

AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale (this "Agreement") is made as of this ____ day of _____, 2015, by and between THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia, in its proprietary capacity, and not in its governmental or regulatory capacity ("Seller") and LAKE ANNE DEVELOPMENT PARTNERS LLC, a Virginia limited liability company or its assigns ("Purchaser")

RECITALS

- R-1. Seller is the fee simple owner of a 16.5 acre tract of land in Reston, Virginia, collectively having tax assessment numbers as 17-2 ((16)) 1A and 17-2 ((14)) (1) 2G, upon which certain residential apartment buildings are built and which are commonly referred to as the Crescent Apartments (the "Property").
- R-2. The Property is currently leased to the Fairfax County Redevelopment and Housing Authority ("FCRHA") pursuant to an agreement by and between Seller and the FCRHA.
- R-3. The Property currently consists of five (5) garden-style 3-story apartment buildings, containing a total of 181 units, which are currently affordable to households earning sixty percent (60%) or below of the area median income ("AMI"), as defined and published by the applicable federal authorities.
- R-4. On March 30, 2009, the County of Fairfax, in its governmental and regulatory capacity (the "County"), adopted an amendment to the Fairfax County Comprehensive Plan which revised the boundaries of the Lake Anne Village Center ("LAVC") and the LAVC Commercial Revitalization Area ("CRA"), and which provided, among other things, a maximum allowable density of 935 dwelling units on "Land Unit D", which is comprised of the Property and a 0.85 acre parcel (the "Gas Station Parcel") owned by G and K, Inc., a Virginia corporation (the "Gas Station Owner"), designated as Tax Map Number 17-2 ((1)) 07.
- R-5. Pursuant to that certain Request for Proposal Number FRP-2000000-125, dated February 9, 2012, and issued under the auspices of the Public Private Education Facilities and Infrastructure Act of 2002, Virginia Code Ann. §§ 56-575.1 et seq. (2012) (such Request for Proposal, as subsequently amended by certain addendums, collectively, the "RFP"), Seller desired to enter into a contract with a developer for the redevelopment of the Property which would, among other things, achieve a comprehensive redevelopment plan that aligned with the vision of the Comprehensive Plan, including the preservation of affordable housing, the creation of additional workforce housing and a development that would serve as a catalyst for the revitalization of the LAVC.
- R-6. Purchaser submitted a response to the RFP which was determined to be the most responsive to the RFP.

- R-7. On September 10, 2013, Seller and Purchaser entered into an Interim Agreement (the Interim Agreement) which allowed for *inter alia* Purchaser to file applications for certain land use entitlement approvals for the Property and for other parcels in the LAVC (such redevelopment is hereinafter referred to as the Project) notwithstanding that the parties had not as yet entered into a master development agreement providing for the acquisition of the Property and the implementation of the Project.
- R-8. Purchaser filed for and obtained from the County certain Land Use Entitlement Approvals (as hereafter defined) pertaining to the Property and the Project.
- R-9. The Property and Project are now subject to Proffered Condition Amendments (PCA A-502 and PCA 502-03 and Development Plan Amendment DPA A-502-07) approved by the Board of Supervisors of the County on _____, 2015 [**FILLED IN AT CLOSING**], (the PCA) including the Development Plan described therein (the Development Plan) and certain proffers dated _____, 2015 [**FILLED IN AT CLOSING**] accepted in connection therewith (the Proffers) (collectively the Land Use Entitlement Approvals).
- R-10. The parties now desire to enter into this Agreement as the binding Agreement between the parties with respect to the Purchase and Sale of certain portions of the Property and of the matters hereinafter set forth.

NOW THEREFORE for and in consideration of the mutual promises of the parties and of other good and valuable consideration receipt and sufficiency of which are hereby acknowledged the parties intending to be legally bound do hereby agree as follows:

- 1. Incorporation.** The Recitals set forth above are hereby incorporated by reference.
- 2. Agreement of Purchase and Sale; Legal Description of Land.** Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller in fee simple all of that portion of the Property described in **Exhibit A** attached hereto (the Land)(subject to the last sentence of this Paragraph); (ii) all improvements situated on the Land; (iii) all easements belonging to or benefiting the Land; (iv) all strips, gores, easements, rights-of-way and privileges belonging or inuring to the benefit of the Land; (v) all other rights, privileges, and appurtenances of any nature whatsoever relating to the Land; (vi) all of Seller's right, title and interest in any tenant leases reflected in the Rent Roll (as hereafter defined). Notwithstanding the Land being identified on **Exhibit A**, Purchaser and Seller acknowledge and agree that the legal description for the Land may be modified after subdivision of the Property is completed and approved by the County and thereafter, the legal description for the portion of the Property set forth to be the Land as a result of the subdivision process shall be substituted for **Exhibit A** as the description of the Land for all purposes hereof. Purchaser and Seller agree to execute an amendment to this Agreement to replace **Exhibit A** with the modified legal description of the Land after completion of the subdivision process (if applicable).
- 3. Purchase Price and Method of Payment.** The Purchase Price (the Purchase Price) for the Property (exclusive of any amounts that may be due to be paid to Seller for the Ground Lease Parcels (as hereafter defined), pursuant to the Ground Leases (as hereafter defined)) shall be in

the amount set forth below based upon when the Closing Date occurs.

<u>Purchase Price Amount:</u>	<u>Date:</u>
\$32,918,825.50	If Closing occurs in calendar year 2015
\$33,741,137.06	If Closing occurs in calendar year 2016
\$34,584,665.48	If Closing occurs in calendar year 2017* *Subject to Section 4(b) below.

The entire Purchase Price, plus or minus prorations, provided for in this Agreement shall be paid in immediately available funds on the Closing Date (as hereafter defined). The Deposit described in Paragraph 4 shall be credited toward the Purchase Price at Closing.

4. **Deposit; One Year Extension.**

(a) Within two (2) business days of the Effective Date (as hereafter defined) Purchaser shall deposit with Commonwealth Land Title Insurance Company, 1015 15th Street, N.W., Suite 300, Washington, D.C. 20005, Attention: David Nelson (Escrow Agent) a deposit in the amount of One Million Dollars (\$1,000,000.00) (the Initial Deposit). The Initial Deposit shall be paid in the form of immediately available funds and shall be held in escrow in a separately designated escrow account at a federally insured banking institution reasonably acceptable to Seller (the Escrow).

(b) In the event that the Closing Date does not occur on or before, December 31, 2016 (the Outside Closing Date), Purchaser shall have the one time right to extend the Closing Date until 11:59 p.m. on December 31, 2017 (the Extended Outside Closing Date), provided that: (i) Purchaser sends notice to Seller on or before December 31, 2016 of its election to extend the Outside Closing Date; (ii) subdivision of the Property has been completed, the site plan for the Project has been approved, and the necessary permits authorizing construction of the Phase I Improvements (hereafter defined) have been approved by the County and are available to be obtained, subject only to payment of final fees; and (iii) Purchaser deposits into the Escrow an additional deposit of One Million Dollars (\$1,000,000.00) (the Extension Deposit) The Initial Deposit and Extension Deposit, if applicable, are collectively referred to hereafter, as the Deposit. Failure by the Purchaser to send notice of its election for the Extended Outside Closing Date (if necessary) or to deposit the Extension Deposit as provided herein shall be treated as a failure to meet a condition precedent and will be subject to Paragraph 9 below.

(c) The Deposit shall be held in Escrow by the Escrow Agent and shall be (i) paid to Seller and credited to the Purchase Price at Closing; or (ii) either returned to Purchaser or forfeited and paid to Seller, as more particularly set forth in this Agreement.

