project receive ongoing employment and training opportunities after they complete work on the job for which they were initially hired and a review of past practices in continuing to employ DC residents from one Project to the next;
 13. A strategy to hire graduates of District of Columbia Public Schools, District of Columbia public charter schools, and community-based job training providers, and hard-to-employ residents; and
 14. A disclosure of past compliance with the Workforce Act and the Davis-Bacon Act, where applicable, and the bidder or offeror's general DC resident hiring practices on projects or contracts completed within the last 2 years.
- Q. Tier Subcontractor** means any subcontractor selected by the primary contractor to perform portion(s) or all work related to the trade or occupation area(s) on a Project subject to this First Source Agreement.
- R. Washington Metropolitan Statistical Area** means the District of Columbia; Virginia Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park; the Virginia Counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, and Warren; the Maryland Counties of Calvert, Charles, Frederick, Montgomery and Prince Georges; and the West Virginia County of Jefferson.
- S. Workforce Intermediary Pilot Program** means the intermediary between employers and training providers to provide employers with qualified DC resident job applicants. See DC Official Code § 2-219.04b.

II. GENERAL TERMS

- A. Subject to the terms and conditions set forth herein, DOES will receive the Agreement from the Contracting Agency no less than 7 calendar days in advance of the Project start date. No work associated with the relevant Project can begin until the Agreement has been accepted by DOES.
- B. The Beneficiary and/or EMPLOYER shall require all Project contractors and subcontractors, under a Project receiving government assistance or benefits valued at \$300,000 or more, to enter into an Agreement with DOES.
- C. Agreement will take effect once beneficiary Employer awarded contract and start work on the government assisted Project and no work can begin prior to execution of the Agreement and will be fully effective through the duration, any extension or modifications of the Project and until such time as construction is complete and a certificate of occupancy is issued.
- D. If an EMPLOYER began work prior to the execution of a First Source Employment Agreement, the EMPLOYER shall cease work on the Project and sign a First Source Employment Agreement to be bound by the applicable First Source Employment Agreement requirements, retroactively, from the start of work throughout the duration of the contract.
- E. DOES will provide recruitment, referral, and placement services to the EMPLOYER, subject to the limitations in this Agreement.
- F. DOES and the EMPLOYER agree that, for purposes of this Agreement, new hires and jobs created for the Project (both union and nonunion) include all of EMPLOYER'S job openings and vacancies in the Washington Metropolitan Statistical Area created for the Project as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this Project.
- G. This Agreement includes apprentices as defined in D.C. Official Code §§ 32-1401-1431.

DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any collective bargaining unit involved with this Project a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

The EMPLOYER who contracts with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least \$500,000, within a 12-month period will be required to register an apprenticeship program with the District of Columbia Apprenticeship Council as required by DC Code 32-1431.

11. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concern, affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise this First Source Agreement shall remain in full force and effect and transferee shall remain subject to all provisions herein. In addition, the EMPLOYER as a condition of transfer shall:
 1. Notify the party taking possession of the existence of this EMPLOYER'S First Source Employment Agreement
 2. Notify DOES within 7 business days of the transfer. This notice will include the

name of the party taking possession and the name and telephone of that party's representative.

- I. The EMPLOYER and DOES may mutually agree to modify this Agreement. Any modification shall be in writing, signed by the EMPLOYER and DOES and attached to the original Agreement.
- J. To the extent that this Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail.

III. TRAINING

- A. DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs as approved by DOES; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and will be set forth in a separate Training Agreement.

IV. RECRUITMENT

- A. The EMPLOYER shall complete the attached Revised Employment Plan that will include the information outlined in Section I.P.
- B. The EMPLOYER shall register and post all job vacancies with the Job Bank Services of DOES at www.dcnetworks.org a minimum of 10 days. Should you need assistance posting job vacancies, please contact Job Bank Services at (202) 698-6001.
- C. The EMPLOYER shall notify DOES of all new jobs created for the Project within at least 7 business days (Monday - Friday) of the EMPLOYERS' identification/creation of the new jobs. The Notice of New Job Creation shall include the number of employees needed by job title, qualifications and specific skills required to perform the job, hiring date, rate of pay, hours of work, duration of employment, and a description of the work to be performed. This must be done before using any other referral source.

~~D. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce shall be reported to DOES for placement and referral, if the job is newly created. EMPLOYER shall provide DOES a Notice of New Job Creation that details such promotions in accordance with Section IV.C.~~

- E. The EMPLOYER will submit to DOES, prior to commencing work on the Project, a list of Current Employees that includes the name, social security number, and residency status of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project. All EMPLOYER information reviewed or gathered, including social security numbers, as a result of DOES' monitoring and enforcement activities will be held confidential in accordance with all District and federal confidentiality and privacy laws and used only for the purposes that it was reviewed or gathered.

V. REFERRAL

- A. DOES will screen applicants through carefully planned recruitment and training events and provide the EMPLOYER with a list of qualified applicants according to the number of employees needed by job title, qualifications and specific skills required to perform the job, hiring date, rate of pay, hours of work, duration of employment, and a description of the work to be performed as supplied by the EMPLOYER in its Notice of New Job Creation set forth above in Section IV.C.

- B. DOES will notify the EMPLOYER of the number of applicants DOES will refer, prior to the anticipated hiring dates.

VI. PLACEMENT

- A. EMPLOYER shall in good faith, use reasonable efforts to select its new hires or employees from among the qualified applicants referred by DOES. All hiring decisions are made by the EMPLOYER.
- B. In the event that DOES is unable to refer qualified applicants meeting the EMPLOYER'S established qualifications, within 7 business days (Monday - Friday) from the date of notification from the EMPLOYER, the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. However, the EMPLOYER shall still be required to meet the First Source hiring requirements or hours worked percentages for all jobs created by the Project.
- C. After the EMPLOYER has selected its employees, DOES is not responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

VII. REPORTING REQUIREMENTS

- A. EMPLOYER with a single contract valued at \$300,000 or more on a Project that received government assistance totaling between \$300,000 and \$5,000,000, a provision that at least 51% of the new employees hired to work on the Project shall be District residents.
- B. EMPLOYER shall register in the First Source Online Registration and Reporting System for electronic submission of all monthly Contract Compliance data, weekly certified payrolls and any other documents required by DOES for reporting and monitoring.
- C. EMPLOYER shall submit to the Department of Employment Services each month following the start of the Project a hiring compliance report for the Project that includes the:
 - 1. Number of new job openings created/available;
 - 2. Number of new job openings listed with DOES, or any other District Agency;
 - 3. Number of DC residents hired for new jobs;
 - 4. Number of employees transferred to the Project;
 - 5. Number of DC residents transferred to the Project;
 - 6. Direct or indirect labor cost associated with the project;
 - 7. Each employee's name, job title, social security number, hire date, residence, and referral source; and
 - 8. Workforce statistics throughout the entire project tenure.
- D. EMPLOYER with a single contract valued at \$300,000 or more on a Project that received government assistance totaling \$5 million or more shall meet the following hours worked percentages for all jobs created by the Project:
 - 1. At least 20% of journey worker hours by trade shall be performed by DC residents;
 - 2. At least 60% of apprentice hours by trade shall be performed by DC residents;
 - 3. At least 51% of the skilled laborer hours by trade shall be performed by DC residents; and
 - 4. At least 70% of common laborer hours shall be performed by DC residents.

- E. EMPLOYERS shall provide the following cumulative statistics, that will be used to create the monthly report, by uploading certified payrolls or payroll data into the LCPTracker reporting system:
1. Number of journey worker hours worked by DC residents by trade;
 2. Number of hours worked by all journey workers by trade;
 3. Number of apprentice hours worked by DC residents by trade;
 4. Number of hours worked by all apprentices by trade;
 5. Number of skilled laborer worker hours worked by DC residents by trade;
 6. Number of hours worked by all skilled laborers by trade;
 7. Number of common laborer hours worked by DC residents by trade; and
 8. Number of hours worked by all common laborers by trade.
- F. EMPLOYER may "double count" hours for the "hard to employ" up to 15% of total hours worked by DC Residents; however, a collective bargaining agreement shall not be a basis for waiver of this requirement.
- G. For construction Projects that are not subject to Davis-Bacon law in which certified payroll records do not exist, EMPLOYER shall submit monthly documents of workers employed on the Project to DOES, including DC residents and all employment classifications of hours worked.
- H. EMPLOYER may also be required to provide verification of hours worked or hiring percentages of DC residents, such as internal payroll records for construction Projects that are not subject to Davis-Bacon.
- I. Monthly, EMPLOYER shall submit weekly certified payrolls from all subcontractors at any tier working on the Project to the Contracting Agency. EMPLOYER is also required to make payroll records available to DOES as a part of compliance monitoring, upon request at job sites.

VIII. FINAL REPORT AND GOOD FAITH EFFORTS

A. With the submission of the final request for payment from the Contracting Agency, ~~the Beneficiary and/or EMPLOYER shall:~~

1. Report to DOES its compliance with the hiring or hours worked percentage requirements for all jobs created by the Project, and report the hours that DC residents worked for each trade classifications in each area of the Project; or
 2. Submit to DOES a request for a waiver of the hiring or hours worked percentage requirements for all jobs created by the Project that will include the following documentation:
 - a. Documentation supporting EMPLOYER'S good faith effort to comply;
 - b. Referrals provided by DOES and other referral sources; and
 - c. Advertisement of job openings listed with DOES and other referral sources.
- B. DOES may waive or partially waive the hiring or hours worked percentage requirements for jobs created by the Project, and/or the required hours of DC residents for each trade classifications, if DOES finds that the Beneficiary or EMPLOYER, including its contractors or subcontractors:
1. DOES certified that Beneficiary or Employer demonstrated a good faith effort to comply, as set forth in Section VIII.C.; or

2. Is located outside the Washington Metropolitan Statistical Area, and none of the contract work is performed inside the Washington Metropolitan Statistical Area;
 3. The beneficiary published each job opening or part-time work needed for 7 calendar days in a District newspaper of city-wide circulation; and
 4. The DOES certified that there are insufficient eligible applicants from the First Source Register that possess the skills required by the positions, or the eligible applicants are not available for part-time work or do not have a means to travel to the onsite jobs; or
 5. Beneficiary/Employer entered into a special workforce development training or placement arrangement with DOES or with the District of Columbia Workforce Intermediary.
- C. DOES shall consider documentation of the following when making a determination of a good-faith effort to comply:
1. DOES has certified that there are insufficient number of District residents in the labor market possessing the skills required by the EMPLOYER for the positions created as a result of the Project.
 2. Whether the EMPLOYER posted the jobs on the DOES job website for a minimum of 10 calendar days;
 3. Whether the EMPLOYER advertised each job opening in a District newspaper with city-wide circulation for a minimum of 7 calendar days;
 4. Whether the EMPLOYER advertised each job opening in special interest publications and on special interest media for a minimum of 7 calendar days;
 5. Whether the EMPLOYER hosted informational recruiting or hiring fairs;
 6. Whether the EMPLOYER contacted churches, unions, and/or additional Workforce Development Organizations;
 7. Whether the EMPLOYER interviewed employable candidates;
 8. Whether the EMPLOYER created or participated in a workforce development program approved by DOES;
 9. Whether the EMPLOYER created or participated in a workforce development program approved by the District of Columbia Workforce Intermediary;
 10. Whether the EMPLOYER substantially complied with the relevant monthly reporting requirements set forth in this section;
 11. Whether the EMPLOYER has submitted and substantially complied with its most recent employment plan that has been approved by DOES; and
 12. Any additional documented efforts.

IX. MONITORING

- A. DOES is the District agency authorized to monitor and enforce the requirements of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Official Code §§ 2-219.01 - 2-219.05), and relevant provisions of the Apprenticeship Requirements Amendment Act of 2004 (D.C. Official Code § 2-219.03 and § 32-1431). As a part of monitoring and enforcement, DOES may require and EMPLOYER shall grant access to Project sites, employees, and documents.
- B. EMPLOYER'S noncompliance with the provisions of this Agreement may result in the imposition of penalties
- C. All EMPLOYER information reviewed or gathered, including social security numbers, as a result of DOES' monitoring and enforcement activities will be held confidential in accordance with all District and federal confidentiality and privacy laws and used only for the purposes that it was reviewed or gathered.
- D. DOES shall monitor all Projects as authorized by law. DOES will:
 1. Review all contract controls to determine if the Beneficiary or EMPLOYER, including any Contractors or Subcontractors, are subject to the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011.
 2. Notify stakeholders and company officials and establish meetings to provide technical assistance involving the First Source Process.
 3. Make regular construction site visits to determine if the Prime or Subcontractors' workforce is in concurrence with the submitted Agreement and Monthly Compliance Reports.
 4. Inspect and copy certified payroll, personnel records and any other records or information necessary to ensure the required workforce utilization is in compliance with the First Source Law.
 5. Conduct desk reviews of *Monthly Compliance Reports*.
 6. Educate EMPLOYERS about additional services offered by DOES, such as On-the-Job training programs and tax incentives for EMPLOYERS who hire from certain categories.
 7. Monitor and complete statistical reports that identify the overall project, contractor, and subcontractors' hiring or hours worked percentages.
 8. Provide formal notification of non-compliance with the required hiring or hours worked percentages, or any alleged breach of the First Source Law to all contracting agencies, and stakeholders. *(Please note: EMPLOYERS are granted 30 days to correct any alleged deficiencies stated in the notification.)*

X. PENALTIES

- A. Willful Breach of the Agreement by the EMPLOYER, failure to submit the contract compliance reports, deliberate submission of falsified data may result in DOES imposing a fine of 5% of the total amount of the direct and indirect labor costs of the Project, in addition to other penalties provided by law. Failure to meet the required hiring requirements or failure to receive good faith waiver may result in the Department of Employment Services

imposing a penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the Project for each percentage by which the beneficiary fails to meet the hiring requirements.

- B. EMPLOYERS who have been found in violation 2 times or more over a 10 year period may be debarred and/or deemed ineligible for consideration for Projects for a period of 5 years.
- C. Within 90 days of a Determination of a Penalty, the Beneficiary or Employer may appeal the violations or fines by filing a complaint with the Contract Appeals Board in accordance with D.C. Code §2-360.03 and §2-360.04.

I hereby certify that I have the authority to bind the EMPLOYER to this Agreement from the start of work on the Project, throughout the duration of the Project, and agree to all terms and conditions herein.

By:

Bruce Levin
EMPLOYER Senior Official (Print)

8/2/18
Date

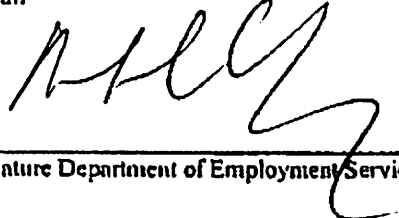

EMPLOYER Senior Official (Signature)

Capitol Hill Cohousing LLC
Name of Company

608 6th Street NE
Washington, DC 20002
Address

202-905-2724
Telephone

joel.kelty@century-associates.com
Email


Signature Department of Employment Services

8-9-18
Date



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
REVISED EMPLOYMENT PLAN**



I. REVISED FIRST SOURCE EMPLOYMENT PLAN

GOVERNMENT-ASSISTED PROJECT/CONTRACT INFORMATION

DISTRICT CONTRACTING AGENCY: Deputy Mayor for Planning and Economic Development
 CONTRACTING OFFICER: Miguel Garcia
 TELEPHONE NUMBER: 202-727-9742
 TOTAL CONTRACT AMOUNT: \$11,950,265
 EMPLOYER CONTRACT AMOUNT: \$8,755,531
 PROJECT NAME: 261 17th Street SE
 PROJECT ADDRESS: 261 17th Street SE
 CITY: Washington STATE: DC ZIP CODE: 20003
 PROJECT DESCRIPTION OF WORK: Construction of 29 dwelling units
 PROJECT START DATE: EST 4/1/2020 PROJECT END DATE: EST 3/31/2021
 EMPLOYER START DATE: TBD EMPLOYER END DATE: TBD

EMPLOYER INFORMATION

EMPLOYER NAME: Capitol Hill Cohousing LLC
 COMPANY NAME: Capitol Hill Cohousing LLC
 EMPLOYER ADDRESS: 608 6th Street NE
 CITY: Washington STATE: DC ZIP CODE: 20002
 TELEPHONE NUMBER: 202-905-2724 FEDERAL IDENTIFICATION NO.: [REDACTED]
 CONTACT PERSON: Joel Kelly
 TITLE: Manager
 E-MAIL: joel.kelly@century-associate.com TELEPHONE NUMBER: 202-905-2724
 EMPLOYER DESCRIPTION OF WORK: Contract, no yet selected, will construct 29 dwelling units

GENERAL CONTRACTOR WILL MEET THE HIRING OR HOURS WORKED PERCENTAGES REQUIREMENTS FOR ENTIRE PROJECT OR PER EACH SUBCONTRACTOR

A. EMPLOYMENT HIRING PROJECTIONS

ALL EMPLOYERS:

Please indicate ALL new position(s) you will create as a result of the project. If you WILL NOT be creating any new employment opportunities, please complete the attached justification sheet with an explanation. Attach additional sheets as needed.