5. **Right of Entry.** From and after the Effective Date, Purchaser shall have reasonable rights of access to the Property for the purposes of performing engineering analysis including environmental tests and studies and soils borings and tests, provided that neither Purchaser nor its contractors shall unreasonably disrupt the normal operation of the Property. All such entry shall be coordinated in advance with appropriate on-site representatives of Seller or its managing

agent.

Prior to Purchaser entering the Property to conduct the inspections and tests described above, Purchaser (or its contractor) shall obtain and maintain, at Purchaser's (or its Contractor's, as the case may be) sole cost and expense, and shall deliver to Seller evidence of, the following insurance coverage, and shall cause each of its agents and contractors to obtain and maintain, and, upon request of Seller, shall deliver to Seller evidence of, the following insurance coverage: general liability insurance, from an insurer reasonably acceptable to Seller, in the amount of One Million and No/100 Dollars (\$1,000,000.00) combined single limit for personal injury and property damage per occurrence, such policy to name Seller as an additional insured party, which insurance shall provide coverage against any claim for personal liability or property damage caused by Purchaser or its agents, employees or contractors in connection with such inspections and tests. Seller shall have the right, in its discretion, to accompany Purchaser and/or its agents during any inspection provided Seller or its agents do not unreasonably interfere with Purchaser's inspection. Purchaser shall indemnify and hold Seller harmless from any loss, cost, damage or expense occasions to Seller as a result of the entry onto the Property by Purchaser or any consultant or agent of Purchaser.

The provisions of this Paragraph 5 shall survive Closing or any termination of this Agreement.

6. **Closing.** Provided that the conditions precedent set forth in Paragraphs 9(a) and 9(b) have been satisfied or waived by the party entitled to waive such condition precedent, Purchaser and Seller shall consummate the purchase and sale contemplated hereunder (the "Closing"), which shall occur prior to the Outside Closing Date (or Extended Outside Closing Date, if applicable) (unless waived by both Purchaser and Seller) on a date coordinated between Purchaser and Seller and in no event may be later than ninety (90) days from the date that all of the conditions precedent set forth in Paragraphs 9(a) and 9(b) have been either satisfied (or waived by the party entitled to waive such condition) (the "Closing Date").

7. **Title.** Seller shall convey to Purchaser fee simple title to the Land by deed, substantially in the form attached hereto as **Exhibit B**, free of monetary liens and encumbrances created by Seller, and any real estate taxes not yet due and payable, and subject only to those matters of record as of the Effective Date hereof and those covenants, conditions, restrictions, easements, and other matters as are required in connection with the dedications, abandonment and vacations, subdivisions and approval of any Site Plan for the development of the Property as contemplated by the Land Use Entitlements (the "Permitted Exceptions").

8. **Filing of Plans.** Purchaser agrees that it shall, no later than ninety (90) days from the Effective Date, cause to be prepared and filed with the County with respect to the Property:

(a) a site plan for the Project;

(b) engineering plans and applicable public improvement plans which, at a minimum, are necessary for the full development and construction of those certain infrastructure improvements and the parking garage that will service both the Land and the Ground Lease Parcels, which are more particularly described on **Exhibit C** attached hereto (the "Phase I

Improvements); and

(c) Subdivision plats and deeds of the Property in conformance with the requirements of this Agreement and the Land Use Entitlement Approvals.

Purchaser shall be obligated to promptly file all required plans for the Phase I Improvements to the County for review and approval. Purchaser shall be obligated at its sole expense to diligently prosecute all such plans to final approval. Additionally, Purchaser may, at its sole cost and expense, file with the appropriate governmental agencies within the County for approval multiple site plans and subdivision plans relating to the Property and the Project, provided the same are approved by Seller prior to such filing, in Seller's reasonable discretion, as being consistent with the Development Plan. Seller agrees to reasonably cooperate with Purchaser in connection with the filing of all plans and requests for permits and shall, without cost to Purchaser, promptly execute such applications, consents or forms that are consistent with the Development Plan, as may be required by the County with respect to plan reviews and approvals.

Prior to or concurrently with Closing, Seller, as the owner of the Property, shall be obligated at Purchaser's request, to execute and cause to be recorded at Purchaser's expense, among the land records of Fairfax County, Virginia any subdivision plats or subdivision deeds as are required to effect the simultaneous conveyance to Reston Association of the RA Swap Parcel (defined below) in exchange for tax map parcel 17-2 ((8)) 6C, provided that such subdivision plats and deeds are consistent with the Development Plan.

9. **Conditions Precedent.**

(a) Conditions Precedent to Seller's Obligations. The following conditions shall be conditions precedent to Seller's obligation to proceed to Closing, all or any of which, except as otherwise provided in this Agreement, may be waived by Seller:

(i) That Purchaser shall have performed all of the covenants set forth in this Agreement;

(ii) That Closing Date shall occur on or before the Outside Closing Date (or Extended Outside Closing Date, if applicable);

(iii) That the representations and warranties of Purchaser shall be true and correct, in all material respects as of the Closing Date;

(iv) That Community Preservation and Development Corporation (CPDC) or the appropriate designee of CPDC, as applicable, shall: (A) have caused the execution of the Contracts to Ground Lease (as defined in Paragraph 9(b) below); (B) have obtained from the Virginia Housing and Development Authority (VHDA) a final award for a nine percent (9%) tax credit financing for construction to occur on one of the Ground Lease Parcels and will have received approval from VHDA for the issuance of tax exempt bonds allowing it to obtain a four percent (4%) tax credit financing for construction to occur on the other Ground Lease Parcel (and any and all challenge periods related to such commitments have expired); (C) have obtained from investors and lenders binding commitments: (1) to contribute

sufficient capital in exchange for the VHDA nine percent (9%) tax credits and provide any additional loan or equity financing necessary for construction to occur on the Ground Lease Parcel for which nine percent (9%) tax credits were obtained, and (2) to contribute sufficient capital in exchange for the VHDA four percent (4%) tax credits and provide any additional loan or equity financing necessary for construction to occur on the Ground Lease Parcel for which four percent (4%) tax credits were obtained; (D) all governmental approvals for the construction of the buildings on the Ground Lease Parcels have been obtained and all permits, including building permits have been approved by Seller and the County and are available to be obtained, subject only to payment of final fees; and (E) have obtained an acceptable bid from a reputable general contractor for the construction of the buildings and other improvements to be constructed on the Ground Lease Parcels pursuant to the terms of the Ground Leases;

(v) That Purchaser shall have secured from the County all subdivision, site plan and other development approvals (other than the posting of final bonds) for the Phase I Improvements;

(vi) That Purchaser shall have obtained binding commitments from either financial institutions or recognized corporate sureties for the posting of applicable development bonds for the Phase I Improvements;

(vii) That the necessary right-of-way for the improvement and realignment of Village Road has been obtained by Purchaser; *provided however*, Seller, in Seller's sole discretion, may accept Purchaser having entered into binding agreements for the acquisition of the Village Road right-of-way and that the pending application and as shown on that certain "Proposal to Vacate and Abandon a Portion of Village Drive," requesting abandonment and vacation of existing Village Road necessary for the realignment of existing Village Road consistent with the Development Plan shall have been approved by the County and all applicable approval periods shall have expired without an appeal having been filed;

(viii) That Purchaser has acquired, or is acquiring concurrently with the Closing, the Gas Station Parcel from Gas Station Owner;

(ix) That Purchaser has acquired, or is acquiring concurrently with the Closing, the approximate 1.1 acre parcel of land described as Fairfax County Tax Map Number 17-2 ((8)) 6C from Reston Association and Seller has concurrently conveyed to Reston Association that parcel of land containing approximately 1.1 acres and labeled on Sheet C-7 of the Development Plan as "RA Parcel Swap Area" (the "RA Swap Parcel");