JOB TITLE	# OF JOBS F/T P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A				
B				
C				
D				
E				
F				
G				
H				



GOVERNMENT OF THE DISTRICT OF COLUMBIA
REVISED EMPLOYMENT PLAN



B. JUSTIFICATION SHEET: Please provide a detailed explanation of why the Employer will not have any new hires on the project.

Capitol Hill Cohousing, LLC will not have any workforce but I'll subcontractors will have to comply with First Source.

This page to be completed by Employer

Employer Initials

C. EMPLOYMENT PROJECTIONS



GOVERNMENT OF THE DISTRICT OF COLUMBIA
REVISED EMPLOYMENT PLAN

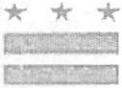


C. EMPLOYMENT PROJECTIONS (Continued)

- IV. This strategy should include a remediation strategy to ameliorate any problems associated with meeting these 51% Hiring of District Resident requirements, including any problems encountered with contractors and subcontractors.
- V. The designation of a senior official from the Employer who will be responsible for implementing the hiring and reporting requirements.
- VI. Provide descriptions of the health and retirement benefits that will be provided to District residents working on the project or contract.
-
- VII. Provide a strategy to ensure that District residents who work on the project or contract receive ongoing employment and training opportunities after they complete work on the job for which they were initially hired and a review of past practices in continuing to employ District residents from one project or contract to the next.

This page to be completed by Employer

Employer Initials



GOVERNMENT OF THE DISTRICT OF COLUMBIA
REVISED EMPLOYMENT PLAN



D. EMPLOYMENT PROJECTIONS (continued)

- VIII. Provide a strategy to hire graduates of District of Columbia Public Schools, District of Columbia Public Charter Schools, community-based job training providers, and hard-to-employ residents.
- IX. Please disclose past compliance with the First Source Employment Agreement Act of 1984 or the Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011 and the Davis-Bacon Act, where applicable, and the bidder or offeror's general District-resident hiring practices on projects or contracts completed within the last two (2) years.
- X. Please note that EMPLOYERS with construction projects must make payroll records available upon request at job sites to the contracting District of Columbia agency.

This page to be completed by Employer

Employer Initials

EXHIBIT _

Form Letter of Credit

ISSUER:
[Name of Bank]
[Bank Address]

Date of Issue: _____, 20__

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [Insert Number]

Beneficiary

District of Columbia, by and through
the Office of Deputy Mayor for
Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004
Attention: Deputy Mayor for Planning
and Economic Development

Applicant

[Name of Developer]
[Address]

AMOUNT: \$ _____

EXPIRY DATE: [Insert Date] subject to renewal provisions herein

Ladies and Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit [Insert Number] ("Letter of Credit") in favor of Beneficiary for the account of Applicant up to an aggregate amount of _____ U.S. DOLLARS (U.S. \$ _____.00). Available for payment when accompanied by the following three items:

1. A draft at sight drawn on [Name of Bank] duly endorsed on its reverse thereof by a duly authorized representative of the Beneficiary, specifically referencing this Letter of Credit Number [Insert Number];
2. The original of this Letter of Credit; and
3. A dated statement issued on the letterhead of Beneficiary, stating: "The amount of this drawing is \$ _____, drawn under Irrevocable Standby Letter of Credit No. [Insert Number] and represents funds due and owing to the District of Columbia." Such statement shall be conclusive as to such matters and Issuer will accept such statement as binding and correct. Issuer shall have no right, duty, obligation or responsibility to evaluate the performance or nonperformance of any underlying agreement between Applicant and Beneficiary before performing under the terms of this Letter of Credit.

-Continues on the next Page-

This Letter of Credit shall automatically renew for one year term upon the Anniversary of the expiry date set forth above (The "Anniversary Date") until [insert date] unless (i) earlier released by Beneficiary in writing or (ii) Issuers delivers written notice to both Applicant and Beneficiary that this Letter of Credit will not be renewed on the Anniversary Date upon which this Letter of Credit will no longer be renewed. Notwithstanding any terms and/or conditions to the contrary, this Letter of Credit will expire no later than [Insert Date].

If a drawing made by Beneficiary under this Letter of Credit reaches the address provided on this Standby Letter of Credit via Courier (FEDEX or DHL) on or prior to 1:00 PM (Eastern Time) on a Business Day (Defined below) and, provided that such drawing and the statement presented in connection therewith conform to the terms and conditions hereof, payments shall be made to Beneficiary in the amount specified, in immediately available funds, on the same Business Day. If a drawing is made by Beneficiary under this Letter of Credit after 1:00 pm (Eastern Time) on a Business Day and, provided that such drawing and the statement presented in connection therewith conform to the terms and conditions hereof, payments shall be made to Beneficiary in the amount specified, in immediately available funds on the next Business Day. If requested by Beneficiary, payment under this Letter of Credit may be deposit of immediately available funds into an account designated by Beneficiary. As used herein, the term "Business Day" shall mean any day other than a Saturday, Sunday or a day on which banking institution in the District of Columbia are authorized or required by law to close.

Drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented by the Mayor, City Administrator, Deputy Mayor for Planning and Economic Development, or one of their duly authorized representatives, on or before the Expiry Date to Issuer's office at the address of Issuer set forth above.

This undertaking is issued subject to the International Standby Practices 1998 ("ISP98"). As to matters not expressly governed by ISP98, this Letter of Credit is governed by and shall be construed in accordance with the laws of the District of Columbia.

This Letter of Credit set forth in full terms of our undertaking. This undertaking shall not in any way be modified, amended, amplified or incorporated by reference to any document, contract or other agreement, without the express written authorization of Issuer, Beneficiary and Applicant.

[Insert Letter of Credit Number]

Page 3

Should you have occasion to communicate with us regarding the Letter of Credit, kindly direct your communication to the attention of Letters of Credit Dept. to the address aforementioned stating as reference our Standby Letter of Credit Number [Insert Letter of Credit Number].

Truly Yours,

Authorized Signature

Authorized Signature

RIGHT-OF-ENTRY AGREEMENT FOR SITE WORK

THIS RIGHT OF ENTRY AGREEMENT FOR SITE WORK (this “ROE”) is made and entered into as of the 31st day of MAY, 2018 (the “Effective Date”) by and between **THE DISTRICT OF COLUMBIA**, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development (“District”), and **Capitol Hill Cohousing, LLC**, a District of Columbia limited liability company having an address at 608 6th Street NE, Washington, DC 20002 (“Selected Respondent”, and along with the District, the “Parties”).

R E C I T A L S:

WHEREAS, District owns in fee the property located at 261 17th Street, S.E. (Lot 802 on Square 1088), Washington, D.C. (the “District Property”);

WHEREAS, District issued a Request for Proposals to develop the District Property and selected the Selected Respondent for negotiation of a land development agreement of the District Property; and

WHEREAS, Selected Respondent, desires to enter the District Property for the purpose of conducting certain Site Work (as defined in Paragraph 1 below) and District has agreed to allow Selected Respondent enter upon the terms and conditions set forth herein.

NOW, THEREFORE, for the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, District and Selected Respondent agree as follows:

1. Right of Entry.

(a) Subject to the terms and conditions of this ROE, commencing on the Effective Date and continuing until the Expiration Date (as defined in Paragraph 2 below), District grants Selected Respondent and its authorized employees, agents, contractors, subcontractors and invitees (collectively “Agents”) the right to enter the District Property at any time during daylight hours Monday through Saturday (unless otherwise specified in this ROE), or at such other times as may be approved by District in writing, for the purpose of conducting site studies necessary to complete construction permit documents and/or procure financing, including, but not limited to, conducting percolation tests, performing geotechnical borings, undertaking a global stability analysis, conducting additional survey work, if specifically permitted by District in writing removing abandoned underground and above-ground storage tanks, performing utility mapping, marking and test borings, performing existing ground water sampling, and undertaking such other investigations reasonably necessary to complete permit documents and/or procure financing for the proposed development at the District Property, and as further described in Exhibit A (collectively, the “Site Work”). No other use shall be made of the District Property by Selected Respondent other than the performance of the aforementioned Site Work without District’s prior written approval, which approval shall be within District’s sole and absolute discretion.

(b) District shall retain the right to restrict the days and times of entry to the District Property, or any portion thereof, provided that written notice of such restriction is delivered to Selected Respondent at least forty-eight (48) hours in advance of the restriction going into effect.

(c) Prior to entering the District Property, Selected Respondent shall provide District with proof of insurance, as required in Paragraph 8 of this ROE.

(d) At the conclusion of the Site Work, Selected Respondent shall, at its sole expense: (i) restore any damage to the District Property caused by Site Work or any activities conducted in connection therewith; (ii) remove all materials from the District Property which are brought onto the District Property by Selected Respondent or Selected Respondent's Agents, such removal shall be in accordance with the terms of this ROE and federal and District law; and (iii) pay in full (or bond over by appropriate proceedings) any and all liens by contractors, subcontractors, materialmen or laborers performing any inspections or any other work for Selected Respondent or Selected Respondent's Agents on or related to the District Property.

(e) District, may at its option, accompany Selected Respondent, its agents, employees, contractors, subcontractors on each entry upon the District Property.

(f) Selected Respondent and its Agents shall not interfere with or impede District or District's agents, licensees, invitees, and employees access and use of the District Property.

(g) During the term of this ROE, Selected Respondent shall prohibit, and assumes the liability for itself and its Agents conducting, the following activities on the District Property (except to the extent caused by the gross negligence or willful misconduct of the District or its authorized agents or representatives). Violation of any provision of this Section 3(g) by Selected Respondent or its Agents shall result in the immediate termination of this ROE without prior notice by the District.

- (i) Digging, scraping and/or excavating on the District Property except for typical activities associated with the Site Work;
- (ii) constructing any improvements on the District Property;
- (iii) any activity deemed to be illegal under the laws of the District of Columbia;
- (iv) exchanging of monies or funds on the District Property;
- (v) connecting to on-site utilities on the District Property, except as specifically approved and supervised by District;
- (vi) conducting any form of a political activity on the District Property;
- (vii) consuming alcoholic beverages on the District Property;
- (viii) using of illegal substances or items such as explosives, firecrackers, firearms, or weapons on the District Property;
- (ix) permitting any hazardous material to be brought upon, kept, used in or about the District Property (provided that the foregoing is not intended and shall not be construed to make Selected Respondent liable for any pre-existing hazardous materials on or under the District Property, irrespective of whether District was aware or not aware of the presence thereof);

- (x) kindling, burning, maintaining, or using fire in any place, portable receptacle, or grill;
- (xi) lighting campfires on the District Property;
- (xii) leaving, throwing away, or tossing any lighted match, cigar, or cigarette, hot coals, or other flammable material within, on, near, or against any tree, building, structure, vehicle, or enclosed and open areas;
- (xiii) engaging in disorderly behavior;
- (xiv) spitting, urinating, or defecating on the District Property except in established locations specifically designed for such purposes; and
- (xv) any and all activities deemed by District and its employees, agents, and officers, including members of the Metropolitan Police Department, in their sole discretion, to be illegal or to be hazardous to persons, property, or the District Property.

2. **Expiration; Termination.** This ROE shall terminate upon the earliest of (i) written notice of such termination as provided in this Section 2, or (ii) September 1, 2018 (the “**Expiration Date**”). This ROE may be terminated by either party, with or without cause, by giving the other party thirty (30) days’ written notice thereof, and thereupon this ROE shall be void and of no further force or effect, and neither party will have any claim against the other, except as to those provisions of this ROE that expressly survive the termination of this ROE.

3. **Notices.**

(a) Notices from Selected Respondent concerning entries upon the District Property by Selected Respondent and its Agents, as provided for in **Paragraph 1**, and the insurance required under **Paragraph 8**, shall be given to or made to District at:

Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20004
Attention: Miguel Garcia
Telephone: 202.727.9742
Email: miguel.garcia@dc.gov

District hereby designates Miguel Garcia as the “**District Representative**” and covenants that such representative, or an alternate designated in writing to Selected Respondent, shall make reasonable efforts to be available to Selected Respondent pursuant to and for the purposes outlined in **Paragraph 1**.

(b) All other notices and communications under this ROE shall be in writing and shall be deemed duly given (i) upon delivery, if delivered by prepaid reputable delivery service (with signed receipt), or by postage paid, certified (return receipt requested) or overnight U.S. mail, or (ii) upon receipt, if sent by facsimile transmission, with electronic verification, or (iii) upon refusal, if delivery is attempted by a means provided in (i). Notices shall be sent:

If to District: Deputy Mayor for Planning and Economic
Development (“DMPED”)
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20004
Attention: Miguel Garcia
Telephone: 202.727.9742
Email: miguel.garcia@dc.gov

with a copy to: Office of the General Counsel to DMPED
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20004
Attention: Xavier Beltran
Telephone: (202)727-5209
Email: Xavier.beltran@dc.gov

If to Selected Respondent: Capitol Hill Cohousing, LLC
608 6th Street, NE
Washington, DC 20002
Attn: Joel Kelty
Telephone: (202) 905-2724
Email: joel.kelty@century-associates.com

Each Party shall be responsible for notifying the other as to any change in its address or facsimile number.

4. **Reports.** Selected Respondent shall promptly provide District with copies of all written summaries, reports, or evaluations of the Site Work within five (5) Business Days of receipt or completion of such summaries, reports, or evaluations related to the physical condition of the District Property, with no representations or warranties as to the accuracy thereof. District makes no representations or warranties as to the presence or absence of Hazardous Materials (defined hereinafter) in, under, about or on the District Property. This provision shall survive the expiration or earlier termination of this ROE.

5. **Removal of Equipment and Waste.** At the expiration or earlier termination of this ROE, Selected Respondent shall remove all tools, equipment, and other personal property from the District Property at its sole cost. This provision shall survive the expiration or earlier termination of this ROE. Upon conclusion of each entry on to the District Property, Selected Respondent or Selected Respondent’s Agents shall remove all trash, refuse and debris generated as a result of the Site Work.

6. **Security.** Selected Respondent shall provide and adequately maintain any barricades, fences, signs, lanterns and other suitable devices as deemed necessary by OSHA for employee and public safety with respect to the Site Work performed hereunder. Selected Respondent shall maintain the security of the areas of the Site Work on the District Property to the reasonable

satisfaction of District during the entire period of entry under this ROE. In the conduct of work undertaken herein, Selected Respondent shall exercise all reasonable and customary safety precautions and shall maintain all work areas on the District Property in a clean and presentable manner.