(x) That Purchaser has demonstrated to the reasonable satisfaction of Seller that Purchaser has entered into binding agreements evidencing site control with the five (5) separate owners of the parcels of land comprising Land Unit A (i.e. those parcels identified as: 17-2 ((8)) 6C; 17-2 ((7)) 6B2; 17-2 ((7)) 6B3; 17-2 ((31)) 1645 and pt of 17-2 ((31)) pt of LARCA common element) as shown on Sheet C-4 of the Development Plan to enable Purchaser to implement the elements of the Project depicted on Land Unit A, consistent with the Development Plan;

(xi) That Purchaser, CPDC and Seller have entered into agreements

for: (A) the allocation of responsibilities and costs for the Proffers for the Project and the Property; and (B) reciprocal access, ingress, egress, utility and related easements between the Land and each of the Ground Lease Parcels for the coordinated use and operation of the Project and the Property. This Paragraph 9(a)(xi) is a material condition which must be met in order for the parties to this Agreement to proceed to Closing;

(xii) That Purchaser and Seller have entered into a declaration of restrictive covenants on the Property, substantially in the form attached hereto as **Exhibit D**, attached hereto; and

(xiii) That Purchaser and CPDC have entered into an asset management agreement for the Latter Two Buildings (as defined in Paragraph 14(c) below), pursuant to which CPDC, upon Closing, will perform asset management services for the Latter Two Buildings, including oversight of the property manager, and will perform activities required to implement the Relocation Plan (as defined in Paragraph 14(c) below) and will entitle CPDC to apply the net revenue from the operation of the Latter Two Buildings toward the costs of implementing the Relocation Plan.

In the event that the foregoing conditions precedent are not satisfied by the Outside Closing Date (or Extended Outside Closing Date, if applicable), Seller shall have the unqualified right upon written notice to Purchaser to terminate this Agreement in which event the Deposit shall be promptly be paid to Seller and except for the indemnification provisions of Paragraphs 5 and 16 neither Seller nor Purchaser shall have any other or further liability hereunder.

(b) Conditions Precedent to Purchaser's Obligations. The following conditions shall be condition precedent to Purchaser's obligation to proceed to Closing, all or any of which, except as otherwise provided under this Agreement, may be waived by Purchaser.

(i) That Seller shall have performed all of the covenants set forth in this Agreement;

(ii) That the representations and warranties of Seller set forth in Paragraph 11(a) shall remain true and correct in all material respects;

(iii) That the County shall have granted final site plan approval and shall have approved all final public improvement plan (other than final bonding) required for the construction of the Phase I Improvements (This condition may not be unilaterally waived by Purchaser.);

(iv) That the necessary right-of-way for the improvement and realignment of Village Road has been obtained by Purchaser; *provided however*, Seller, in Seller's sole discretion, may accept Purchaser having entered into binding agreements for the acquisition of the Village Road right-of-way and as shown on that certain "Proposal to Vacate and Abandon a Portion of Village Drive," requesting abandonment and vacation of existing Village Road necessary for the realignment of existing Village Road consistent with the Development Plan shall have been approved by the County and all applicable approval periods shall have expired without an appeal having been filed;

(v) That CPDC or the appropriate designee of CPDC, as applicable, shall: (A) have caused the execution of the Contracts to Ground Lease; (B) have obtained from VHDA a final award for a nine percent (9%) tax credit financing for construction to occur on one of the Ground Lease Parcels and will have received approval from VHDA for the issuance of tax exempt bonds allowing it to obtain a four percent (4%) tax credit financing for construction to occur on the other Ground Lease Parcel (and any and all challenge periods related to such commitments have expired); (C) have obtained from investors and lenders binding commitments: (1) to contribute sufficient capital in exchange for the VHDA nine percent (9%) tax credits and provide any additional loan or equity financing necessary for construction to occur on the Ground Lease Parcel for which nine percent (9%) tax credits were obtained, and (2) to contribute sufficient capital in exchange for the VHDA four percent (4%) tax credits and provide any additional loan or equity financing necessary for construction to occur on the Ground Lease Parcel for which four percent (4%) tax credits were obtained; (D) all governmental approvals for the construction of the buildings on the Ground Lease Parcels have been obtained and all permits, including building permits have been approved by Seller and the County and are available to be obtained, subject only to payment of final fees; and (E) have obtained an acceptable bid from a reputable general contractor for the construction of the buildings and other improvements to be constructed on the Ground Lease Parcels pursuant to the terms of the Ground Leases;

(vi) Title to the Property shall be in the condition required by Paragraph 7 of this Agreement;

(vii) That Seller shall have delivered to Purchaser a rent roll (the “Rent Roll”) that reflects all of the tenant leases on the Land and on the Ground Lease Parcels at least thirty (30) days prior to Closing;

(viii) That Seller shall have executed (or shall execute concurrently with the Closing hereunder) contracts to ground lease (individually (or collectively, if more than one), a “Contracts to Ground Lease”) with the appropriate designee(s) of CPDC to convey by long term ground lease the parcels of land upon which the affordable housing buildings designated on the Development Plan as Buildings D3 and D4 are to be situated as separate ground lease parcels more particularly described in **Exhibit E-1** and **Exhibit E-2**, respectively, each attached hereto (the “Ground Lease Parcels”). The Contracts to Ground Lease shall provide Seller and designee(s) of CPDC shall enter into separate ground leases (each a “Ground Lease”) for each of the separate Ground Lease Parcels;

(ix) That Purchaser, CPDC and Seller have entered into agreements for: (A) the allocation of responsibilities and costs for the Proffers for the Project and the Property; and (B) reciprocal access, ingress, egress, utility and related easements between the Land and each of the Ground Lease Parcels for the coordinated use and operation of the Project and the Property. This Paragraph 9(b)(ix) is a material condition which must be met in order for the parties to this Agreement to proceed to Closing; and

(x) That Purchaser and Seller have entered into a declaration of restrictive covenants on the Property, substantially in the form attached hereto as **Exhibit D**, attached hereto.

In the event that the foregoing conditions are not satisfied or waived by Purchaser by the Outside Closing Date (or Extended Outside Closing Date, if applicable), then Purchaser shall have the unqualified right to either (i) waive all conditions to Closing and proceed to Closing, if Seller also agrees to waive those conditions that Purchaser cannot itself waive; or (ii) terminate this Agreement in which event the Deposit shall be paid to Seller, and except for the indemnification provisions of Paragraphs 5 and 16, neither Purchaser or Seller shall have any other or further liability hereunder.

10. Reserved.

11. Representations and Warranties.

(a) Seller's Representations and Warranties. Seller hereby warrants and represents to Purchaser that:

(i) Seller has full right, power and authority to enter into, execute, acknowledge and deliver this Agreement and that all requisite actions have been taken by Seller to consummate the transaction contemplated by this Agreement and no other party other than the party signatory to this Agreement has any interest in the Property;

(ii) Seller has not entered into any agreement for the sale or transfer of development rights affecting any portion of the Property;

(iii) To the best of Seller's knowledge, Seller has received no actual notice of any threatened claim or litigation relating to the Property or the transactions contemplated by this Agreement that, if successful would have any material negative effect on the value of the Property or Seller's ability to transfer the Property as contemplated by this Agreement. For purposes of this representation, "to the best of Seller's knowledge," shall mean the current actual knowledge of the County Attorney of the County of Fairfax, Virginia, without any independent investigation or inquiry, and without regard to the knowledge of any former or other employees, agents or contractors of Seller.

(iv) To the best of Seller's knowledge, this Agreement does not violate the terms of any other contract, lease agreement, law, order, regulation or instrument to which Seller is a party or by which Seller is bound. For purposes of this representation, "to the best of Seller's knowledge," shall mean the current actual knowledge of the Director of Fairfax County Department of Housing and Community Development, without any independent investigation or inquiry, and without regard to the knowledge of any former or other employees, agents or contractors of Seller;

After execution of this Agreement, except as may otherwise be provided herein, Seller may not cause an adverse change in the condition of the Land or the status of Seller's title to the Property. Seller covenants and agrees immediately to notify Purchaser of any state of facts which would constitute a breach of or render inaccurate any of the foregoing warranties promptly after becoming aware of such state of facts.