7. Indemnification. With respect to all activities permitted under this ROE, Selected Respondent shall at all times conform with and abide by the orders and directions of District officials or their duly authorized representatives, indemnifying the same as follows:

(a) Selected Respondent shall indemnify and hold harmless District, its officials, officers, employees, and agents from all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses (including reasonable attorney's fees), of whatsoever kind and nature for injury, including personal injury or death of any person or persons, and for loss or damage to any property, to the extent caused by Selected Respondent and occurring in connection with, or in any way arising out of the use, occupancy, and performance of the work permitted by this ROE; provided, however, the foregoing indemnity shall exclude any claims or liabilities caused by the gross negligence or willful misconduct District, or any claims or liabilities caused by the breach by the District of this ROE, or any claims or liabilities for consequential, punitive or special damages, unless such consequential, punitive or special damages are being claimed against the District by a third party and are related to the matter in question (the "**Excluded Liabilities**").

(b) Selected Respondent shall indemnify and hold harmless District, its officials, officers, employees, and agents from all liabilities, remedial costs, environmental claims, fees, or other expense related to, arising from, or attributable to, any Hazardous Materials introduced by Selected Respondent (including effluent discharged on the District Property) or disturbed as a result of Selected Respondent's activities on the District Property; provided, however, the foregoing indemnity shall not apply to any Excluded Liabilities and further provided the foregoing is not intended and shall not be construed to make Selected Respondent liable for the discovery of any pre-existing hazardous material on or under the District Property, whether or not District was aware or not aware of the presence thereof.

(c) Selected Respondent expressly indemnifies and shall defend District against any claims by Selected Respondent's Agents who perform any activity on the District Property; provided, however, the foregoing indemnity shall exclude any claims or liabilities caused by the gross negligence or willful misconduct of District. This ROE shall not be construed as granting Selected Respondent or any Agent of Selected Respondent the right to place any lien, mechanic's lien, or any charge on the District Property.

(d) If any action or proceeding as described in this Paragraph 7 is brought against District, its officials, officers, or employees, upon written notice from District to Selected Respondent, Selected Respondent shall, at its sole expense, resist or defend such action or proceeding by counsel approved in writing by the Office of the General Counsel to DMPED ("**OGC-DMPED**") or the Office of the Attorney General for the District of Columbia ("**OAG**"); *provided, however*, that such approval shall not be unreasonably withheld, delayed, conditioned or charge made therefor. In the event OGC-DMPED or the OAG takes any legal action required to defend District against such action, Selected Respondent shall promptly reimburse District for

all liabilities, obligations, penalties, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, damages, disbursements or expenses of any kind (including reasonable attorneys' and experts' fees and expenses and fees and expenses reasonably incurred by District in investigating, defending, or prosecuting any litigation, claim, or proceeding) that may at any time be imposed upon, incurred by, or asserted or awarded against District or any of them in connection with or arising from or out of this ROE; provided, however, the foregoing indemnity shall not apply to any Excluded Liabilities. Attorneys' fees incurred by OGC-DMPED or OAG shall be calculated based on the then applicable hourly rates established in the most current *Laffey* matrix prepared by the Civil Division of the United States Attorney's Office for the District of Columbia and the number of hours employees in the OGC-DMPED and/or OAG prepared for or participated in such action or proceeding.

(e) The obligations contained in this Paragraph 7 shall survive expiration or the earlier termination of this ROE.

8. Insurance.

(a) GENERAL REQUIREMENTS. The Selected Respondent at its sole expense shall procure and maintain, during the entire period of performance under this ROE, the types of insurance specified below. The Selected Respondent shall have its insurance broker or insurance company submit a Certificate of Insurance to the District Representative giving evidence of the required coverage prior to entering the District Property under this ROE. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the District Representative. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. The Selected Respondent shall require all of its contractors and subcontractors procured by Selected Respondent to perform the Site Work (the "Contractors") to carry the same insurance required herein.

All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Selected Respondent and its Contractors (except for workers' compensation and professional liability insurance) as an additional insureds for claims against The Government of the District of Columbia relating to this ROE, with the understanding that any affirmative obligation imposed upon the insured Selected Respondent or its Contractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Selected Respondent or its Contractors, and not the additional insured. The additional insured status under the Selected Respondent's and its Contractors' Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 and CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. All of the Selected Respondent's and its Contractors' liability policies (except for workers' compensation and professional liability insurance) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent

so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an additional insured) for all claims against the additional insured arising out of the Selected Respondent's or its Contractors' entry onto the Property , or the entry by anyone for whom the Selected Respondent or its Contractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

If the Selected Respondent and/or its Contractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Selected Respondent and its Contractors.

1. **Commercial General Liability Insurance.** The Selected Respondent shall provide evidence satisfactory to the District Representative with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the District Representative in writing), covering liability for all ongoing and completed operations of the Selected Respondent, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an insured contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.
2. **Automobile Liability Insurance.** The Selected Respondent shall provide evidence satisfactory to the District Representative of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the District Representative in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Selected Respondent, with minimum per accident limits equal to the greater of (i) the limits set forth in the Selected Respondent's commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. **Workers' Compensation Insurance.** The Selected Respondent shall provide evidence satisfactory to the District Representative of Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

Employer's Liability Insurance. The Selected Respondent shall provide evidence satisfactory to the District Representative of employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

4. **Crime Insurance (3rd Party Indemnity).** The Selected Respondent shall provide a 3rd Party Crime policy to cover the dishonest acts of Selected Respondent's employees which result in a loss to the District. The policy shall provide a limit of \$100,000 per occurrence.
5. **Environmental Liability Insurance.** The Selected Respondent shall provide evidence satisfactory to the District Representative of pollution legal liability insurance covering losses caused by pollution conditions that arise from the ongoing or completed operations of the Selected Respondent pursuant to this ROE. Completed operations coverage shall remain in effect for at least ten (10) years after completion of the work. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), cleanup costs, liability and cleanup costs while in transit, and defense (including costs and expenses incurred in the investigation, defense and settlement of claims). There shall be neither an exclusion nor a sublimit for mold-related claims. The minimum limits required under this paragraph shall be equal to the greater of (i) the limits set forth in the Selected Respondent's pollution legal liability policy or (ii) \$2,000,000 per occurrence and \$2,000,000 in the annual aggregate. If such coverage is written on a claims-made basis, the Selected Respondent warrants that any retroactive date applicable to coverages under the policy precedes the Selected Respondent's entry onto the District Property under the ROE and that continuous coverage will be maintained or an extended reporting period will be exercised for at least ten (10) years after completion. The Selected Respondent also must furnish to the District Representative certificates of insurance evidencing pollution legal liability insurance maintained by the transportation and disposal site operators(s) used by the Selected Respondent for losses arising from facility(ies) accepting, storing or disposing hazardous materials or other waste as a result of the Selected Respondent's entry onto the District Property. Such coverages must be maintained with limits of at least the amounts set forth above.
6. **Contractor Policy of Professional Liability.** The Selected Respondent shall provide evidence satisfactory to the District Representative of contractor's professional liability insurance as follows: \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate.
7. **Commercial Umbrella Liability.** The Selected Respondent shall provide

evidence satisfactory to the District Representative of commercial umbrella liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Selected Respondent's umbrella liability policy or (ii) \$5,000,000 per occurrence and \$5,000,000 in the annual aggregate, following the form and in excess of the underlying employers' liability, commercial general liability, and commercial automobile liability policies, with an effective date that is concurrent with such liability policies. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.

- (b) **PRIMARY AND NONCONTRIBUTORY INSURANCE** The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.
- (c) **DURATION.** The Selected Respondent shall carry all required insurance until all contract work is accepted by the District of Columbia, and shall carry listed coverages for ten years for construction aspects of the Site Work following completion of the Site Work and two years for non-construction related contracts.
- (d) **LIABILITY.** These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE SELECTED RESPONDENT'S LIABILITY UNDER THIS CONTRACT.**
- (e) **SELECTED RESPONDENT'S PROPERTY.** Selected Respondent and its Contractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
- (f) **MEASURE OF PAYMENT.** The District shall not make any separate measure or payment for the cost of insurance and bonds. Selected Respondent or its Agents shall be responsible for all of the costs of insurance and bonds.
- (g) **NOTIFICATION.** The Selected Respondent shall ensure that all policies provide that the District Representative shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Selected Respondent shall provide the District Representative with ten (10) days' prior written notice in the event of non-payment of premium. The Selected Respondent will also provide the District Representative with an updated Certificate of Insurance should its insurance coverages renew during the contract.

- (h) **CERTIFICATES OF INSURANCE.** The Selected Respondent shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to entry onto the District Property. Certificates of insurance must reference the address of the District Property. Evidence of insurance shall be submitted to **the Government of the District of Columbia, and mailed to the attention of:**

Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Ave, NW, Suite 317
Washington, DC 20004
Attention: Eastern Branch Boys and Girls Club Project Manager

The District Representative may request and the Selected Respondent shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or certified copies of the insurance policies. If the insurance initially obtained by the Selected Respondent expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the District Representative prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the District Representative on an annual basis as the coverage is renewed (or replaced).

- (i) **DISCLOSURE OF INFORMATION.** The Selected Respondent agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out the entry onto the District Property by the Selected Respondent, its agents, employees, servants or subcontractors.
- (j) **CARRIER RATINGS.** All Selected Respondent's and its Contractors' insurance required in connection with this ROE shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the in the District of Columbia.

9. **Liability.** Without prejudice to any other rights District may have, Selected Respondent is responsible, in accordance with applicable laws, for the acts and omissions of its Agents that cause injuries to persons or damages to the District Property, including any claims arising from such injuries or damages, caused by or arising from the Site Work permitted under this ROE, except as any of the foregoing may be caused by the Excluded Liabilities. Neither party shall have any liability for the actions, omissions, or negligence of the other party or their authorized agents or representatives. Neither the grant of this ROE, nor any provision thereof, shall impose upon District any new or additional duty or liability or enlarge any existing duty or liability of District under this ROE.

10. **Licenses/Permits.** Selected Respondent is solely responsible for obtaining any necessary licenses and permits for the work permitted under this ROE, including transportation and disposal

of materials and waste. The District's Office of the Deputy Mayor for Planning and Economic Development shall support and join with the Selected Respondent in any and all such applications for necessary licenses and permits for the Site Work under this ROE, provided that the District shall not be responsible for the payment of any fees or other charges related thereto. The spoil (soil and water), if any, produced by Selected Respondent shall be stored, and disposed of, in strict compliance with local and federal laws and at the Selected Respondent's sole cost and expense. Prior to the removal of any non-hazardous materials and debris from the District Property, Selected Respondent shall provide District written notice of the location to which the materials and debris are to be disposed.

11. Utilities. Selected Respondent shall be solely responsible for coordinating with the utility companies regarding any activity to be performed on the District Property. Selected Respondent shall be solely responsible for the proper containment and removal of all utility lines on or near the District Property. Selected Respondent shall defend and hold harmless District against any claims by any utility company resulting from Selected Respondent's direct or indirect activities on the District Property.

12. Hazardous Materials. Selected Respondent shall immediately notify District if it discovers Hazardous Materials on the District Property. "Hazardous Materials" means (a) asbestos and any asbestos containing material; (b) any substance that is then defined or listed in, or otherwise classified pursuant to, any Environmental Law or any other Applicable Law as a "hazardous substance," "hazardous material," "hazardous waste," "infectious waste," "toxic substance," or "toxic pollutant" or any other formulation intended to define, list or classify substances by reason of deleterious properties, such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or Toxicity Characteristic Leaching Procedure (TCLP) toxicity; (c) any petroleum and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; and (d) any petroleum product, polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive material (including any source, special nuclear or by-product material), medical waste, chlorofluorocarbon, lead or lead-based product, and any other substance the presence of which could be detrimental to the Property or hazardous to health or the environment. "Environmental Laws" means any present and future federal, state or local law and any amendments (whether common law, statute, rule, order, regulation or otherwise), permits and other requirements or guidelines of Governmental Authorities and relating to (a) the protection of health, safety, and the indoor or outdoor environment; (b) the conservation, management, or use of natural resources and wildlife; (c) the protection or use of surface water and groundwater; (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of or exposure to Hazardous Materials; or (e) pollution (including any release to air, land, surface water, and groundwater), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and subsequently amended, 42 U.S.C. § 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. § 1251 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 32701 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136-136y, the Clean Air Act, as amended, 42 U.S.C. §

7401 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq.; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f et seq.; the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et seq.; the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq.; and any similar, implementing, or successor law, and any amendment, rule, regulatory order, or directive issued thereunder.

13. **Not a Contract for Services.** This ROE is not intended, nor shall it be deemed or construed, as a contract for services or to bind District to convey the District Property to Selected Respondent. Nothing contained in this ROE and no future action or inaction by District shall be deemed or construed to mean that District has contracted with Selected Respondent to perform any activity on the District Property, including, but not limited to, the permitted use pursuant to this ROE. Selected Respondent expressly acknowledges that District is prohibited by law from entering into contracts for services without following the procedures set forth in the Procurement Practices Reform Act of 2010, D.C. Official Code §§ 2-351.01 et seq., as amended, and all financial obligations of District or any subsequent agreement entered into by the parties are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1350, and 1351; (ii) the D.C. Official Code § 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 et seq., as the foregoing statutes may be amended from time to time; (iv) § 446 of the District of Columbia Home Rule Act, and (v) other applicable Federal and District law. Under no circumstance shall Selected Respondent be entitled to reimbursement from District for any activities permitted by this ROE on the District Property.

14. **Compliance with Applicable Laws.** Selected Respondent shall comply with all applicable federal, state and District of Columbia laws, and existing regulations promulgated thereunder in its use and activities permitted pursuant to this ROE.

15. **No Waiver.** Nothing in this ROE shall be deemed to waive any rights of any kind that either party now has, or may hereinafter have, to assert any claim against the other party or any other person or entity, including, without limitation, claims with respect to any and all past events or entry on the District Property and activities of either party hereunder.

16. **No Right, Title, or Interest.** Nothing contained in this ROE and no action or inaction by District shall be deemed or construed to mean that District has granted Selected Respondent any right, power, or permission to do any act or make any agreement that may create, give rise to, or be the foundation for any right, title, interest, lien, or charge to the District Property, including, but not limited to, the grant of a license or easement in the District Property.

17. **Applicable Law and Binding Nature; Waiver of Jury Trial.** This ROE shall be construed under the laws of the District of Columbia without reference to conflicts of laws principles. This ROE shall be binding upon the heirs, personal representatives, successors, grantees, and assigns of the respective parties hereto.

(a) Selected Respondent and District, their respective successors and assigns, each waives trial by jury in any action, proceeding, claim, or counterclaim brought in connection with any matter arising out of or in any way connected with this ROE, the relationship of District and

Selected Respondent hereunder, Selected Respondent's entry on the District Property, and/or any claim of injury or damage.

(b) Selected Respondent and District each waives any objection to the venue of any action filed in any court situated in the jurisdiction in which the District Property is located, and waives any right, claim, or power, under the doctrine of *forum non conveniens* or otherwise, to transfer any such action to any other court.

18. Entire Agreement. This ROE constitutes the entire agreement between the Parties with respect to the subject matter hereof and shall not be modified or amended in any manner except by an instrument in writing executed by the parties as an amendment to this ROE.


19. Counterparts. This ROE may be executed in counterparts, each separately and together constituting one and the same document. Execution and delivery of this ROE by electronic means shall be sufficient for all purposes.

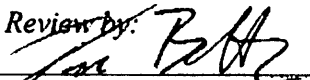

[Signatures appear on the following pages.]

IN WITNESS WHEREOF, District and Selected Respondent have executed this ROE as of the date and year first above written.

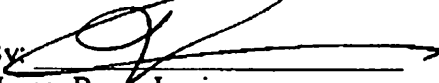
DISTRICT:

THE DISTRICT OF COLUMBIA, by and through the Office of the Deputy Mayor for Planning and Economic Development

By: 
Name: Brian T. Kenner
Title: Deputy Mayor for Planning and Economic Development

Legal Review by: 
By: 
Name: Xavier Beltran
Title: Associate General Counsel

SELECTED RESPONDENT:
Capitol Hill Cohousing LLC, a District of Columbia limited liability company

By: 
Name: Bruce Levin
Title: Member

Right of Entry - Exhibit A

Permitted Activities

Physical Building

1. Invasive

- a) **Building Assessment** (potentially invasive): Would include an evaluation of the roof and various other building systems to determine what is salvageable and what is not.
- b) **Structural**: An Existing Conditions Survey will be conducted to test for structural integrity in various areas of the building, which may include opening walls and ceilings.
- c) **Utilities** (potentially invasive): Water, sewer, and fire pressure, as well as electrical capacity will be measured and tested, meetings with the utilities may be warranted.
- d) **Environmental**: Testing of environmental conditions and performance of existing equipment or systems may be executed if necessary.
- e) **Hazardous Materials**: Samples from various areas of the building, walls, floors, window seals, piping, etc., which may require piercing walls and other areas of the building.

2. Non-Invasive

- a) **ADA & Code Compliance**: A survey of the existing building is required. This survey will document all elements of the building that are not in compliance with local building codes to document what is required to meet code and ADA compliance.
- b) **Site & As-built Survey**: Property line, boundaries, adjacent land, elevations, site plan, etc will be documented.
- c) **Dimensions**: Exterior and interior measurements checked.

District Property (not Occupied by the building)

3. Invasive

- a) **Geotech and Environmental Site Assessment**: The selected respondent will receive all required permitting prior to executing invasive site work.

4. Non-Invasive

- a) **Site Survey**: Exterior site survey of all elements outside the exterior façades will be required to be documented in this existing condition survey. This is to include sidewalks, side yards, alley's, curbs, green spaces, etc. to provide a complete inventory of site elements.

Any other activity that is not covered under the scope of work above will need to be sent to the District prior to initiation of work



EDGAR-1

OP ID: D.J

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/27/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Russell Ins. Group, Inc. (MAR)
A Subsidiary of ACNB Corp.
2526 West Liberty Road
Westminster, MD 21157
Douglas C. Marks
410-875-5617

CONTACT NAME: Debra Jeffries x5821
PHONE (A/C, No, Ext): 410-875-5617
FAX (A/C, No): 410-875-5340
E-MAIL ADDRESS: djeffries@riginsurance.com

INSURED EDG Architects
3 Bethesda Metro Ctr #110
Bethesda, MD 20814

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Continental Casualty Company	20443
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ. <input type="checkbox"/> LOC <input type="checkbox"/> OTHER						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (EA occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> Hired AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTIONS						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH. ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			AEH004313314 \$5,000 DEDUCTIBLE	07/14/2017	07/14/2018	Per Claim 2,000,000 Aggregate 4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

District of Columbia Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Ave. Ste 317
Washington, DC 20004

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Debra Jeffries

ACORD 25 (2016/03)

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October 17, 2017

VIA ELECTRONIC MAIL

TO: Jennifer E. Samolyk 6B01@anc.dc.gov K. Diane Hoskins 6B02@anc.dc.gov
 James M. Loots 6B03@anc.dc.gov Kirsten Oldenburg 6B04@anc.dc.gov
 Steve Hagedorn 6B05@anc.dc.gov Nick Burger 6B06@anc.dc.gov
 Aimee M. Grace 6B07@anc.dc.gov Chander Jayaraman 6B08@anc.dc.gov
 Daniel Ridge 6B09@anc.dc.gov K. Denise Rucker Krepp 6B10@anc.dc.gov

CC: Chair, Economic Development Committee Kenyan McDuffie kmcduffie@dccouncil.us
 Ward 6 Councilmember Charles Allen callen@dccouncil.us

RE: Eastern Branch Boys and Girls Club – Public Disposition Hearing

Dear Commissioners of ANC 6B,

Pursuant to D.C. Official Code § 10-801 *et seq.*, the District will conduct a public disposition hearing to receive comments on the proposed uses of the Eastern Branch Boys and Girls Club property, located at 261 17th Street S.E., Washington, D.C. (“Property”). This public disposition hearing will be held in order to obtain community comments and suggestions on the proposed use of the Property. Received comments and suggestions will be submitted to the Council of the District of Columbia for its review.

The date, time and location of the public disposition hearing and community meeting is:

Date: Thursday, November 16, 2017
 Time: 6:30 p.m. – 8:30 p.m.
 Location: St. Coletta of Greater Washington
 1901 Independence Avenue S.E.
 Washington, D.C. 20003

Written public comments and suggestions will be accepted in person at the public disposition hearing and via email to miguel.garcia@dc.gov until Thursday, November 16, 2017.

You may contact Miguel Garcia, DMPED Project Manager, at (202) 727-9742 or via email should you have any questions about the public disposition hearing.

Brian T. Kenner
 Deputy Mayor



**OFFICE OF THE DEPUTY MAYOR FOR
PLANNING AND ECONOMIC DEVELOPMENT**

**NOTICE OF PUBLIC DISPOSITION HEARING
PURSUANT TO D.C. OFFICIAL CODE §10-801
FOR EASTERN BRANCH BOYS AND GIRLS CLUB**

Pursuant to D.C. Official Code § 10-801 *et seq.*, the District will conduct a public disposition hearing to receive comments on the proposed uses of the Eastern Branch Boys and Girls Club property, located at 261 17th Street S.E., Washington, D.C. (“Property”). This public disposition hearing will be held to obtain community comments and suggestions on the proposed use of the Property. Received comments and suggestions will be submitted to the Council of the District of Columbia for its review.

The date, time and location of the public disposition hearing is:

Date: Thursday, November 16, 2017
Time: 6:30 p.m. – 8:30 p.m.
Location: St. Coletta of Greater Washington
1901 Independence Avenue SE
Washington, D.C. 20003

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GOVERNMENT OF THE DISTRICT OF COLUMBIA

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OFFICE OF THE DEPUTY MAYOR FOR PLANNING AND
ECONOMIC DEVELOPMENT

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PUBLIC DISPOSITION HEARING FOR EASTERN BRANCH
BOYS AND GIRLS CLUB

+ + + + +

THURSDAY
NOVEMBER 16, 2017

+ + + + +

The Public Disposition Hearing met in the Cafeteria of St. Coletta of Greater Washington, 1901 Independence Avenue, SE, Washington, D.C., at 7:00 p.m., Gilles Stucker, Associate Director of Real Estate, presiding.

PRESENT

MIGUEL GARCIA, Project Manager, DC Office of the Deputy Mayor for Planning and Economic Development

GILLES STUCKER, Associate Director of Real Estate, DC Office of the Deputy Mayor for Planning and Economic Development

IKENNA UDEJIOFOR, Portfolio Division, Department of General Services

VALECIA WILSON, Community Planner, Office of Planning

1 P-R-O-C-E-E-D-I-N-G-S

2 7:01 p.m.

3 MR. STUCKER: Welcome to the
4 District's first Public Disposition Meeting under
5 the new Land Disposition Transparency and
6 Clarification Amendment Act of 2014.

7 My name is Gilles Stucker, I'm the
8 Associate Director of Real Estate at the Office
9 of the Deputy Mayor for Planning and Economic
10 Development.

11 And I'm here with two colleagues and
12 I'll have them introduce themselves.

13 MR. GARCIA: Hello, my name is Miguel
14 Garcia, I'm the Project Manager for the Eastern
15 Boys and Girls Club.

16 MR. UDEJIOFOR: Good evening, folks,
17 my name is Ikenna Udejiofor. I'm from the
18 Department of General Services in the Portfolio
19 Division.

20 MR. STUCKER: So, tonight's Public
21 Disposition Hearing is being recorded obviously.

22 And this recording will be part of

1 what we submit to the Council with the
2 disposition package for this project.

3 So, the purpose of tonight's Meeting
4 I think is important to go over.

5 It was in the Hearing announcement
6 that the Public Disposition Hearing is being
7 conducted to receive comments on the proposed
8 uses of the Eastern Branch Boys and Girls Club.

9 The Hearing is being held to obtain
10 community comments and suggestions under proposed
11 use of property, and received comments will go to
12 the Council.

13 A little bit of background for --
14 folks in the room all know probably, but for
15 purposes of the record, I'd like to just give a
16 brief background of the project.

17 The Eastern Branch Boys and Girls Club
18 was once an active space for youth. That was in
19 1937. The building served as a regulation
20 center, including classes and indoor swimming
21 pool.

22 Due to declining enrollment and rising

1 operation and maintenance costs, the building was
2 closed in 2007. It has remained occupied ever
3 since.

4 The District of Columbia purchased the
5 property in 2010. The building is in need of
6 both interior and exterior repair and has been
7 the target of a number of break-ins.

8 The property was transferred to the
9 Office of Deputy Mayor for Planning and Economic
10 Development, DMPED, for potential redevelopment.

11 In 2016, Mayor Muriel Bowser
12 determined that this site would be part of the
13 RFP process.

14 The RFP process seeks community input
15 early in the RFP process, so the community
16 priorities and needs are included in the RFP as
17 part of the development and selection process.

18 A summary of the recent events, so the
19 first RFP workshop occurred on January 28 of
20 2017. There was a follow-up Meeting on February
21 16 of that same year, this year, and that was
22 also the public surplus Meeting.

1 On April 26, we issued the RFP for
2 this project. There were two amendments
3 subsequent to that, and the submissions were due
4 on July 31st.

5 On October 17th of this year, the ANC
6 6B Commissioners were notified of this Hearing.
7 The notice was published in the D.C. Register on
8 October 27th.

9 On October 30th, the Hearing was
10 posted on the property. And thanks to
11 Commissioner Ridge and others, I've also made it
12 aware during the ANC meetings.

13 A few developer presentations have
14 occurred in the last several public meetings,
15 including the Hill East Taskforce Meeting, the
16 Planning and Zoning Committee Meeting of the ANC,
17 as well as the full ANC Meeting which occurred on
18 November 2nd, 7th, and 14th.

19 And tonight's hearing on the 16th
20 concludes the open period for public comments.
21 So, for tonight, if you'd like to make any public
22 oral comments, I'd ask that you use the

1 microphone.

2 And for purposes of the transcribing,
3 please state your name and speak, if you can, a
4 little slower and clearer so it can be
5 transcribed for the record.

6 Also, if you want to have any written
7 comments for tonight, feel free to bring them up
8 to the front table, drop them off, or find us
9 tonight so we can make sure they're part of the
10 public record as well.

11 Also, Miguel Garcia, his email address
12 is where you can send any electronic comments,
13 through this evening. It's been open now for I
14 think about 30 days for open comments. We've
15 received quite a bit, which is nice.

16 Thank you for attending tonight's
17 Hearing. Tonight is about receiving your
18 comments and suggestions.

19 We have build developers who have
20 responded to the RFP present, but for purpose of
21 this Hearing, we'll receive your comments.

22 Once the Hearing concludes, the

1 developers will be available to answer questions
2 and answers. We wanted to have them here to hear
3 what you, as a public, wanted to see in this
4 project.

5 So, with that, I'll hand it over to
6 folks who want to provide their comments and
7 suggestions.

8 If you'd like to come up to the
9 microphone you can, or I can hand this microphone
10 up to folks.

11 MS. SEDGEWICK: Can you tell us what
12 this process is and what the next steps are?

13 MR. STUCKER: Sure, that's a process
14 question. So, bit of background, in any
15 Government or DMPED project, we need to seek two
16 things from the Council, the ability to surplus
17 the property, and then the ability to dispose of
18 it.

19 So, those are the two resolutions that
20 we submit to Council for any development deal,
21 and most of our development deals that we put
22 through our Office.

1 So, on February 16th, we had a Public
2 Surplus Meeting, which the reason is, they have
3 to see is there a Governmental purpose? Should
4 the property be surplus?

5 Tonight, there's a new law going into
6 effect, and it's actually the first Hearing we're
7 ever having in this regard, to talk about what
8 uses should this project have when it's disposed
9 of.

10 So, it's a little bit new. Folks
11 would not have had this opportunity before, but
12 we're excited to hear your comments and
13 suggestions.

14 Does that answer your question?

15 MS. SEDGEWICK: Yes, and is there a
16 timeframe? Or you're collecting things tonight,
17 and then they go into some hopper?

18 MR. STUCKER: Right, so what we do is
19 we'll collect all the testimony tonight, and
20 written comments that have been sent to Miguel
21 for tonight that we'll receive in hard copy.

22 That will be packaged into one

1 document that would go with our requests to the
2 Council for authority to dispose of the property.

3 So, verbatim, whatever you say tonight
4 will go in the public record.

5 MR. KELTY: And once the Council
6 receives that, they vote to do so.

7 MR. STUCKER: Right, so the Council
8 will have a Hearing on the surplus and
9 disposition.

10 There are two different Committees
11 within the Council, and those Committees will
12 vote hopefully to approve the surplus and
13 disposition, and therefore, then will move
14 forward with entering into a contract for the
15 project.

16 MS. SINGER: Do you present a
17 recommendation to the Council based on what you
18 hear tonight? Or do you just say, you should just
19 close it?

20 MR. STUCKER: The purpose of tonight
21 was to receive your comments related to the
22 disposition.

1 When we submit a request for surplus
2 and disposition, it requests that we have the
3 authority to surplus and to dispose of the
4 property.

5 MS. SINGER: Do they have a
6 recommendation for it?

7 MR. STUCKER: It does because we're
8 requesting that it be surplus. So, we want it
9 to be surplus, so the recommendation is to
10 surplus and to dispose of.

11 The comments received tonight will
12 help us in determining what the end use of
13 property is.

14 MS. GRACE: What's the basis on which
15 you will make that recommendation? Obviously not
16 just on our comments because we don't even have
17 to worry about it.

18 You're going to just do what we want
19 you to do. There must be something other than
20 that that you're going to -- what's your criteria
21 for making your recommendation to the Council?

22 What is it that you're looking at from

1 a community standpoint, from a public policy
2 standpoint? What are the criteria?

3 MR. STUCKER: Right, so we have the
4 RFP itself which identifies the criteria for
5 selection, as well as we have the comments from
6 you tonight.

7 We have the great wake from the ANC
8 and their recommendation or resolution. So, the
9 RFP actually is quite expansive in terms of its
10 scope and breadth in our consideration.

11 Sir, yes?

12 MR. SISOLAK: I've attended several of
13 these meetings, and I don't know if it was ever
14 resolved from your perspective, from DMPED's
15 perspective, whether this would be a private
16 lease, a 99-year private lease, or an outright
17 fee simple sale?

18 MR. STUCKER: I think it was when we
19 had the Hill East Taskforce Meeting, that
20 question was asked to Sarosh Olpadwala, our
21 Director of Real Estate, and I think his answer
22 was that it hasn't been determined whether it

1 will be a ground lease or a sale at this point.

2 And I think, yes, that's in question,
3 Tim.

4 MR. SISOLAK: I got four. It can't be
5 both.

6 MR. STUCKER: Correct, it cannot be
7 both.

8 MR. SISOLAK: So, how are you going to
9 make a decision on which it is?

10 MR. STUCKER: We'll take all the
11 proposals in and we'll look at them.

12 MR. SISOLAK: So, you have to be
13 determined during the whole process?

14 MR. STUCKER: Correct. So, let's move
15 to the comments. Would anyone like to start this
16 evening? First person, anyone? I'll just pick
17 someone if not.

18 (Laughter.)

19 MS. GRACE: I'm Anne Grace. I live at
20 13th and F Northeast. I'm fairly new to the
21 community; I've only been here about 12 years.