(b) Purchaser's Representations and Warranties. Purchaser warrants and represents as follows:

(i) Purchaser and the individual or individuals executing this Agreement on behalf of Purchaser have the right, power and authority to enter into and carry out the terms of this Agreement.

(ii) The execution, delivery and performance of this Agreement, the fulfillment of and compliance with the respective terms and provisions hereof, and the due consummation of the transactions contemplated hereby have been duly and validly authorized and approved by all requisite action and does not violate the terms of any other contract, lease agreement, undertaking, law, order, regulation or instrument to which Purchaser is a party or by which Purchaser is bound.

(iii) This Agreement constitutes, and all other agreements, documents and instruments to be executed pursuant hereto by Purchaser, when executed and delivered by Purchaser, will each constitute a valid and binding obligation of Purchaser, enforceable in accordance with its terms.

Purchaser covenants and agrees immediately to notify Seller of any state of facts which would constitute a breach of or render inaccurate any of the foregoing warranties promptly after becoming aware of such state of facts.

12. Conduct of Business; Maintenance and Operation of Property. Between the Effective Date and the commencement date under the Master Management Agreement, as described in the Comprehensive Agreement between the parties executed concurrently with this Agreement. Seller shall cause the Property to be maintained in its present order and condition, normal wear and tear excepted, and shall cause the continuation of the normal operation thereof and the continuation of the normal practice with respect to maintenance and repairs so that the Property shall, except for normal wear and tear, be in substantially the same condition on the Closing Date as on the Effective Date. Notwithstanding the foregoing, other than maintaining standard maintenance practices for the Property, Seller shall have no obligation to make any capital improvements or major renovations on any of the buildings, fixtures or other improvements on the Property after the Effective Date.

13. Costs and Prorations.

(a) Rents, utilities, and real estate taxes shall be adjusted to the Closing Date. To the extent practicable Seller shall have all utility meters read to the date prior to Closing and all applicable utilities shall be transferred into the name of Purchaser. Security deposits under the Leases shall be either credited against the Purchase Price or paid to Purchaser at Closing. The parties agree that items not susceptible of exact proration at Closing will be òtrued upö as of the Closing Date by Purchaser and Seller within ninety (90) days after Closing occurs.

(b) Seller shall pay for the cost of preparation of the deed of conveyance and for the release of any deeds of trust or other monetary liens encumbering the Property. In addition, Seller shall be obligated to pay for the Virginia Grantorø tax and the Regional Congestion Relief Fee on the deed of conveyance and on the Ground Leases, if applicable, as well as for all legal fees for attorneys representing Seller who have been retained by Seller.

(c) Purchaser shall be obligated to pay for the transfer taxes and costs of recordation of the deed of conveyance, except for the Virginia Grantor's Tax and the Regional Congestion Relief Fee. Purchaser shall also be obligated to pay all title insurance premiums, and settlement fees charged by the title company as well as for all legal fees for attorneys representing Purchaser, who have been retained by Purchaser.

(d) If charged, any escrow fees of the title company shall be divided equally between Seller and Purchaser.

14. Risk of Loss; Condemnation Pending Closing; Damage or Destruction of Property.

(a) Risk of loss shall remain with Seller until Closing. Seller covenants that it shall from the Effective Date through the Date of Closing, keep in full force and effect with existing insurance carriers (or through self-insurance programs, if applicable) with respect to the Property those coverages in effect for the Property immediately prior to the Effective Date. Seller shall immediately notify Purchaser of any condemnation or taking by eminent domain of any portions of the Property. Purchaser and Seller agree that Seller has no obligation to restore the Property in the event of a casualty or condemnation.

(b) Notwithstanding any condemnation, Purchaser shall remain obligated to close under this Agreement, without adjustment to the Purchase Price, so long as such condemnation does not materially adverse effect the Property. For purposes of this Section, a condemnation will materially adverse effect the Property, if, after completion of such condemnation, Purchaser would no longer be able to develop the Property in substantial accordance with the Development Plan, subject to any minor adjustments caused by such condemnation. In the event of a condemnation that has a materially adverse effect on the Property, Purchaser shall have the right to terminate this Agreement without liability on its part and receive a refund of the Deposit, by so notifying the Seller within fifteen (15) days of Seller's notification to Purchaser of said condemnation. If Purchaser elects to proceed with Closing, Seller shall assign to Purchaser at Closing all condemnation awards payable to Seller on account of such condemnation.

(c) Notwithstanding anything in this Paragraph 14 to the contrary, Purchaser and Seller agree that damage or destruction of all or any of the buildings and other improvements on the Property that are to be demolished under the Development Plan shall not result in a right of termination by Purchaser and Purchaser and Seller will remain obligated to perform under the terms of this Agreement. If one or more of the "First Three Buildings" (as defined in the next sentence) suffers a casualty prior to Closing, Seller shall be responsible for the cost of relocating residents of the affected building to another off-site location (i.e., initial moving expenses) and for any difference between rental payments such residents incur at such new locations above those incurred prior to such casualty, until such time as CPDC becomes responsible for such payments under the Relocation Plan (as such term is defined in that certain Comprehensive Agreement between Seller, Purchaser, and CPDC dated as of the date hereof). The "First Three Buildings" are those three residential buildings currently existing on the Property and containing 1513-1527 Cameron Crescent Drive, 1548-1556 Cameron Crescent Drive, and 1560-1566 Cameron Crescent Drive (in each case, even numbers only), each in Reston, Virginia 20190. If one or more of the "Latter Two Buildings" (as defined in the next sentence) suffers a casualty

prior to Closing, Seller shall be responsible for all relocation costs (initial moving expenses, excess in rental payments above which were paid prior to the casualty, and moving expenses back into Building D3 or D4, if the resident is eligible) for residents of the affected building until such time as CPDC becomes responsible for such payments under the Relocation Plan. The “Latter Two Buildings” are those two residential buildings currently existing on the Property and containing 1531-1545 (odd numbers only) Cameron Crescent Drive and 1570-1578 (even numbers only) Cameron Crescent Drive, each in Reston, Virginia 20190.

15. **Possession.** Seller shall deliver sole and exclusive possession of the Property to Purchaser upon Closing, subject only to the rights of tenants under the leases or rights of others (if any) under Permitted Exceptions.

16. **Purchaser Indemnification.** Purchaser shall be liable for and indemnify Seller against any loss or damages sustained by Seller resulting from the acts of Purchaser or its agents resulting from its entry upon the Property or while performing engineering studies or tests on the Property, unless caused by the gross negligence of Seller.

17. **Default and Remedies.**

(a) Default by Seller.

In the event that Seller shall be in breach of its obligations under this Agreement, Purchaser at its election may (i) terminate this Agreement in which event the Deposit shall be promptly returned to Purchaser, or (ii) sue Seller for specific performance. Except as aforesaid in no event shall Purchaser be entitled to any damages, including without limitation, so called consequential, punitive, exemplary or other type of monetary damages.

(b) Default by Purchaser.

In the event that Purchaser shall be in breach of this Agreement, Seller's sole remedy hereunder shall be to terminate this Agreement in which event the Deposit shall be forfeited and paid in its entirety to Seller as fixed and liquidated damages for Purchaser's breach. The parties acknowledge that the Deposit represents a reasonable estimate of Seller's loss in the event of Purchaser's breach of this Agreement. Except as aforesaid, in no event shall Purchaser be liable for any so called consequential, punitive, exemplary or other types of monetary damages.