22 But I'm at a point in my life, my

1 husband and I, where we have to think about the
2 future. And we had researched continuing care
3 facilities and that type of thing.

4 We looked at staying in our own home,
5 and we've been Members of Capitol Hill Village
6 for 10, 11 years now. The bottom line is there
7 are very limited opportunities for seniors to age
8 comfortably.

9 We face challenges at times in our
10 lives, and as we get older, the challenges become
11 very difficult sometimes.

12 And this is an opportunity for the
13 City to learn if you select the co-housing,
14 senior co-housing developer, it's an opportunity
15 for the City to begin to understand what options
16 you can provide to seniors in this City, other
17 than what you currently provide, which is a
18 building full of seniors with no services
19 whatsoever. Or commercial nursing homes.

20 There's nothing in -- there's Thomas
21 House, Ingleside, a very expensive choice to
22 make.

1 And the senior centers that I am
2 familiar with that are on G Street and down in
3 Southeast, those folks have a solid home and a
4 place to live, but the City provides nothing from
5 a community standpoint.

6 They have to make it up on their own,
7 or it just isn't going to happen.

8 And I think it's time for the City to
9 understand or start learning what different
10 options can we provide to seniors. And right
11 now, our community is growing and we don't see
12 the City being able to do that. Thank you.

13 MR. CONLY: I have a written document
14 to submit.

15 MR. STUCKER: Thank you, I'll take it.

16 MS. ALERS: I too have a written
17 document.

18 MS. ZANIELLO: Hi, I'm Fran Zaniello.
19 I'm actually right around the corner. I'm also
20 new to Capitol Village.

21 MR. STUCKER: Excuse me, could you
22 repeat your name?

1 MS. ZANIELLO: Hi, I'm Fran Zaniello.

2 MR. STUCKER: Can you spell your last
3 name?

4 MS. ZANIELLO: Z-A-N-I-E-L-L-O. I'm
5 retired here with my husband and we've been here
6 for ten years. And we're right around the corner
7 from the Boys and Girls Club.

8 And I want to say many things that
9 Anne said. I had known people, seniors, who had
10 ended up in these apartment complexes where there
11 is no opportunity for interaction among people.

12 And so they're very unlike co-housing,
13 they can be very burdensome, people don't interact.
14 I'm someone, my husband and I both, we really
15 want to stay on Capitol Hill.

16 We've lived in one of these crazy
17 little houses that are nothing but stairs, and
18 we're thinking aloud that what are we going to
19 do?

20 And I would hope that this co-housing
21 thing, as someone said, if the City sees that is
22 a very exciting option, I would hope that this

1 Boys and Girls Club co-housing facility is just
2 the first.

3 And I think, frankly, it will show the
4 country that D.C.'s quite visionary in their
5 approach to seniors. So, we're very interested
6 in the social opportunities that we would have in
7 co-housing.

8 We want to stay on the Hill. We'd
9 like to be, of course, in senior housing, and I
10 really hope the City goes with this.

11 I think it's terribly exciting and I
12 hope it's just the first of several in the City.
13 Thanks.

14 MS. SEDGEWICK: My name is Susan
15 Sedgewick and we live at 223 Eighth Street
16 Southeast. That's my husband, John, and I'm
17 going to read my statement.

18 First off, I want you guys to think of
19 me as your mother, your aunt, and maybe even your
20 grandmother.

21 I think I'm a healthy 73-year-old
22 woman but I do use handrails on stairs more often

1 than I used to.

2 I know my 77-year-old husband and I
3 have numbered days in our multi-story home. I
4 know as we grow older, keeping our home up, even
5 though there is help, it will be impossible.

6 Capitol Hill Village is helping us
7 enjoy life to the fullest here on the Hill, where
8 we have lived for 40 years.

9 The Village is also helping us prepare
10 for our future for when we become frail and not
11 able to do for ourselves like getting to evening
12 community meetings like this.

13 There are frail people that wanted to
14 come but they can't come out at night, and it's
15 just very, very difficult. So, that's something
16 you should be aware of.

17 You've got the healthy seniors here.
18 There's a lot more of us still at home and
19 concerned.

20 We have older friends who have moved
21 out of D.C. to Maryland, to senior communities,
22 to live where they could have support in their

1 daily living lives.

2 Some are still couples, others are now
3 single women, widows. It is sad when people have
4 to move away from their beloved neighborhood and
5 friends to get services they will need as they
6 continue to age.

7 Also, we note that they are leaving
8 the tax base of D.C.

9 My husband and I want our future to be
10 on Capitol Hill, where we reared our son, go to
11 church, have friends and longstanding.

12 We're connected to our community and
13 have so far rejected moving even across the line
14 to Maryland. Well, what are our options?

15 We do not want to move to an apartment
16 building or condo, where you only see neighbors
17 when picking up your mail or in the elevator.

18 We also know that we will need extra
19 care at some point in time. That's why I'm
20 supporting the senior co-housing option for
21 Capitol Hill.

22 The housing option being proposed by

1 Century Development Co-Housing is a concept that
2 encourages community among its residents. It is
3 designed to force people to see each other and to
4 connect, so neighbors can help neighbors.

5 There is a potential opportunity for
6 hosting broader community events and perhaps even
7 services for children.

8 The concept builds neighborhood, not
9 an apartment house.

10 The proposal offers caregivers that
11 would be available for home health care aids that
12 would provide support for the residents.

13 In discussing this concept with my
14 peers, I hear, especially from single and widowed
15 women, enthusiasm.

16 The good news is that some of the
17 units are being proposed under the City
18 definition of affordable, and affordable has a
19 lot of different meanings, like what's affordable
20 for me?

21 What's affordable for somebody else?

22 What's affordable for very low-income people?

1 There's a whole range there.

2 But we are excited that such a
3 facility would be in our neighborhood. As the
4 number of elderly residents in the City's
5 increased, the need for senior housing to support
6 services and community building will rise.

7 This proposal, the Century proposal,
8 provides some near-term capability to help meet
9 the need by recognizing the need to support
10 senior housing for people at all income levels,
11 especially subsidized rental units with the very
12 low-income seniors.

13 Thank you.

14 MR. RIDGE: I'm still writing so if
15 anybody else --

16 (Laughter.)

17 MR. SISOLAK: My name is Bill Sisolak.
18 I can spell that for you as Fran did, S-I-S-O-L-
19 A-K. My wife and I have lived on the Hill for
20 half a century, since 1967.

21 And I don't know if I can say much
22 more than everyone who's coming forth. And

1 certainly, Anne was elegant in what she said
2 about the need for this kind of facility for
3 seniors on the Hill.

4 But I think if the Village has
5 demonstrated one thing, it's that we can create
6 this co-community kind of thing.

7 And we've been members of the Village,
8 basically, since day one, for ten years now.

9 And I think that kind of organic
10 spirit on the Hill among those of us can be
11 reflected in the success of this co-housing
12 proposal.

13 And again, the landowners have said
14 think of this as a demonstration project for what
15 can happen across all the eight wards in the
16 District.

17 You have an opportunity here to do
18 something creative, something new. There are
19 plenty of opportunities for standard Congo-type
20 developments, both brand and construction, and
21 they're retrofitting these old buildings.

22 I sat on the Zoning Committee for 6C

1 so I've seen the stuff for over ten years. I'm a
2 formal AFC Commissioner in 6C. But this is
3 different.

4 This is something where you can really
5 show the City what can be done with this co-
6 housing concept, which has proven success
7 throughout the country, in probably environments
8 that are not maybe as conducive as this one is.

9 This will succeed, and I think it will
10 make everyone associated with it succeed with it.

11 Thank you.

12 MR. MYERS: My name is Jim Myers. I
13 live at 1418 C Street, more or less a couple of
14 blocks behind the old church.

15 I've lived in this community since the
16 mid-1980s, which was a time when people said I
17 should have my head examined for wanting to live
18 here. I did notice at that time that the
19 neighborhood changed.

20 One of the sad things I've noticed
21 over the last 30 years, is that one by one, we've
22 lost major social institutions that were turned

1 into, more or less, condos or market-value
2 housing.

3 We lost major churches to housing. We
4 lost schools to housing. We've seen MDOS that
5 were used for recreation turn into housing.

6 At 7B, I remember arguing at the time
7 they were going to close the Boys and Girls Club.
8 That if they didn't just stick around a while,
9 there were going to be kids a plenty who were
10 going to need services in our community. But the
11 Boys and Girls Club went too.

12 And I think it's time to say couldn't
13 we just have some socially valuable institutions
14 in our community? I think the senior co-housing
15 project is such a thing, and so I say, just as a
16 matter of justice, that's the choice that should
17 be made.

18 MR. RIDGE: First, I'd like to
19 associate myself with Jim Myer's remarks. I'm
20 Dan Ridge, and a lot of you know me as the
21 Commissioner for ANC 6B09.

22 And so I want to make clear at this

1 moment that I'm speaking tonight just for myself,
2 a thing I have not done so far in this process.

3 I am a resident of the neighborhood
4 and I'm speaking for myself because the ANC has
5 now had its say, and because the residents nearby
6 the project have been so traumatized by their
7 interactions with the City over this property
8 that they don't need any other level of City
9 bureaucracy to filter their views for them.

10 In my opinion, I think this RFP
11 process is an almost pathological mismatch for
12 this property.

13 It does not need to be rigged to
14 produce a mostly residential outcome. It is
15 structured to generate that outcome.

16 Even with that bias, this specific RFP
17 was rigged to steer this process towards
18 residences.

19 How so? It was required that you had
20 CBE participation, which excluded nonprofits, the
21 same nonprofits you might most reasonably expect
22 to be involved in the rehabilitation of the

1 community center.

2 It required that respondents to have
3 developed three similar projects, a near
4 impossibility for a team redeveloping a
5 neighborhood community center.

6 DMPED, in describing the possible uses
7 of this building to residents, constrained the
8 discussion to only those matter of right uses.

9 DMPED lumped most non-residential uses
10 together into institutional. This is perhaps the
11 scariest way to describe the purpose of this
12 building over its last 70 years.

13 And so what do we have before us now?
14 Two proposals that require a zoning case anyway.

15 The liquidation of 40,000 square feet
16 of community space into housing is especially
17 jarring, because this building is specifically
18 enumerated in the comprehensive plan as a
19 community facility.

20 Because it is perhaps the last best
21 hope for Hill East to have the kind of amenity
22 that is supposed to flow from the density we are

1 told to accept.

2 Mayor Bowser's recent Amazon bombshell
3 for Reservation 13 has only served to dim
4 prospects of meaningful community support here.

5 Most jarring is to have seen since the
6 Boys and Girls Club closed that the Hill Center
7 could be reclaimed from a state worse than the
8 Boys and Girls club is now.

9 It is a joy for the hill and an
10 example of what is possible.

11 If this RFP is to be issued, if we are
12 to trade our building for between five and ten
13 percent back in community space, then let me
14 throw my personal weight behind the Century
15 Associates plan.

16 This plan is audacious. This plan is
17 exciting. This plan, even though replicated
18 successfully elsewhere, will be developed here by
19 the residents themselves. This is an experiment.

20 In my mind, this tips the balance.
21 This experimentation itself is a community
22 service.

1 I would encourage the City Council to
2 set aside the property taxes generated by this
3 project to be dedicated to the 11th Street
4 Community Land Trust so that over time,
5 additional units could be purchased on the open
6 market at market rates for this project, as they
7 become available, so that the affordability of
8 this project could be preserved and deepened over
9 time.

10 If the City does not foresee co-
11 housing in the Boys and Girls Club, it should
12 take for itself a mandate to substantiate it in
13 almost exactly the form proposed at Reservation
14 13.

15 Thank you.

16 MR. STUCKER: So, for folks who came
17 in the resident oral comments, feel free to come
18 up. If you have any written comments, feel free
19 to bring them to the front.

20 MR. MYERS: Or read them into the
21 record.

22 MR. STUCKER: Or you could read it

1 into the record as well.

2 MS. SINGER: My name is Molly Singer.
3 I'm the Executive Director of Capitol Hill
4 Village, and I think the Boys and Girls Club
5 worked. It created good citizens that have gone
6 far and done good things in the community.

7 And some of the folks you've heard
8 from tonight have not been here for their
9 lifetimes, but especially in Hill East, there's
10 many residents that have been here for their
11 lifetimes, and in 1937 when it opened, could
12 likely have been the youth that were benefitting
13 from the Boys and Girls Club.

14 And I think it's a perfect circle that
15 they have the opportunity to benefit from that
16 again.

17 These are the citizens on Capitol
18 Hill, many of whom you have seen here, that have
19 built community preschools, have built the
20 cluster schools and some of the finest elementary
21 schools in the City, have built Sports on the
22 Hill, Moms on the Hill, Capitol Hill Arts

1 Workshop, and most recently, Capitol Hill
2 Village.

3 All of these have been gifts of hard
4 work and vision, giving back to the community,
5 and I think creating a co-housing is two parts.
6 Well, probably five parts.

7 First, it's a gift to the seniors,
8 recognizing and providing them with the potential
9 of rewarding them with what they can do.

10 It's been clear that this is a group
11 of people that can come together and build a
12 community.

13 And they do it through their own
14 creativity, through their own hard work, through
15 their own sweat. And as a result, it benefits
16 the larger community.

17 Also, social isolation is a greater
18 health threat than obesity or a lifetime of
19 smoking.

20 And by health threat, that means a
21 threat to increased calls for emergency services,
22 increased demand on healthcare, and generally,

1 increased cost to the City, to the public sector.

2 And so creating the housing
3 opportunity for seniors that really reduces
4 social isolation has a dividend greater for all
5 of the City.

6 So, I think supporting the co-housing
7 is deserved by the citizens, a benefit to the
8 City, and as others have said, a model that will
9 last and hopefully be replicated broadly.

10 And I'll say in the same way that
11 Washington D.C. now has 13 Villages and there are
12 more seniors served through Washington D.C.
13 Villages than are served through all eight D.C.
14 senior centers.

15 In the same way that Capitol Hill
16 Village was the first of those and has often been
17 a model along the way, this can be a beginning
18 template for a healthy senior community.

19 Thank you.

20 MR. BRENNAN: Hello, my name is Bruce
21 Brennan. I live at 509 E Dapple Street. I think
22 the need for subsidized housing of any nature in

1 the City is palpable and growing.

2 And I am delighted to support the
3 senior co-housing plans, particularly because of
4 its subsidized element.

5 I think you hear how this community is
6 going to be so supportive of whatever experiments
7 you're willing to undertake with this proposal.

8 And I understand that in fact, however
9 it will serve, whether it's seniors from
10 throughout the City, it's important, I think in
11 making your decisions about the viability of the
12 senior co-housing project, to understand that
13 you've got such a strong element here in this
14 community, whether they are residents or they are
15 not, that are determined to make a plan like this
16 a success.

17 And I think that, I hope, will give
18 you the confidence of doing whatever leap of
19 faith you made by the need to go in, furthering
20 the goal of making sure there's subsidized
21 housing available to all throughout City and
22 recognizing the need of the seniors especially in

1 that regard.

2 Thank you.

3 MS. SISOLAK: I'm Vira Sisolak, spelt
4 the same way it's spelt.

5 (Laughter.)

6 I've been the Chair of the housing
7 Committee of Capitol Village for about six years.
8 I was on the Board for six years.

9 During that period of time, we made
10 every effort to team up with development on the
11 Hill, new development, new apartments, now, more
12 frequently, new condos.

13 From the very beginning when we heard
14 about co-housing, five, six years ago, we were
15 entranced by it, because to us, it is the answer
16 for seniors. It's the answer for all people, but
17 particularly, it's the answer for seniors.

18 Of the numbers standing in the
19 Village, we lost members who had moved when they
20 didn't want to because they couldn't deal with
21 the steps, they couldn't deal with the constant
22 maintenance of the homes.

1 So, we're tired of that. We want
2 these people to stay.

3 One other element that nobody has
4 talked about is the non-affordable units.
5 Anybody who goes on the Hill has an understanding
6 of what's happening to our housing prices.

7 Those of us who bought 50 years ago
8 pay almost nothing for our houses, and they're
9 now worth something that most of us consider to
10 be a small fortune.

11 So, there is no doubt that there are
12 people on the Hill who can afford to move into
13 the market-rate units.

14 And I think there will be so many
15 people that there will be a demand for it, just
16 like there has been a demand for some of the
17 condos.

18 I don't know if you folks keep up with
19 condo development very much, but if you have the
20 school, which is on Eleventh Street, Twelfth, and
21 you put it before the units are completed.

22 In one week, they sold half for the 40

1 condos. That's how great the demand is. And
2 these are people, for the most part, who live
3 nearby and just can't live in their houses
4 anymore.

5 But they can afford these condos and
6 they want them, and the fact that the market rate
7 on these may be high, it's all relative.

8 It all depends how much your current
9 house is worth and what your options are. You
10 don't necessarily have to sell your house, there
11 are other types of options, and I believe people
12 will come up with them.

13 Because we know from our members that
14 people are interested in moving out of the
15 rowhouses. It just becomes too much.

16 And whatever alternatives we can
17 provide, either through Capitol Village or
18 through urging others like the City to develop or
19 allow developers to establish different kinds of
20 housing, is something we really support it.

21 And we truly hope you can support the
22 co-housing project too, because this really is

1 the answer.

2 MS. GLANZ: Hi, my name is Judith
3 Glanz and I'm new here in co-housing and I'm very
4 excited about it.

5 Fortunately, I'm not that person but
6 many of my friends in the community are in their
7 30s and 40s and 50s, and because of my own life
8 situation, single and childless, we talk amongst
9 ourselves about how are we going to stay in our
10 homes with the steep staircases and all of the
11 amenities that you don't have as a community.

12 And it's another consideration in this
13 pipeline. There are people who love this
14 community and want to stay in it, and even if
15 they're not sure whether eventually they'll have
16 empty nests.

17 But those folks are all starting to
18 think about how can they stay in the community.

19 And I think as many people have said,
20 Capitol Hill has been a model for many projects
21 elsewhere, and if you grade this project and it's
22 successful, you'll have a pipeline for many

1 others who want to stay on the Hill and are
2 thinking about their senior years already.

3 And once you have a model in place
4 that works effectively, the building on that and
5 many other payments become available. Thanks.

6 MS. ALLERS: Hi, I'm Ellen Allers, the
7 last name is spelt A-L-L-E-R-S. I'm a Member of
8 Capitol Hill Village.

9 I also am getting older myself and
10 I've got a heart condition that is going to put
11 me in the hospital and told me not to go up and
12 down the stairs even earlier than some people.

13 What I would say about many of the
14 amendments, we said in an earlier Meeting, even
15 boxes, you can live in condos in a nice,
16 comfortable one-bedroom box.

17 And some mention, well, just go
18 downstairs out of your condo and have a cup of
19 coffee at the local coffee shop. It's right
20 there.

21 And I thought to myself wouldn't it be
22 better to come out of your apartment, down the

1 stairs, into your common area, and have a cup of
2 coffee with your neighbor?

3 You see your neighbor every day. You
4 look in on your neighbor, you know them. And co-
5 housing it a beautiful tap of that. It's not an
6 experiment, it's not something that's way out
7 there and brand new.

8 It's well established in Europe and
9 it's really quite an exciting and healing
10 experience. And I think we need to move out of
11 the boxes and back together.

12 The nice thing also about this is all
13 those who have been on the Hill for a long time
14 will be available to the children in the
15 neighborhood.

16 There was an opportunity to interact
17 with them, public spaces that are planned to be
18 within the co-housing. And they give tremendous
19 opportunities for elders to interact with kids.

20 They learn from children and the
21 elders give back to those children and teach and
22 interact and become co-mingled as a beautiful

1 soup. Or maybe a savory stew, I don't know.

2 (Laughter.)

3 But it's a really warm, wonderful
4 thing, and it gets us out of the box and back
5 into the community, and makes it that much more
6 of a fluid environment. Thank you.

7 MR. SISOLAK: Can we talk twice?

8 (Laughter.)

9 MR. CONLY: My name is Robert Conly
10 and I have Parkinson's Disease. So, we were
11 quite sure I wouldn't come up with anything. So
12 I'll try my best.

13 I know without a doubt that even
14 getting a bus now in a few years will be hard.
15 I'll need a lot of support.

16 I think it's a big problem for people
17 with Parkinson's because being unwell, I don't
18 get along. So, the idea of being in a community,
19 in one building, is very appealing to me. I
20 think I'm not alone. Thank you.

21 MR. SISOLAK: Again, Bill, that's a
22 fascinating idea because so many of us have

1 raised children here who have moved away and
2 become, as I like to say bi-coastal.

3 You know, one son in New York in this
4 family, one in Seattle with his family, so this
5 co-housing thing with the community center and
6 using that facility to serve children will give
7 us an opportunity to serve the experience of the
8 kids of the community. At least our own
9 grandchildren, who are spread across the country.
10 So, thank you.

11 MR. STUCKER: One last time, if folks
12 came in late, if you'd like to make any comments,
13 feel free to do so. Also, if you'd like to read
14 your testimony into the record you can or you can
15 drop it at the front desk. Going once?

16 Is there anyone else that would like
17 to make any public comments? Yes, one more? Or
18 at least one more.

19 MR. KRUGHOFF: Good morning, I'm
20 Robert Krughoff, I've been a resident here for 49
21 years and --

22 MR. STUCKER: Can you spell your name?

1 MR. KRUGHOFF: K-R-U-G-H-O-F-F, and I
2 did send an email so I'm not sure if you got
3 that.

4 I think it's a great idea for a
5 location. I think it will be an ideal location.
6 I think others feel like this, and so I hope we
7 can go forward with it and I'd like to see their
8 recommendation be the one that prevails.

9 MR. STUCKER: Anyone else? All right,
10 so we'll conclude this public disposition Hearing
11 time.

12 So, what we'll do now is we have both
13 developers here. If you have any specific
14 questions to each of the teams, folks and tenants
15 are able to mingle with the developers.

16 But thank you so much for your
17 attendance tonight. It was very good to have
18 good perspectives from each of you and I
19 appreciate it, from the City, for your attendance
20 and thoughts. Thank you.

21 (Whereupon, the above-entitled matter
22 went off the record at 7:44 p.m.)

A			
<p>A-K 20:19 A-L-L-E-R-S 36:7 ability 7:16,17 able 14:12 17:11 40:15 above-entitled 40:21 accept 26:1 Act 2:6 active 3:18 additional 27:5 address 6:11 AFC 22:2 afford 33:12 34:5 affordability 27:7 affordable 19:18,18,19 19:21,22 age 13:7 18:6 ago 32:14 33:7 aids 19:11 ALERS 14:16 Allers 36:6,6 allow 34:19 aloud 15:18 alternatives 34:16 Amazon 26:2 Amendment 2:6 amendments 5:2 36:14 amenities 35:11 amenity 25:21 ANC 5:5,12,16,17 11:7 23:21 24:4 Anne 12:19 15:9 21:1 announcement 3:5 answer 7:1 8:14 11:21 32:15,16,17 35:1 answers 7:2 anybody 20:15 33:5 anymore 34:4 anyway 25:14 apartment 15:10 18:15 19:9 36:22 apartments 32:11 appealing 38:19 appreciate 40:19 approach 16:5 approve 9:12 April 5:1 area 37:1 arguing 23:6 Arts 28:22 aside 27:2 asked 11:20 associate 1:13,17 2:8 23:19 associated 22:10 Associates 26:15 attendance 40:17,19 attended 11:12</p>	<p>attending 6:16 audacious 26:16 aunt 16:19 authority 9:2 10:3 available 7:1 19:11 27:7 31:21 36:5 37:14 Avenue 1:12 aware 5:12 17:16</p> <hr/> <p>B</p> <p>back 26:13 29:4 37:11 37:21 38:4 background 3:13,16 7:14 balance 26:20 base 18:8 based 9:17 basically 21:8 basis 10:14 beautiful 37:5,22 beginning 30:17 32:13 believe 34:11 beloved 18:4 benefit 28:15 30:7 benefits 29:15 benefitting 28:12 best 25:20 38:12 better 36:22 bi-coastal 39:2 bias 24:16 big 38:16 Bill 20:17 38:21 bit 3:13 6:15 7:14 8:10 blocks 22:14 Board 32:8 bombshell 26:2 bottom 13:6 bought 33:7 Bowser 4:11 Bowser's 26:2 box 36:16 38:4 boxes 36:15 37:11 Boys 1:6 2:15 3:8,17 15:7 16:1 23:7,11 26:6,8 27:11 28:4,13 Branch 1:5 3:8,17 brand 21:20 37:7 breadth 11:10 break-ins 4:7 Brennan 30:20,21 brief 3:16 bring 6:7 27:19 broader 19:6 broadly 30:9 Bruce 30:20 build 6:19 29:11 building 3:19 4:1,5 13:18 18:16 20:6 25:7</p>	<p>25:12,17 26:12 36:4 38:19 buildings 21:21 builds 19:8 built 28:19,19,21 burdenly 15:13 bureaucracy 24:9 bus 38:14</p> <hr/> <p>C</p> <p>C 22:13 Cafeteria 1:12 calls 29:21 capability 20:8 Capitol 13:5 14:20 15:15 17:6 18:10,21 28:3,17,22 29:1 30:15 32:7 34:17 35:20 36:8 care 13:2 18:19 19:11 caregivers 19:10 case 25:14 CBE 24:20 center 3:20 25:1,5 26:6 39:5 centers 14:1 30:14 century 19:1 20:7,20 26:14 certainly 21:1 Chair 32:6 challenges 13:9,10 changed 22:19 childless 35:8 children 19:7 37:14,20 37:21 39:1,6 choice 13:21 23:16 church 18:11 22:14 churches 23:3 circle 28:14 citizens 28:5,17 30:7 City 13:13,15,16 14:4,8 14:12 15:21 16:10,12 19:17 22:5 24:7,8 27:1,10 28:21 30:1,5 30:8 31:1,10,21 34:18 40:19 City's 20:4 Clarification 2:6 classes 3:20 clear 23:22 29:10 clearer 6:4 close 9:19 23:7 closed 4:2 26:6 club 1:6 2:15 3:8,17 15:7 16:1 23:7,11 26:6,8 27:11 28:4,13 cluster 28:20 co- 22:5 27:10 37:4 co-community 21:6</p>	<p>co-housing 13:13,14 15:12,20 16:1,7 18:20 19:1 21:11 23:14 29:5 30:6 31:3,12 32:14 34:22 35:3 37:18 39:5 co-mingled 37:22 coffee 36:19,19 37:2 Coletta 1:12 colleagues 2:11 collect 8:19 collecting 8:16 Columbia 1:1 4:4 come 7:8 17:14,14 27:17 29:11 34:12 36:22 38:11 comfortable 36:16 comfortably 13:8 coming 20:22 comments 3:7,10,11 5:20,22 6:7,12,14,18 6:21 7:6 8:12,20 9:21 10:11,16 11:5 12:15 27:17,18 39:12,17 commercial 13:19 Commissioner 5:11 22:2 23:21 Commissioners 5:6 Committee 5:16 21:22 32:7 Committees 9:10,11 common 37:1 communities 17:21 community 1:21 3:10 4:14,15 11:1 12:21 14:5,11 17:12 18:12 19:2,6 20:6 22:15 23:10,14 25:1,5,16,19 26:4,13,21 27:4 28:6 28:19 29:4,12,16 30:18 31:5,14 35:6,11 35:14,18 38:5,18 39:5 39:8 completed 33:21 complexes 15:10 comprehensive 25:18 concept 19:1,8,13 22:6 concerned 17:19 conclude 40:10 concludes 5:20 6:22 condition 36:10 condo 18:16 33:19 36:18 condos 23:1 32:12 33:17 34:1,5 36:15 conductive 22:8 conducted 3:7 confidence 31:18 Congo-type 21:19</p>

Conly 14:13 38:9,9
connect 19:4
connected 18:12
consider 33:9
consideration 11:10
 35:12
constant 32:21
constrained 25:7
construction 21:20
continue 18:6
continuing 13:2
contract 9:14
copy 8:21
corner 14:19 15:6
Correct 12:6,14
cost 30:1
costs 4:1
Council 3:1,12 7:16,20
 9:2,5,7,11,17 10:21
 27:1
country 16:4 22:7 39:9
couple 22:13
couples 18:2
course 16:9
crazy 15:16
create 21:5
created 28:5
creating 29:5 30:2
creative 21:18
creativity 29:14
criteria 10:20 11:2,4
cup 36:18 37:1
current 34:8
currently 13:17

D

D.C 1:13 5:7 17:21 18:8
 30:11,12,13
D.C.'s 16:4
daily 18:1
Dan 23:20
Dapple 30:21
day 21:8 37:3
days 6:14 17:3
DC 1:16,18
deal 7:20 32:20,21
deals 7:21
decision 12:9
decisions 31:11
declining 3:22
dedicated 27:3
deepened 27:8
definition 19:18
delighted 31:2
demand 29:22 33:15,16
 34:1
demonstrated 21:5
demonstration 21:14

density 25:22
Department 1:19 2:18
depends 34:8
Deputy 1:3,16,18 2:9
 4:9
describe 25:11
describing 25:6
deserved 30:7
designed 19:3
desk 39:15
determined 4:12 11:22
 12:13 31:15
determining 10:12
develop 34:18
developed 25:3 26:18
developer 5:13 13:14
developers 6:19 7:1
 34:19 40:13,15
development 1:3,17,18
 2:10 4:10,17 7:20,21
 19:1 32:10,11 33:19
developments 21:20
different 9:10 14:9
 19:19 22:3 34:19
difficult 13:11 17:15
dim 26:3
Director 1:13,17 2:8
 11:21 28:3
discussing 19:13
discussion 25:8
Disease 38:10
dispose 7:17 9:2 10:3
 10:10
disposed 8:8
disposition 1:5,11 2:4,5
 2:21 3:2,6 9:9,13,22
 10:2 40:10
District 1:1 4:4 21:16
District's 2:4
dividend 30:4
Division 1:19 2:19
DMPED 4:10 7:15 25:6
 25:9
DMPED's 11:14
document 9:1 14:13,17
doing 31:18
doubt 33:11 38:13
downstairs 36:18
drop 6:8 39:15
due 3:22 5:3

E

E 30:21
earlier 36:12,14
early 4:15
East 5:15 11:19 25:21
 28:9
Eastern 1:5 2:14 3:8,17