18. **Condition of Property.** The parties agree that the Property is to be conveyed to Purchaser at Closing in its “As-Is” condition without warranty of any kind by Seller.

19. **Notices.** Any notices required or permitted to be given hereunder shall be deemed to have been properly given when received or refused if sent by United States certified or registered mail, return receipt requested; national overnight courier service; or delivered in hand; in each case as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

If to Seller:

Board of Supervisors of Fairfax County, Virginia
12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Attn: County Executive

With copies to:

Office of the County Attorney
Attention: County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064

And copies to:

Department of Community Revitalization
12055 Government Center Parkway, Suite 1048
Fairfax, Virginia 22035
Attn: Barbara A. Byron

If to Purchaser:

Republic Land Development LLC
11401 North Shore Drive
Reston, Virginia 20190
Attn: Stacy Hornstein

With copies to:

Walsh Colucci Lubeley & Walsh, PC
2200 Clarendon Boulevard, Suite 1300
Arlington, Virginia 22201
Attn: Thomas J. Colucci

If to Escrow Agent:

Commonwealth Land Title Insurance Company
1015 15th Street, N.W., Suite 300
Washington, D.C. 20005
Attn: David Nelson

20. **Reserved.**

21. Escrow Provisions.

(a) If same are delivered to the Escrow Agent, the Escrow Agent shall deposit the Deposit in an interest bearing escrow account in a federally insured institution.

(b) The Escrow Agent shall disburse the Deposit in accordance with the provisions of this Agreement.

(c) If this Agreement is terminated in accordance with the terms hereof, or if the Closing does not take place under this Agreement by reason of the failure of either party to comply with such party's obligations hereunder, then the Escrow Agent shall pay the Deposit, as set forth in a written notice to Escrow Agent from Seller or Purchaser, provided however, that Escrow Agent shall not disburse any portion of the Deposit until Escrow Agent shall have provided ten (10) days' prior notice to both Seller and Purchaser (which shall include a copy of the notice provide to the Escrow Agent) and not thereafter if either Seller or Purchaser shall have objected to such disbursement during such ten (10) day period.

(d) The Escrow Agent shall hold the Deposit in a separately designated interest bearing escrow account, with interest to accrue to the benefit of Purchaser, unless such Deposit pursuant to the terms of this Agreement is paid to Seller.

(e) The duties of the Escrow Agent are only as herein specifically provided and are purely ministerial in nature, and the Escrow Agent shall incur no liability whatsoever except for willful misconduct or gross negligence, as long as the Escrow Agent has acted in good faith.

(f) In the performance of its duties hereunder, the Escrow Agent shall be entitled to rely upon any document, instrument or signature believed by it to be genuine and signed by either or both of the parties or their successors.

(g) The Escrow Agent may assume that any person purporting to give any notice of instructions in accordance with the provisions hereof has been duly authorized to do so.

(h) The Escrow Agent shall not be bound by any modification, cancellation or rescission of this Agreement unless in writing and signed by Seller and Purchaser, and if such modification, cancellation or rescission affects the obligations of Escrow Agent under this Paragraph 21, by Escrow Agent .

(i) Seller and Purchaser shall each reimburse the Escrow Agent for one-half (1/2) of any and all loss, liability, costs or expenses in connection herewith, including reasonable attorneys' fees and disbursements, incurred without willful misconduct or gross negligence on the part of the Escrow Agent arising out of or in connection with its acceptance of, or the performance of its duties and obligations under, this Agreement, as well as the reasonable costs and expenses of defending against any claim or liability arising out of or relating to this Agreement.

(j) The Escrow Agent has executed this Agreement solely to confirm that the Escrow Agent will hold the Deposit in escrow, pursuant to the provisions of this Agreement.

(k) In the event that there is a dispute between the parties relating to the disposition of the Deposit, the Escrow Agent shall be entitled to interplea the Deposit into the circuit court of Fairfax County, Virginia and deduct from the Deposit the costs incurred in connection with the filing of any such interpleader.

22. Miscellaneous Provisions.

(a) Binding Effect. This Agreement shall, be binding upon and inure to the benefit of the parties hereto, and their respective heirs, devisees, personal representative, successors and assigns.

(b) Waiver, Modification. Failure by Purchaser or Seller to insist upon or enforce any of its rights hereto shall not constitute a waiver thereof.

(c) Governing Law. This Agreement shall be governed by and construed under the laws of the Commonwealth of Virginia.

(d) Headings. The paragraph headings are herein used for convenience of reference only and shall not be deemed to vary the content of this Agreement or the covenants, agreements, representations and warranties herein set forth or the scope of any paragraph.

(e) Partial Invalidity. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect; and it is the intention of all the parties hereto that if any provision of this Agreement capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

(f) Survival. The provisions of this Agreement shall survive Closing hereunder.

(g) Time. With respect to all time periods contained in this Agreement, it is expressly understood that time shall be of the essence.

(h) Holidays, Etc. Whenever the last day for the performance of any act required by either Seller or Purchaser under this Agreement shall fall upon a Saturday, Sunday, or legal holiday, the date for the performance of any such act shall be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday.

(i) Counsel Fees. If any action is brought by either party against the other party including, without limitation, any action with respect to the receipt of the Deposit as liquidated damages the prevailing party shall be entitled to recover from the other party reasonable attorney's fees, costs and expense incurred in connection with the prosecution or defense of such action.

(j) Seller Disclosures. Seller shall be obligated to execute at Closing such disclosures, owners affidavits, tax affidavits, or FIRPTA affidavits as may be required by Purchaser's title insurer at Closing.

(k) Effective Date. The Effective Date of this Agreement shall be the date that a fully ratified copy of this Agreement is executed by Purchaser and Seller.

(l) Further Assurances. Each of the parties hereto shall at any time and from time to time after the Closing execute and deliver such further instruments, documents and certificates and do such further acts and things, as may be required by law or which may be appropriate or reasonable in order to carry out the intent and purposes of this Agreement, or to vest more fully in Purchaser the title to the Property.

(m) Delivery; Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for more than a number of counterparts containing the respective signature of, or on behalf of, all of the parties hereto.

(n) Notice and Cure. Whenever in this Agreement a party is required to perform any act or deed and any such act or deed has not been performed by the time prescribed under this Agreement, prior to the non-performing party being declared in default under this Agreement the party alleging such non-performance shall be required to provide to the non-performing party written notice of such non-performance which notice shall provide for a period of not less than fifteen (15) business days for the non-performing party to cure such non-performance. Notwithstanding this Paragraph 22(n) to the contrary, the notice and cure provision shall not apply to failure to meet a condition precedent under Paragraph 9 above, by the Outside Closing Date (or Extended Outside Closing Date, if applicable), for which no notice or cure period applies.

(o) Appropriations. Purchaser and Seller acknowledge and agree that Seller's financial obligations hereunder (if any) are subject to appropriations by the Fairfax County Board of Supervisors. To the extent this Agreement is construed to impose any financial obligations upon Seller, any such financial obligations shall be binding to the extent of appropriations by the Fairfax County Board of Supervisors.

(p) WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHTS SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS AGREEMENT, ANY DOCUMENTS EXECUTED IN CONNECTION HERewith OR ANY OF THE MATTERS ADDRESSED HEREIN. EACH OF THE PARTIES HEREBY ACKNOWLEDGES THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY AND HAS BEEN MADE AFTER CONSULTING LEGAL COUNSEL.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have signed, sealed and delivered these presents as their own free act and deed, intending that this Agreement be effective as of the Effective Date.

SELLER:

**The Board of Supervisors, Fairfax County,
Virginia**
A Political Subdivision of the Commonwealth of
Virginia

Date:

By: _____ (Seal)
Name: _____
Title: _____

PURCHASER:

Lake Anne Development Partners, LLC,
A Virginia limited liability company

Date:

By: _____ (Seal)
Name: _____
 Manager

ESCROW AGENT:

Date:

By: _____ (Seal)
Name: _____
Title: _____

LIST OF EXHIBITS

Exhibit A	Description of Land
Exhibit B	Form of Deed
Exhibit C	Description of Phase I Improvements
Exhibit D	Form of Restrictive Covenant
Exhibit E-1	Description of Ground Lease Parcel for Building D3
Exhibit E-2	Description of Ground Lease Parcel for Building D4

Exhibit A

Legal Description of Land

All that certain piece or parcel of real property, including improvements thereon, lying and being in Fairfax County, Virginia, and more particularly described as:

Parcel I:

Parcel 1-A, resubdivision of Block 1, Section 11, and Parcel 2, Block 1, Section 5, RESTON, as resubdivided, platted and recorded in Deed Book 3239 at Page 181.

NOTE FOR INFORMATIONAL PURPOSES ONLY:

Tax Map No. 017-2-16-0001-A

Parcel II:

Parcel 2-A, containing 3.3762 acres, more or less, resubdivision of Block 1, Section 11 and Parcel 2, Block 1, Section 5, RESTON, as dedicated, platted and recorded in Deed Book 3239 at Page 181.

NOTE FOR INFORMATIONAL PURPOSES ONLY:

Tax Map No. 017-2-14-0002-G

TOGETHER WITH the non-exclusive right to use adjacent parking areas 1 and 2 in Section 11, RESTON, shown on the plat attached to the Agreement between John Hancock Mutual Life Insurance Company and Gulf Reston, Inc. recorded in Deed Book 3239 at Page 174 of said land records.

AND TOGETHER WITH a non-exclusive right of way for ingress and egress from said parking areas to North Shore Drive being more particularly shown on the plat attached to the Agreement between John Hancock Mutual Life Insurance Company and Gulf Reston, Inc. recorded in Deed Book 3239 at Page 174 of said land records.

AND LESS AND EXCEPT the Ground Lease Parcels, as defined in this Agreement and depicted on Exhibit E-1 and E-2.

AND LESS AND EXCEPT the RA Swap Parcel, as defined in this Agreement and depicted on Sheet C-7 of the Development Plan.

EXHIBIT B
FORM OF DEED

After recordation, return to:

DEED WITHOUT WARRANTY
OR ENGLISH COVENANTS

THIS DEED WITHOUT WARRANTY OR ENGLISH COVENANTS (this ~~%Deed+~~) is made this _____ day of _____, 20__ by the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia, in its proprietary capacity and not in its governmental capacity (~~%Grantor+~~) to **REPUBLIC ENTITY**, a _____ (~~%Grantee+~~).

RECITALS

R-1. Grantor owns that certain parcel of real property located in Fairfax County, Virginia (the ~~%Parcel+~~) consisting of approximately _____ acres of land, as more fully described in **Exhibit A** attached hereto and incorporated herein by this reference, together with the improvements thereon.

R-2. Grantor desires to convey the Parcel to Grantee in fee simple together with all of Grantor's right, title and interests in and to all of the improvements, rights, privileges and easements (collectively, ~~%Appurtenances+~~) benefiting, belonging or pertaining to the Parcel (the Parcel and Appurtenances collectively referred to hereafter as the ~~%Property+~~).

THEREFORE, that for and in consideration of the sum of Ten Dollars (\$10.00) paid in hand by Grantee to Grantor, and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Grantor does hereby grant, bargain and sell, convey and deed unto Grantor in fee simple without warranty or English Covenants of Title, all of the Property, as such term is defined above. The Property being deeded and conveyed hereunder is subject to all easements, restrictions and covenants of record and all applicable proffers and development conditions, without limitation.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK . SIGNATURE PAGE FOLLOWS]

EXHIBIT A

Description of the Property

[Attached]

Exhibit C

Description of Phase I Improvements

Substantial Completion of Phase I Improvements. With respect to the Phase I Improvements, “Substantial Completion” will have occurred on completion of the following items:

- a. Sanitary sewer mains and manholes are complete and in service with service laterals installed to behind the curb and gutter;
- b. Storm drain mains and manholes are complete and in service;
- c. Storm water management facilities are complete and are placed in service (or ready to be placed in service upon completion of any adjacent construction that will utilize such storm water management facilities);
- d. Water mains are complete and in service with water laterals installed to meter [crocks];
- e. Curbs and gutters are completed;
- f. Paving of the private streets is completed (except for the final topping coarse);
- g. The parking garage of approximately 128 parking spaces has been constructed;
- h. The pad site for Building D3 is complete; and
- i. All areas which are adjacent to the Property where the Phase I Improvements are constructed that were disturbed during construction have been rough graded and stabilized.

Owner’s architect/engineer (or that of Owner’s affiliate, if such affiliate holds the contract with such architect/engineer) for the Phase I Improvements shall have delivered to Owner (or its affiliate), with a copy to the County, a letter, in a form reasonably satisfactory to Owner (or its affiliate) and the County, certifying that Substantial Completion under the contract document(s) has occurred.

EXHIBIT D

DECLARATION OF RESTRICTIVE COVENANTS

THIS **DECLARATION OF RESTRICTIVE COVENANTS** (this "Declaration") is made this ____ day of _____ (the "Effective Date") by LAKE ANNE DEVELOPMENT PARTNERS, LLC, a Virginia limited liability company (together with its successors and assigns, "Owner") for the benefit of the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia, acting in its proprietary capacity, and not in its governmental or regulatory capacity (the together with its successors and assigns, "County").

RECITALS

WHEREAS, the County conveyed fee simple ownership of that certain real property situated in Fairfax County located in Reston, Virginia[, having Fairfax County Tax Map Numbers **[TO BE DETERMINED, PENDING SUBDIVISION, IF AVAILABLE AT TIME OF EXECUTION]**] and being further described on Exhibit A attached hereto (the "Property") to Owner on the Effective Date by virtue of that certain Deed Without Warranty or English Covenants recorded amongst the Land Records of Fairfax County, Virginia immediately prior to this Declaration; and

WHEREAS, the County's conveyance of the Property to Owner was done pursuant to (i) that certain Fairfax County Request for Proposal Number RFP-2000000-125, dated February 9, 2012, and issued under the auspices of the Public Private Education Facilities and Infrastructure Act of 2002, Virginia Code Ann. §§ 56-575.1 et seq. (2012) (such Request for Proposal, as subsequently amended by certain addendums, collectively, the "RFP"), in which the County sought a developer for the redevelopment of the Property to, among other things, achieve a comprehensive redevelopment plan that aligned with the vision of the Fairfax County Comprehensive Plan, including the preservation of existing affordable housing, the creation of additional affordable and workforce housing, and a development that would serve as a catalyst for the revitalization of the area; (ii) Owner's response to the RFP; and (iii) the resulting Comprehensive Agreement between, among others, the County and Owner, dated as of **[DATE]**, 2015 (the "Comprehensive Agreement"); and

WHEREAS, to ensure the Property is redeveloped in accordance with the terms of that certain Proffered Condition Amendment (PCA A-502 and PCA 502-03 and Development Plan Amendment DPA A-502-07) approved by the County on **[DATE]**, 2015, including the Development Plan described therein (the "Development Plan") and the terms of the Comprehensive Agreement (such redevelopment, the "Project"), and as a material inducement to the County to convey the Property to Owner, Owner, as the fee simple owner of the Property, desires to and hereby does declare certain restrictive covenants upon the Property, the burdens of which shall run with the Property and the benefits of which shall be in favor of the County in gross.

NOW, THEREFORE, in consideration of \$10.00, the receipt and sufficiency of which is hereby acknowledged, as well as of the County's conveyance of the Property to Owner, Owner hereby declares that the Property is and shall be subject to the restrictive covenants set forth herein (the "Covenants").