Economic 1:3,16,18 2:9
 4:9
effect 8:6
effectively 36:4
effort 32:10
eight 21:15 30:13
Eighth 16:15
either 34:17
elderly 20:4
elders 37:19,21
electronic 6:12
elegant 21:1
element 31:4,13 33:3
elementary 28:20
elevator 18:17
Eleventh 33:20
Ellen 36:6
email 6:11 40:2
emergency 29:21
empty 35:16
encourage 27:1
encourages 19:2
ended 15:10
enjoy 17:7
enrollment 3:22
entering 9:14
enthusiasm 19:15
entranced 32:15
enumerated 25:18
environment 38:6
environments 22:7
especially 19:14 20:11
 25:16 28:9 31:22
establish 34:19
established 37:8
Estate 1:13,18 2:8
 11:21
Europe 37:8
evening 2:16 6:13
 12:16 17:11
events 4:18 19:6
eventually 35:15
exactly 27:13
examined 22:17
example 26:10
excited 8:12 20:2 35:4
exciting 15:22 16:11
 26:17 37:9
excluded 24:20
Excuse 14:21
Executive 28:3
expansive 11:9
expect 24:21
expensive 13:21
experience 37:10 39:7
experiment 26:19 37:6
experimentation 26:21
experiments 31:6

exterior 4:6
extra 18:18

F

F 12:20
face 13:9
facilities 13:3
facility 16:1 20:3 21:2
 25:19 39:6
fact 31:8 34:6
fairly 12:20
faith 31:19
familiar 14:2
family 39:4,4
far 18:13 24:2 28:6
fascinating 38:22
February 4:20 8:1
fee 11:17
feel 6:7 27:17,18 39:13
 40:6
feet 25:15
filter 24:9
find 6:8
finest 28:20
first 2:4 4:19 8:6 12:16
 16:2,12,18 23:18 29:7
 30:16
five 26:12 29:6 32:14
flow 25:22
fluid 38:6
folks 2:16 3:14 7:6,10
 8:10 14:3 27:16 28:7
 33:18 35:17 39:11
 40:14
follow-up 4:20
force 19:3
foresee 27:10
form 27:13
formal 22:2
forth 20:22
Fortunately 35:5
fortune 33:10
forward 9:14 40:7
four 12:4
frail 17:10,13
Fran 14:18 15:1 20:18
frankly 16:3
free 6:7 27:17,18 39:13
frequently 32:12
friends 17:20 18:5,11
 35:6
front 6:8 27:19 39:15
full 5:17 13:18
fullest 17:7
furthering 31:19
future 13:2 17:10 18:9

G

G 14:2
Garcia 1:16 2:13,14 6:11
General 1:20 2:18
generally 29:22
generate 24:15
generated 27:2
getting 17:11 36:9 38:14
gift 29:7
gifts 29:3
Gilles 1:13,17 2:7
Girls 1:6 2:15 3:8,17 15:7 16:1 23:7,11 26:6,8 27:11 28:4,13
give 3:15 31:17 37:18 37:21 39:6
giving 29:4
Glanz 35:2,3
go 3:4,11 8:17 9:1,4 18:10 31:19 36:11,17 40:7
goal 31:20
goes 16:10 33:5
going 8:5 10:18,20 12:8 14:7 15:18 16:17 23:7 23:9,10 31:6 35:9 36:10 39:15
good 2:16 19:16 28:5,6 39:19 40:17,18
Government 1:1 7:15
Governmental 8:3
Grace 10:14 12:19,19
grade 35:21
grandchildren 39:9
grandmother 16:20
great 11:7 34:1 40:4
greater 1:12 29:17 30:4
ground 12:1
group 29:10
grow 17:4
growing 14:11 31:1
guys 16:18

H

half 20:20 33:22
hand 7:5,9
handrails 16:22
happen 14:7 21:15
happening 33:6
hard 8:21 29:3,14 38:14
head 22:17
healing 37:9
health 19:11 29:18,20
healthcare 29:22
healthy 16:21 17:17 30:18
hear 7:2 8:12 9:18

19:14 31:5
heard 28:7 32:13
hearing 1:5,11 2:21 3:5 3:6,9 5:6,9,19 6:17,21 6:22 8:6 9:8 40:10
heart 36:10
held 3:9
Hello 2:13 30:20
help 10:12 17:5 19:4 20:8
helping 17:6,9
Hi 14:18 15:1 35:2 36:6
high 34:7
hill 5:15 11:19 13:5 15:15 16:8 17:6,7 18:10,21 20:19 21:3 21:10 25:21 26:6,9 28:3,9,18,22,22,22 29:1 30:15 32:11 33:5 33:12 35:20 36:1,8 37:13
home 13:4 14:3 17:3,4 17:18 19:11
homes 13:19 32:22 35:10
hope 15:20,22 16:10,12 25:21 31:17 34:21 40:6
hopefully 9:12 30:9
hopper 8:17
hospital 36:11
hosting 19:6
house 13:21 19:9 34:9 34:10
houses 15:17 33:8 34:3
housing 16:9 18:22 20:5,10 22:6 23:2,3,4 23:5 25:16 27:11 30:2 30:22 31:21 32:6 33:6 34:20 37:5
husband 13:1 15:5,14 16:16 17:2 18:9

I

idea 38:18,22 40:4
ideal 40:5
identifies 11:4
Ikenna 1:19 2:17
important 3:4 31:10
impossibility 25:4
impossible 17:5
included 4:16
including 3:20 5:15
income 20:10
increased 20:5 29:21 29:22 30:1
Independence 1:12
indoor 3:20

Ingleside 13:21
input 4:14
institutional 25:10
institutions 22:22 23:13
interact 15:13 37:16,19 37:22
interaction 15:11
interactions 24:7
interested 16:5 34:14
interior 4:6
introduce 2:12
involved 24:22
isolation 29:17 30:4
issued 5:1 26:11

J

January 4:19
jarring 25:17 26:5
Jim 22:12 23:19
John 16:16
joy 26:9
Judith 35:2
July 5:4
justice 23:16

K

K-R-U-G-H-O-F-F 40:1
keep 33:18
keeping 17:4
KELTY 9:5
kids 23:9 37:19 39:8
kind 21:2,6,9 25:21
kinds 34:19
know 3:14 11:13 17:2,4 18:18 20:21 23:20 33:18 34:13 37:4 38:1 38:13 39:3
known 15:9
Krughoff 39:19,20 40:1

L

Land 2:5 27:4
landowners 21:13
larger 29:16
late 39:12
Laughter 12:18 20:16 32:5 38:2,8
law 8:5
leap 31:18
learn 13:13 37:20
learning 14:9
lease 11:16,16 12:1
leaving 18:7
let's 12:14
level 24:8
levels 20:10
life 12:22 17:7 35:7

lifetime 29:18
lifetimes 28:9,11
limited 13:7
line 13:6 18:13
liquidation 25:15
little 3:13 6:4 8:10 15:17
live 12:19 14:4 16:15 17:22 22:13,17 30:21 34:2,3 36:15
lived 15:16 17:8 20:19 22:15
lives 13:10 18:1
living 18:1
local 36:19
location 40:5,5
long 37:13
longstanding 18:11
look 12:11 37:4
looked 13:4
looking 10:22
lost 22:22 23:3,4 32:19
lot 17:18 19:19 23:20 38:15
love 35:13
low-income 19:22 20:12
lumped 25:9

M

mail 18:17
maintenance 4:1 32:22
major 22:22 23:3
making 10:21 31:11,20
Manager 1:16 2:14
mandate 27:12
market 27:6,6 34:6
market-rate 33:13
market-value 23:1
Maryland 17:21 18:14
matter 23:16 25:8 40:21
Mayor 1:3,16,18 2:9 4:9 4:11 26:2
MDOS 23:4
meaningful 26:4
meanings 19:19
means 29:20
meet 20:8
Meeting 2:4 3:3 4:20,22 5:15,16,17 8:2 11:19 36:14
meetings 5:12,14 11:13 17:12
Member 36:7
members 13:5 21:7 32:19 34:13
mention 36:17
met 1:11

microphone 6:1 7:9,9
 mid-1980s 22:16
 Miguel 1:16 2:13 6:11
 8:20
 mind 26:20
 mingle 40:15
 mismatch 24:11
 model 30:8,17 35:20
 36:3
 Molly 28:2
 moment 24:1
 Moms 28:22
 morning 39:19
 mother 16:19
 move 9:13 12:14 18:4
 18:15 33:12 37:10
 moved 17:20 32:19
 39:1
 moving 18:13 34:14
 multi-story 17:3
 Muriel 4:11
 Myer's 23:19
 Myers 22:12,12 27:20

N

name 2:7,13,17 6:3
 14:22 15:3 16:14
 20:17 22:12 28:2
 30:20 35:2 36:7 38:9
 39:22
 nature 30:22
 near 25:3
 near-term 20:8
 nearby 24:5 34:3
 necessarily 34:10
 need 4:5 7:15 18:5,18
 20:5,9,9 21:2 23:10
 24:8,13 30:22 31:19
 31:22 37:10 38:15
 needs 4:16
 neighbor 37:2,3,4
 neighborhood 18:4
 19:8 20:3 22:19 24:3
 25:5 37:15
 neighbors 18:16 19:4,4
 nests 35:16
 new 2:5 8:5,10 12:20
 14:20 21:18 32:11,11
 32:12 35:3 37:7 39:3
 news 19:16
 nice 6:15 36:15 37:12
 night 17:14
 non-affordable 33:4
 non-residential 25:9
 nonprofits 24:20,21
 Northeast 12:20
 note 18:7
 notice 5:7 22:18

noticed 22:20
 notified 5:6
 November 1:8 5:18
 number 4:7 20:4
 numbered 17:3
 numbers 32:18
 nursing 13:19

O

obesity 29:18
 obtain 3:9
 obviously 2:21 10:15
 occupied 4:2
 occurred 4:19 5:14,17
 October 5:5,8,9
 offers 19:10
 Office 1:3,16,18,21 2:8
 4:9 7:22
 old 21:21 22:14
 older 13:10 17:4,20
 36:9
 Olpadwala 11:20
 once 3:18 6:22 9:5 36:3
 39:15
 one-bedroom 36:16
 open 5:20 6:13,14 27:5
 opened 28:11
 operation 4:1
 opinion 24:10
 opportunities 13:7 16:6
 21:19 37:19
 opportunity 8:11 13:12
 13:14 15:11 19:5
 21:17 28:15 30:3
 37:16 39:7
 option 15:22 18:20,22
 options 13:15 14:10
 18:14 34:9,11
 oral 5:22 27:17
 organic 21:9
 outcome 24:14,15
 outright 11:16

P

P-R-O-C-E-E-D-I-N-G-S
 2:1
 p.m 1:13 2:2 40:22
 package 3:2
 packaged 8:22
 palpable 31:1
 Parkinson's 38:10,17
 part 2:22 4:12,17 6:9
 34:2
 participation 24:20
 particularly 31:3 32:17
 parts 29:5,6
 pathological 24:11
 pay 33:8

payments 36:5
 peers 19:14
 people 15:9,11,13
 17:13 18:3 19:3,22
 20:10 22:16 29:11
 32:16 33:2,12,15 34:2
 34:11,14 35:13,19
 36:12 38:16
 percent 26:13
 perfect 28:14
 period 5:20 32:9
 person 12:16 35:5
 personal 26:14
 perspective 11:14,15
 perspectives 40:18
 pick 12:16
 picking 18:17
 pipeline 35:13,22
 place 14:4 36:3
 plan 25:18 26:15,16,16
 26:17 31:15
 planned 37:17
 Planner 1:21
 Planning 1:3,16,18,22
 2:9 4:9 5:16
 plans 31:3
 please 6:3
 plenty 21:19 23:9
 point 12:1,22 18:19
 policy 11:1
 pool 3:21
 Portfolio 1:19 2:18
 possible 25:6 26:10
 posted 5:10
 potential 4:10 19:5 29:8
 prepare 17:9
 preschools 28:19
 present 1:15 6:20 9:16
 presentations 5:13
 preserved 27:8
 presiding 1:13
 prevails 40:8
 prices 33:6
 priorities 4:16
 private 11:15,16
 probably 3:14 22:7 29:6
 problem 38:16
 process 4:13,14,15,17
 7:12,13 12:13 24:2,11
 24:17
 produce 24:14
 project 1:16 2:14 3:2,16
 5:2 7:4,15 8:8 9:15
 21:14 23:15 24:6 27:3
 27:6,8 31:12 34:22
 35:21
 projects 25:3 35:20
 property 3:11 4:5,8

5:10 7:17 8:4 9:2 10:4
 10:13 24:7,12 27:2
 proposal 19:10 20:7,7
 21:12 31:7
 proposals 12:11 25:14
 proposed 3:7,10 18:22
 19:17 27:13
 prospects 26:4
 proven 22:6
 provide 7:6 13:16,17
 14:10 19:12 34:17
 provides 14:4 20:8
 providing 29:8
 public 1:5,11 2:4,20 3:6
 4:22 5:14,20,21 6:10
 7:3 8:1 9:4 11:1 30:1
 37:17 39:17 40:10
 published 5:7
 purchased 4:4 27:5
 purpose 3:3 6:20 8:3
 9:20 25:11
 purposes 3:15 6:2
 put 7:21 33:21 36:10

Q

question 7:14 8:14
 11:20 12:2
 questions 7:1 40:14
 quite 6:15 11:9 16:4
 37:9 38:11

R

raised 39:1
 range 20:1
 rate 34:6
 rates 27:6
 read 16:17 27:20,22
 39:13
 Real 1:13,17 2:8 11:21
 really 15:14 16:10 22:4
 30:3 34:20,22 37:9
 38:3
 reared 18:10
 reason 8:2
 reasonably 24:21
 receive 3:7 6:21 8:21
 9:21
 received 3:11 6:15
 10:11
 receives 9:6
 receiving 6:17
 reclaimed 26:7
 recognizing 20:9 29:8
 31:22
 recommendation 9:17
 10:6,9,15,21 11:8
 40:8
 record 3:15 6:5,10 9:4

27:21 28:1 39:14
40:22
recorded 2:21
recording 2:22
recreation 23:5
redeveloping 25:4
redevelopment 4:10
reduces 30:3
reflected 21:11
regard 8:7 32:1
Register 5:7
regulation 3:19
rehabilitation 24:22
rejected 18:13
related 9:21
relative 34:7
remained 4:2
remarks 23:19
remember 23:6
rental 20:11
repair 4:6
repeat 14:22
replicated 26:17 30:9
request 10:1
requesting 10:8
requests 9:1 10:2
require 25:14
required 24:19 25:2
researched 13:2
Reservation 26:3 27:13
residences 24:18
resident 24:3 27:17
39:20
residential 24:14
residents 19:2,12 20:4
24:5 25:7 26:19 28:10
31:14
resolution 11:8
resolutions 7:19
resolved 11:14
responded 6:20
respondents 25:2
result 29:15
retired 15:5
retrofitting 21:21
rewarding 29:9
RFP 4:13,14,15,16,19
5:1 6:20 11:4,9 24:10
24:16 26:11
Ridge 5:11 20:14 23:18
23:20
rigged 24:13,17
right 8:18 9:7 11:3
14:10,19 15:6 25:8
36:19 40:9
rise 20:6
rising 3:22
Robert 38:9 39:20

room 3:14
rowhouses 34:15

S

S-I-S-O-L- 20:18
sad 18:3 22:20
sale 11:17 12:1
Sarosh 11:20
sat 21:22
savory 38:1
scariest 25:11
school 33:20
schools 23:4 28:20,21
scope 11:10
SE 1:12
Seattle 39:4
sector 30:1
Sedgewick 7:11 8:15
16:14,15
see 7:3 8:3 14:11 18:16
19:3 37:3 40:7
seek 7:15
seeks 4:14
seen 22:1 23:4 26:5
28:18
sees 15:21
select 13:13
selection 4:17 11:5
sell 34:10
send 6:12 40:2
senior 13:14 14:1 16:9
17:21 18:20 20:5,10
23:14 30:14,18 31:3
31:12 36:2
seniors 13:7,16,18
14:10 15:9 16:5 17:17
20:12 21:3 29:7 30:3
30:12 31:9,22 32:16
32:17
sent 8:20
serve 31:9 39:6,7
served 3:19 26:3 30:12
30:13
service 26:22
services 1:20 2:18
13:18 18:5 19:7 20:6
23:10 29:21
set 27:2
shop 36:19
show 16:3 22:5
similar 25:3
simple 11:17
Singer 9:16 10:5 28:2,2
single 18:3 19:14 35:8
Sir 11:11
Sisolak 11:12 12:4,8,12
20:17,17 32:3,3 38:7
38:21

site 4:12
situation 35:8
six 32:7,8,14
slower 6:4
small 33:10
smoking 29:19
social 16:6 22:22 29:17
30:4
socially 23:13
sold 33:22
solid 14:3
somebody 19:21
son 18:10 39:3
soup 38:1
Southeast 14:3 16:16
space 3:18 25:16 26:13
spaces 37:17
speak 6:3
speaking 24:1,4
specific 24:16 40:13
specifically 25:17
spell 15:2 20:18 39:22
spelt 32:3,4 36:7
spirit 21:10
Sports 28:21
spread 39:9
square 25:15
St 1:12
staircases 35:10
stairs 15:17 16:22
36:12 37:1
standard 21:19
standing 32:18
standpoint 11:1,2 14:5
start 12:15 14:9
starting 35:17
state 6:3 26:7
statement 16:17
stay 15:15 16:8 33:2
35:9,14,18 36:1
staying 13:4
steep 35:10
steer 24:17
steps 7:12 32:21
stew 38:1
stick 23:8
Street 14:2 16:15 22:13
27:3 30:21 33:20
strong 31:13
structured 24:15
Stucker 1:13,17 2:3,7
2:20 7:13 8:18 9:7,20
10:7 11:3,18 12:6,10
12:14 14:15,21 15:2
27:16,22 39:11,22
40:9
stuff 22:1
submissions 5:3

submit 3:1 7:20 10:1
14:14
subsequent 5:3
subsidized 20:11 30:22
31:4,20
substantiate 27:12
succeed 22:9,10
success 21:11 22:6
31:16
successful 35:22
successfully 26:18
suggestions 3:10 6:18
7:7 8:13
summary 4:18
support 17:22 19:12
20:5,9 26:4 31:2
34:20,21 38:15
supporting 18:20 30:6
supportive 31:6
supposed 25:22
sure 6:9 7:13 31:20
35:15 38:11 40:2
surplus 4:22 7:16 8:2
9:8,12 10:1,3,10
surplused 8:4 10:8,9
Susan 16:14
sweat 29:15
swimming 3:20