1. Intent of the Parties. It is the intent of both Owner and the County that the burdens of these Covenants shall run with the Property and that the benefits of these Covenants shall be in favor of the County in gross.

2. Covenants.

a. Vertical Development on Property. With the exception of that certain parking garage for Building D4, as depicted on Sheet C-6 of the Development Plan, Owner shall not commence or engage in vertical construction in any form on the Property until:

i. Substantial Completion of the Phase I Improvements, as defined on Exhibit B attached hereto (and incorporated herein by this reference), has occurred;

ii. Community Preservation and Development Corporation ("CPDC"), or an affiliate or affiliates thereof, shall have entered into one or more leases for the building sites of Buildings D3 and D4, as described on Sheet C-6 of the Development Plan ("Buildings D3 and D4")[, also known as Fairfax County Tax Map Number[s] [**TO BE DETERMINED, PENDING SUBDIVISION, IF AVAILABLE AT TIME OF EXECUTION**]];

iii. CPDC, or an affiliate or affiliates thereof, shall have entered into one or more contracts for the construction of Buildings D3 and D4;

iv. CPDC or its affiliate, as applicable, shall have issued a notice to proceed under each such construction contract, each of which shall be for, at a minimum, completion of the shell of the applicable building; and

v. Owner shall have sent a notice to County stating Owner's belief that the provisions of Sections 2(a)(i) through 2(a)(iv), inclusive, have been satisfied, together with documentation in support thereof.

b. Permits Generally. Owner shall neither request nor obtain a certificate of occupancy (a/k/a a "Residential Use Permit" for residential units and a "Non-Residential Use Permit" for non-residential spaces, such as offices and retail spaces) for any improvements on the Property until (i) the framing of the first of Buildings D3 and D4 to be constructed is one hundred percent (100%) complete, (ii) the framing of the second of Buildings D3 and D4 to be constructed is at least fifty percent (50%) complete, and (iii) Owner shall have sent a notice to County stating Owner's belief that the provisions of subsections 2(b)(i) and (ii) have been satisfied, together with documentation in support thereof.

c. Permits – After Phase I. Owner shall neither obtain building permits for, nor start nor engage in any construction of, any improvements on the Property other than those in

Phase I of the Project, being those shown on Sheet I-12 of the Development Plan until (i) certificates of occupancy (a/k/a “Residential Use Permits”) have been obtained for every residential unit in both of Buildings D3 and D4, (ii) Owner has obtained binding commitments to acquire Fairfax County Tax Map parcels 17-2 ((8)) 6C; 17-2 ((7)) 6B2; 17-2 ((7)) 6B3; 17-2 ((31)) 1645 and pt of 17-2 ((31)) pt of LARCA common element, in form reasonably acceptable to the County, and such commitments remain in effect at such time Owner wishes to commence construction of post-Phase I improvements, and (iii) Owner shall have sent a notice to the County stating Owner’s belief that the provisions of Sections 2(c)(i) and 2(c)(ii) have been satisfied, together with documentation in support thereof.

d. Completion of Village Road. Owner shall neither obtain nor apply for more than 31 certificates of occupancy (a/k/a “Residential Use Permits”) for residential units on the Property until (i) Owner shall have constructed or caused the construction of the Village Road improvements as shown on Sheet C-8 of the Development Plan and (ii) Owner shall have sent a notice to the County stating Owner’s belief that the provisions of Section 2(d)(i) have been satisfied, together with documentation in support thereof.

e. Demolition of Remaining Existing Apartment Buildings. Owner shall not demolish the two buildings currently existing on the Property with addresses of 1531-1545 (odd numbers only) Cameron Crescent Drive and 1570-1578 (even numbers only) Cameron Crescent Drive (the “Remaining Existing Apartment Buildings”) until (i) certificates of occupancy (a/k/a “Residential Use Permits”) have been obtained for every residential unit in both of Buildings D3 and D4, and (ii) Owner shall have sent a notice to the County stating Owner’s belief that the provisions of Section 2(e)(i) have been satisfied, together with documentation in support thereof.

f. Operation of Remaining Existing Apartment Buildings. Owner shall operate the Remaining Existing Apartment Buildings (i) as affordable housing in accordance with Fairfax County Rental Program’s Admission and Occupancy Policy, last revised October 2011 (and incorporated herein by this reference) and (ii) pursuant to that certain Management Agreement between Owner and CPDC (or an affiliate thereof), of even date herewith (the “Management Agreement”).

g. Relocation of Existing Tenants. Owner shall (i) cooperate with CPDC regarding the relocation of all the tenants of the three buildings currently existing on the Property with addresses of 1513-1527 Cameron Crescent Drive, Reston, Virginia 20190; 1548-1556 Cameron Crescent Drive (even numbers only), Reston, Virginia 20190; and 1560-1566 Cameron Crescent Drive (even numbers only), Reston, Virginia 20190 (collectively, the “Initial Existing Apartment Buildings”) prior to demolition of the Initial Existing Buildings and in accordance with the “Relocation Plan” (incorporated herein by this reference), as specifically set forth in that certain Implementation Agreement between the County and CPDC, dated [DATE], (ii) together with CPDC, relocate all the tenants of the Remaining Existing Apartment Buildings in accordance with the Relocation Plan, and (iii) apply all Net Revenue from the Remaining Existing Apartment Buildings toward such relocation costs. As used in the preceding sentence, “Net Revenue” means the sum of (i) all cash received from rents, lease payments and all other sources, including (A) forfeited tenant security or other deposits, and (B) the proceeds of any condemnation awards or insurance including rental interruption insurance (other than fire and

extended coverage and title insurance, but only to the extent used to restore the Remaining Existing Apartment Buildings), minus (ii) all cash expenditures, capital expenditures, repairs, replacements and all expenses unpaid but properly accrued, including the return of any unforfeited security deposits, which have been incurred in the operation of the Remaining Existing Apartment Buildings.

h. Modification of Land Use Entitlements or Proffers. Owner shall not amend nor otherwise seek written modification or written interpretation of any of (i) the zoning of the Property, (ii) Proffered Condition Amendments PCA A-502 and PCA 502-03, approved by the County on [DATE], 2015, (iii) Development Plan Amendment DPA A-502-07, approved by the County on [DATE], 2015, including the Development Plan described therein, and (iv) the Proffers executed in connection with the entitlements referenced in the preceding clauses (ii) and (iii) (each incorporated herein by this reference; collectively, the “Land Use Entitlements”) without the prior written consent of the County. The County shall respond to any requests for such consent within ten (10) business days.

3. Term. Each of the Covenants shall run with and be binding upon the Property until the earlier of (a) its satisfaction in accordance with its express terms herein, (b) the completion of the Project in general conformance with the Land Use Entitlements (as may be amended in conformance with Section 2(h) hereof), (c) an Automatic Homeowner Termination, as defined in Section 5(a) below and in such case only with respect to the applicable individual residential unit, or (d) January 1, 2050.

4. Estoppels. The County shall, within ten (10) business days after receipt of written request from Owner, deliver a written instrument to Owner or any other person or entity specified by Owner, duly executed and acknowledged, certifying to the best of the County’s knowledge: (a) as to whether this Declaration has been amended or modified, and if so, the substance and manner of such amendment or modification; (b) as to whether Owner is then in violation of any of the terms of this Declaration, and (c) as to whether any particular Covenant identified in the request from Owner has been satisfied in accordance with its express terms herein.