T

table 6:8
take 12:10 14:15 27:12
talk 8:7 35:8 38:7
talked 33:4
tap 37:5
target 4:7
Taskforce 5:15 11:19
tax 18:8
taxes 27:2
teach 37:21
team 25:4 32:10
teams 40:14
tell 7:11
template 30:18
ten 15:6 21:8 22:1
26:12
tenants 40:14
terms 11:9
terribly 16:11
testimony 8:19 39:14
thank 6:16 14:12,15
20:13 22:11 27:15
30:19 32:2 38:6,20
39:10 40:16,20
thanks 5:10 16:13 36:5
thing 13:3 15:21 21:5,6
23:15 24:2 37:12 38:4
39:5

things 7:16 8:16 15:8
22:20 28:6
think 3:4 6:14 11:18,21
12:2 13:1 14:8 16:3
16:11,18,21 21:4,9,14
22:9 23:12,14 24:10
28:4,14 29:5 30:6,21
31:5,10,17 33:14
35:18,19 37:10 38:16
38:20 40:4,5,6
thinking 15:18 36:2
Thomas 13:20
thought 36:21
thoughts 40:20
threat 29:18,20,21
three 25:3
throw 26:14
THURSDAY 1:8
Tim 12:3
time 14:8 18:19 22:16
22:18 23:6,12 27:4,9
32:9 37:13 39:11
40:11
timeframe 8:16
times 13:9
tips 26:20
tired 33:1
told 26:1 36:11
tonight 5:21 6:7,9,17
8:5,16,19,21 9:3,18
9:20 10:11 11:6 24:1
28:8 40:17
tonight's 2:20 3:3 5:19
6:16
trade 26:12
transcribed 6:5
transcribing 6:2
transferred 4:8
Transparency 2:5
traumatized 24:6
tremendous 37:18
truly 34:21
Trust 27:4
try 38:12
turn 23:5
turned 22:22
Twelfth 33:20
twice 38:7
two 2:11 5:2 7:15,19
9:10 25:14 29:5
type 13:3
types 34:11

U

Udejiofor 1:19 2:16,17
understand 13:15 14:9
31:8,12
understanding 33:5

undertake 31:7
units 19:17 20:11 27:5
33:4,13,21
unwell 38:17
urging 34:18
use 3:11 5:22 10:12
16:22
uses 3:8 8:8 25:6,8,9

V

VALECIA 1:21
valuable 23:13
verbatim 9:3
viability 31:11
views 24:9
Village 13:5 14:20 17:6
17:9 21:4,7 28:4 29:2
30:16 32:7,19 34:17
36:8
Villages 30:11,13
Vira 32:3
vision 29:4
visionary 16:4
vote 9:6,12

W

wake 11:7
want 6:6 7:6 10:8,18
15:8,15 16:8,18 18:9
18:15 23:22 32:20
33:1 34:6 35:14 36:1
wanted 7:2,3 17:13
wanting 22:17
wards 21:15
warm 38:3
Washington 1:12,13
30:11,12
way 25:11 30:10,15,17
32:4 37:6
we'll 6:21 8:19,21 12:10
12:11 40:10,12
we're 8:6,12 10:7 15:6
15:18 16:5 18:12 33:1
we've 6:14 13:5 15:5,16
21:7 22:21 23:4
week 33:22
weight 26:14
Welcome 2:3
went 23:11 40:22
whatsoever 13:19
widowed 19:14
widows 18:3
wife 20:19
willing 31:7
WILSON 1:21
woman 16:22
women 18:3 19:15
wonderful 38:3

work 29:4,14
worked 28:5
works 36:4
workshop 4:19 29:1
worry 10:17
worse 26:7
worth 33:9 34:9
wouldn't 36:21 38:11
writing 20:14
written 6:6 8:20 14:13
14:16 27:18

X

Y

year 4:21,21 5:5
years 12:21 13:6 15:6
17:8 21:8 22:1,21
25:12 32:7,8,14 33:7
36:2 38:14 39:21
York 39:3
youth 3:18 28:12

Z

Z-A-N-I-E-L-L-O 15:4
Zaniello 14:18,18 15:1
15:1,4
zoning 5:16 21:22
25:14

0

1

10 13:6
11 13:6
11th 27:3
12 12:21
13 26:3 27:14 30:11
13th 12:20
1418 22:13
14th 5:18
16 1:8 4:21
16th 5:19 8:1
17th 5:5
1901 1:12
1937 3:19 28:11
1967 20:20

2

2007 4:2
2010 4:5
2014 2:6
2016 4:11
2017 1:8 4:20
223 16:15
26 5:1
27th 5:8
28 4:19

2nd 5:18

3

30 6:14 22:21
30s 35:7
30th 5:9
31st 5:4

4

40 17:8 33:22
40,000 25:15
40s 35:7
49 39:20

5

50 33:7
509 30:21
50s 35:7

6

6B 5:6
6B09 23:21
6C 21:22 22:2

7

7:00 1:13
7:01 2:2
7:44 40:22
70 25:12
73-year-old 16:21
77-year-old 17:2
7B 23:6
7th 5:18

8

9

99-year 11:16

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Disposition Hearing for Eastern
Branch Boys and Girls Club

Before: Office of the Deputy Mayor for Planning and
Economic Development

Date: 11-16-17

Place: Washington, D.C.

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.

Neal R. Gross

Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

Susan and John Sedgewick
223 8th Street SE
November 16, 2017

To: DC Council Members
Deputy Mayor for Planning and Development

Thank you for asking for my comments on the redevelopment of the Boys and Girls Club at 17th and Massachusetts Ave SE.

Look at me. Think of me as your mother, your elderly aunt or maybe even your grandmother. I think I am a healthy energetic 73 year old woman, but I do use the handrail on stairs more than I used to. I know my 77 year old husband and I have numbered days in our multi-story Capitol Hill home. I know as we grow older, keeping our home up, even with help from contractors, etc, will be impossible. Capitol Hill Village is helping us enjoy life to the fullest here on the Hill, where we have lived for 40 years. The Village is also helping us prepare for our future for when we become frail and not able to do for ourselves like getting to evening community meetings, such as this one.

We have older friends who have moved out of DC to Maryland to senior communities to live where they can have support in their daily living needs. Some are still couples, others are now single women. It is sad when people have to move away from their beloved neighborhood and friends to get the services they will need as they continue to age.

My husband and I want our future to be on Capitol Hill where we reared our son, go to church, have friends of long standing. We are connected to our community and have so far rejected moving away even across the line to Maryland. But what are our options? We do not want to move to an apartment building or condo where you only see neighbors when picking up mail or in the elevator. We also know that we will need extra care at some point in time. That is why I am supporting senior housing for Capitol Hill.

The housing option being proposed by Century Development, co-housing, is a concept that encourages community among its residents and offers potential capability for hosting broader community events or services, especially those for children. The concept builds a neighborhood, not an apartment house. This proposal offers care-giver units that would be available for home health care aides that would provide support for the residents. In discussing the concept with my peers, I hear, especially from single and widowed women, enthusiasm. The good news is that some of the units being proposed fall under the city definition of "affordable." We are excited that such a facility would be in our neighborhood.

As the number of elderly residents in the city increase, the need for senior housing with support services and community building features will grow. This proposal provides some nearer term capability to help meet that need. I urge the city to support senior housing for people at all income levels, especially subsidized rental units for "very low-income seniors."

Thank you,

Susan Sedgewick
223 8th St SE

170 North Carolina Ave., S.E.
Washington, DC 20003

Brian T. Kenner
Deputy Mayor for Planning and Economic Development
Government of the District of Columbia

Dear Mr. Kenner,

I have lived in DC since 1976 and on Capitol Hill since 1981. My wife and I raised 3 children to adulthood on Capitol Hill. Now that I am 66 years old, I am beginning to think about how I can continue to live in my neighborhood as I age over the next 30 years. I would like to express my agreement with Capitol Hill Village that the Century Development proposal for senior housing at the old Boys and Girls Club site would be the best plan for that site. The proposal best aligns with the DC Comprehensive Plan and meets the goals of the RFP. Seniors are increasing in number in our neighborhood. But there seem to be fewer and fewer options for them to be able to age in place in the Capitol Hill neighborhood, while there is an increasing need for this kind of innovative housing opportunity for them.

Sincerely,

A handwritten signature in black ink, reading "Lawrence A. Johnston". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Lawrence A. Johnston

Support for Century Development of the 17th St. Boys and Girls Club

**From: Sonia and Bob Conly
623 North Carolina Ave. S.E.**

For: Dion Townley and Miguel Garcia, Office of the Deputy Mayor for Planning and Development

We are 42year residents of Capitol Hill and take this opportunity to voice strong support for the Century Development cohousing proposal. We support this proposal for two reasons. First, there are currently no senior housing options for middle income residents in this part of Washington. Many of our seniors have dedicated their careers to supporting social justice as well as building the fine Capitol Hill community life we see today. Without senior housing locally, these voices of experience will be dispersed and lost.

Second, the Century senior cohousing proposal provides the opportunity to demonstrate that senior cohousing integrated in the community can provide the sharing benefits of an elder community potentially including reduced public and private cost of institutional care without the segregation from the larger community of many intentional elder communities. Importantly the Century proposal will provide convenient access to public transportation that is particularly important to those of us who cannot or choose not to drive.

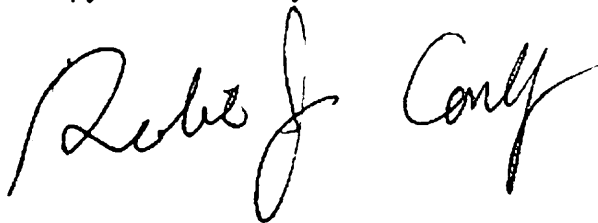
Senior cohousing offers much more than single floor living and ADA compliant bathrooms that might be found in many condominiums and apartments. Senior cohousing facilitates social interaction and reduces the isolation that accelerates aging and dementia. Sharing experiences, skills, tools, and services reduces the need for paid services and can be cost savings as well as community building. Senior cohousing can provide crucial community support in the immediate period of widowhood, allowing widows to continue in the community for many years.

The Century proposal offers the potential for demonstrating caregiver sharing with other persons in the same building. For example, individuals may need care for only e.g. an hour per day. Without shared care giving a person needing only one hour per day may be forced to pay for four hours of care in order to pay for the one hour needed. Shared caregiving provides the potential to reduce private and public care giver costs.

An Age Friendly City is one that supports aging in the immediate community. The Century Proposal accomplishes this goal.

Sonia was able to attend the meeting November 7th meeting at St. Coletta and Bob attended the November 14th meeting at the Hill Center. Unfortunately, neither of us can make this Thursday's meeting. For various reasons evening meetings are difficult for many elders. Absence at such meetings should not be taken as a lack of support.

Copy sent to Townley and Garcia DMPD 11/16/17

A handwritten signature in black ink that reads "Bob Conly". The signature is written in a cursive, flowing style.

**SUPPORT : Joel Kelly / Century Associate's redevelopment of the Eastern
Branch Boys and Girls Club site as co-housing for seniors**

16 November 2017

As a long-time resident of Capitol Hill ANC 6B and a member of the Capitol Hill Village, I fully support the redevelopment by Joel Kelly / Century Associate's redevelopment of the Eastern Branch Boys and Girls Club, as co-housing for seniors. Capitol Hill has a vibrant senior community committed to remaining active and engaged in the community where they have lived and raised families.

Community members have stayed on the Hill through good times and bad. And they continue tirelessly to keep the Hill their home and community strong. Joel Kelly / Century Associate's worked with the Capitol Hill Village to devise ways to build affordable, livable senior-friendly communities that enrich and broaden the reach from neighbor to neighbor.

Joel Kelly / Century Associate's have a track record of success and expertise with co-housing in Park. Co-housing emphasizes independence and community involvement. Senior co-housing allows seniors remain in the community and engage with their neighbors. By doing so, it maintains community continuity from long-time residents and a resource for younger neighbors to interact and learn from their elders.

Co-housing is important for Capitol Hill today and into the future. The Joel Kelly / Century Associate's plan best reflects the DC Comprehensive Plan and meets the goals of the RFP. As a longtime Capitol Hill resident, I urge you to stand on the side of seniors and their younger neighbors to remain close and learn from one another by supporting the Joel Kelly / Century Associate's redevelopment of the Eastern Branch Boys and Girls Club site as co-housing for seniors.

Thank you for your time and attention.

Regards,

Ellen Alers
(Capitol Hill Village member)



EXHIBIT K

SCHEDULE OF PERFORMANCE

Milestone	Target Date	Outside Date
Execution of LDDA	30 days after Council Approvals	60 days after Council Approvals
Submit 60% Design Development Drawings to DMPED	2 months after District approval of Schematic Drawings	3 months after District approval of Schematic Drawings
Submit 90% Design Development Drawings to DMPED	2 months after District approval of 60% Design Development Drawings	3 months after District approval of 60% Design Development Drawings
Building Permit Issued	3 months after District approval of 90% Design Development Drawings	6 months after District approval of 90% Design Development Drawings
Closing	18 months after Council Approvals	2 years after Council Approvals
Commencement of Construction	30 days after Closing	60 days after Closing
Substantial Completion of Construction	12 months after Commencement of Construction	14 months after Commencement of Construction
Final Completion of Construction	14 months after Commencement of Construction	16 months after Commencement of Construction
Certificate of Occupancy Issued	14 months after Commencement of Construction	16 months after Commencement of Construction

EXHIBIT N
PROJECT FUNDING PLAN

Uses		
Purchase Price	\$ 100,000	1%
Additional Acquisition	\$ 12,000	0.1%
Hard Cost	\$ 8,756,000	71%
Soft Cost	\$ 2,507,000	20%
Financing Costs	\$ 902,000	7%
Total Development Costs	\$ 12,277,000	100%
Sources		
Developer Equity	\$ 3,069,000	25%
Construction Loan	\$ 9,208,000	75%
Total Sources	\$ 12,277,000	100%