5. Releases.

a. If Owner conveys an individual residential unit – i.e., a single townhouse or residential condominium unit – the construction of which has been completed and for which a certificate of occupancy (a/k/a “Residential Use Permit) has been issued, in an arms’-length transaction for fair market value to a bona-fide purchaser, then all the Covenants other than those set forth in Section 2(b) and 2(d) above shall automatically terminate solely with respect to such unit, but not otherwise (such a termination, an “Automatic Homeowner Termination”). The term “bona-fide purchaser” as used in this Section 5(a) shall mean one or more individuals, none of whom may hold or have held an interest in more than two (2) individual residential units at the Property.

b. The County agrees to execute a recordable release, in a form reasonably acceptable to the County (a “Release”) with respect to any Covenants (i) that have

been satisfied in accordance with the terms herein or (ii) that are inapplicable to a subdivided portion of the Property. The County shall execute a Release requested by Owner within ten (10) business days after receipt thereof from Owner, with evidence satisfactory to the County, in its reasonable discretion, that the Covenants on the portion of the Property for which the requested Release relates have been satisfied or are inapplicable. Upon satisfaction of all of the Covenants, upon request of Owner, the County shall execute a Release for the Property (or remainder thereof for which Releases have not previously been obtained), in the manner set forth herein.

6. Notices. Any notices or requests required or permitted to be given hereunder shall be deemed to have been properly given when received or refused if sent by United States certified or registered mail, return receipt requested; national overnight courier service; or delivered in hand; in each case as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

If to the County:

Office of Community Revitalization
12055 Government Center Parkway, Suite 1048
Fairfax, Virginia 22035
Attention: Director

With a copy to:

Office of the County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
Attention: County Attorney

If to Owner:

Lake Anne Development Partners, LLC
c/o Republic Land Development LLC
11401 North Shore Drive
Reston, Virginia 20190
Attention: Stacy C. Hornstein

With a copy to:

Walsh Colucci Lubeley Emrich & Walsh, PC
2200 Clarendon Boulevard, Suite 1300
Arlington, Virginia 22201
Attention: Thomas J. Colucci, Esq.

7. Miscellaneous.

a. Headings. The section headings are herein used for convenience of reference only and shall not be deemed to vary the content of this Declaration or the terms herein.

b. Incorporation. The Recitals and Exhibits are hereby incorporated into this Agreement as if fully set forth herein.

c. Governing Law. This Declaration shall be governed by and construed under the laws of the Commonwealth of Virginia.

d. Partial Invalidity. If any provision of this Declaration shall be determined to be void or unenforceable by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect; and it is the intention of all the parties hereto that if any provision of this Declaration is capable of two constructions, one of which would render the provision void or unenforceable and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

e. Waiver, Modification. Failure by either party to insist upon or enforce any of its rights hereto shall not constitute a waiver thereof. This Declaration shall not be modified, amended, or altered except by a written agreement signed by each of the parties hereto.

[Remainder of page intentionally left blank. Signatures appear on following pages.]

IN WITNESS WHEREOF, the parties hereto have caused this Declaration to be executed on the Effective Date.

COUNTY:

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, acting in its proprietary capacity and not in its governmental or regulatory capacity

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me this ____ day of _____, 2015, by _____.

Notary Public

My Commission Expires: _____
Registration Number: _____

LADP:

**LAKE ANNE DEVELOPMENT PARTNERS
LLC**, a Virginia limited liability company

By: _____
Name: Stacy C. Hornstein
Title:

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me this ____ day of _____, 2015, by Stacy C. Hornstein, _____ of Lake Anne Development Partners LLC.

Notary Public

My Commission Expires: _____
Registration Number: _____

EXHIBIT A – PROPERTY DESCRIPTION

[TBD – PENDING SUBDIVISION]

EXHIBIT B – PHASE I IMPROVEMENTS

Substantial Completion of Phase I Improvements. With respect to the Phase I Improvements, “Substantial Completion” will have occurred on completion of the following items:

- a. Sanitary sewer mains and manholes are complete and in service with service laterals installed to behind the curb and gutter;
- b. Storm drain mains and manholes are complete and in service;
- c. Storm water management facilities are complete and are placed in service (or ready to be placed in service upon completion of any adjacent construction that will utilize such storm water management facilities);
- d. Water mains are complete and in service with water laterals installed to meter [crocks];
- e. Curbs and gutters are completed;
- f. Paving of the private streets is completed (except for the final topping coarse);
- g. The parking garage of approximately 128 parking spaces has been constructed;
- h. The pad site for Building D3 is complete; and
- i. All areas which are adjacent to the Property where the Phase I Improvements are constructed that were disturbed during construction have been rough graded and stabilized.

Owner’s architect/engineer (or that of Owner’s affiliate, if such affiliate holds the contract with such architect/engineer) for the Phase I Improvements shall have delivered to Owner (or its affiliate), with a copy to the County, a letter, in a form reasonably satisfactory to Owner (or its affiliate) and the County, certifying that Substantial Completion under the contract document(s) has occurred.

EXHIBIT E-1

The Ground Lease Parcel for Building D3 shall be that certain real property situated in Fairfax County, Virginia, and being a portion of Fairfax County Tax Map Number 17-2 ((16)), parcel 1A, such portion being the area containing the building marked D3 and surrounded by dash marks, subject to reasonable modification as described in the Agreement.

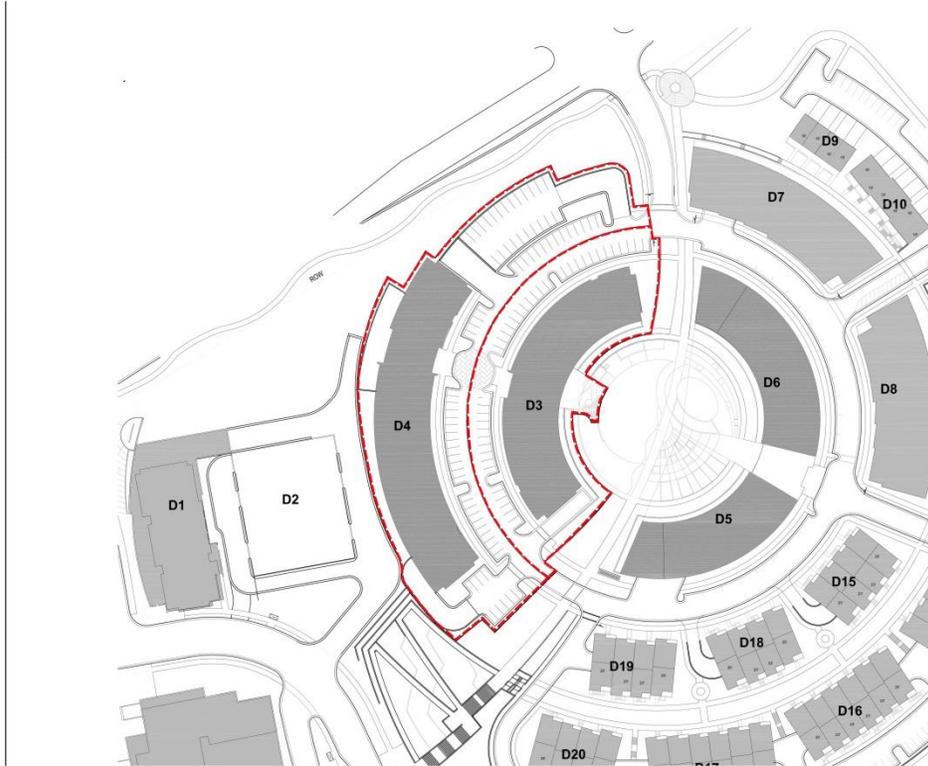


EXHIBIT E-2

The Ground Lease Parcel for Building D4 shall be that certain real property situated in Fairfax County, Virginia, and being a portion of Fairfax County Tax Map Number 17-2 ((16)), parcel 1A, such portion being the area containing the building marked D4 and surrounded by dash marks, subject to reasonable modification as described in the Agreement.

