

**INTERIM AGREEMENT
(One University)**

THIS INTERIM AGREEMENT (this “**Agreement**”) is made and entered into as of the ___ day of _____, 2018 (the “**Effective Date**”), by and between the **FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY**, a political subdivision of the Commonwealth of Virginia (the “**FCRHA**”), and **ONE UNIVERSITY DEVELOPMENT PARTNERS, LLC**, a Virginia limited liability company (“**One University Partners**”) and together with the FCRHA, collectively, the “**Parties**”).

RECITALS

R-1 The FCRHA is the fee simple owner of approximately 10.7 acres of land in Fairfax County, Virginia fronting on University Drive and Ox Road, and further described as Fairfax County Tax Map Section 57-3 ((1)) Parcels 11A and 11B, and Tax Map Section 57-4 ((1)) Parcel 2B (collectively known as “**One University**”). One University is improved with offices, operational and maintenance facilities, and a 46-unit affordable townhouse community known as Robinson Square.

R-2 In July of 2017, the Purchasing Agent of the Fairfax County Department of Purchasing and Supply Management (“**Purchasing Agent**”) received, on behalf of the FCRHA, an unsolicited proposal from One University Partners under the Public Private Education Facilities and Infrastructure Act of 2002, as amended, Virginia Code Ann. §§ 56-575.1 to 575.16 (such law, the “**PPEA**”) proposing to redevelop One University as a mixed income, affordable housing and market rate student housing community comprised of multifamily apartments. One University’s prime location and its proximity to George Mason University lends itself to the development of both affordable and student housing.

R-3 In accordance with the PPEA and the FCRHA PPEA guidelines, the Purchasing Agent issued a “Request for Competing Proposals” in September of 2017 (the “**RCP**”). The RCP included criteria calling for, among other things, creation of additional affordable housing consistent with the Housing Blueprint including affordable senior housing, maximizing revenue to the FCRHA through long term ground leases, providing a robust residential relocation plan for current residents as well as providing viable on-site or off-site solutions to accommodate existing uses, implementation of a comprehensive community outreach strategy, and addressing current transportation issues by providing solutions to mitigate and reduce traffic.

R-4 A review team of County employees was appointed by the Purchasing Agent to evaluate all of the unsolicited proposals. Upon completion of its evaluation, the County team determined that One University Partners was the highest rated offeror and recommended to the FCRHA that the County team should commence negotiations with

One University Partners for redevelopment of One University. The FCRHA accepted the team's recommendation and the terms of the One University Partners proposal.

R-5 The proposed development (the "**Development**") is anticipated to provide for construction of approximately 240 affordable multi-family units in four story buildings, including 100 affordable senior units with surface and deck parking, and approximately 360 units, 713 beds, of student housing in five to six story buildings that similarly parked, as well as limited community space/use as may be appropriate. The selected proposed Development can be viewed at the following Fairfax County DPSM - PPEA Opportunities web site: <https://www.fairfaxcounty.gov/procurement/ppea>

R-6 In recognition of the complexity of the proposed Development of One University and the need to commence certain design and zoning related work promptly in order to meet the requirements established by the Virginia Housing and Development Authority for low-income housing tax credit, the Parties wish to begin the process for zoning and land use approvals prior to execution of a final agreement for the proposed Development.

R-7 Notwithstanding that the Parties do not have a final agreement regarding the Development and with full recognition that the Parties may be unsuccessful in concluding a final agreement regarding the Development, the FCRHA has agreed to allow One University Partners the right, at One University Partner's sole risk and expense, to pursue the Land Use Entitlement Approvals (as defined herein) with respect to One University and the Development in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the Recitals, which are hereby incorporated into this Agreement by reference, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term of Agreement. This Agreement shall commence on the Effective Date and, unless otherwise terminated in accordance with the terms of Section 4 below, shall terminate upon the execution by the Parties hereto of the Comprehensive Agreement (as defined below).
2. Designation of One University Partners as Agent.
 - a. The FCRHA hereby designates One University Partners as its agent for the limited purpose of pursuing the Land Use Entitlement Approvals with respect to One University and the Development, subject to the terms and conditions set forth in this Agreement, and the Developer hereby accepts such designation.
 - b. The FCRHA agrees that One University Partners, as the FCRHA's agent, is authorized to commence land use planning, design, and other work activities necessary to

obtain the following with respect to One University and the Development (collectively, the "**Land Use Entitlement Approvals**"):

- i. An amendment to the Comprehensive Land Use Plan;
- ii. A Conceptual Development Plan and Final Development Plan;
- iii. A Rezoning of One University in connection with the Development;
- iv. A Site Plan;
- v. Any other approvals necessary in connection with (i) through (iv) above.

c. One University Partners hereby acknowledges and agrees that the agency created hereby is temporary and shall immediately terminate upon any termination of this Agreement in accordance with the terms of Section 4 below. Upon such termination of the agency created hereby, One University Partners shall immediately cease all work with respect to the Land Use Entitlement Approvals and, thereafter, One University Partners shall have no further duty or obligation to pursue the Land Use Entitlement Approvals on behalf of the County.

3. Agreement Regarding Land Use Entitlement Approval Process.

a. One University Partners shall consult and coordinate with the County/FCRHA appointed PPEA review and negotiation team (the "**PPEA Team**") regarding the design of the Development and regarding all submissions to be made in connection with the Land Use Entitlement Approvals. Unless otherwise waived or modified in writing by the FCRHA, or its designee, One University Partners shall provide the PPEA Team, in its proprietary capacity, a copy of all submissions to be made in connection with the Land Use Entitlement Approvals for the PPEA Team's review and approval fifteen (15) business days prior to One University Partners anticipated filing with or submission of the same to the applicable governmental agencies. Approval of such submission shall be in the PPEA Team's sole discretion; provided, however, that the PPEA Team's approval of any and all such submissions shall not be unreasonably withheld on the basis of County comments that do not reasonably reflect refinement of the scope and substance of prior approved submissions, unless such comments are in response to issues or questions raised by the County; in its governmental/regulatory capacity, as part of the Land Use Entitlement Approval process. If the PPEA Team fails to notify One University Partners in writing of either its approval or disapproval of any such submissions within fifteen (15) business days after its receipt of the same from One University Partners, then the Developer may proceed with the submission of the same; however, it shall be understood that such submission shall not be deemed to be approved by the PPEA Team. Any PPEA Team approval of submissions by One University Partners shall be in the PPEA Team's

capacity as representing the land owner, and shall not be construed to imply approval as a regulator.

b. The FCRHA will reasonably pursue any consent of the Board of Supervisors that may be required in connection with the Land Use Entitlement Approvals and to otherwise cooperate with One University Partners in the pursuit of the Land Use Entitlement Approvals.

c. It is further acknowledged and understood that the rezoning of the One University Land will require execution of proffered conditions by One University Partners and the FCRHA. One University Partners and the FCRHA shall consult and coordinate as to the substance of such proffered conditions. The FCRHA's approval and execution of proffered conditions shall be in the FCRHA's sole and absolute discretion; provided, however, that such approval and execution shall not be unreasonably withheld with respect to proffered conditions that are reasonably related to elements of Land Use Entitlement Approval submissions previously approved by the County, in its proprietary capacity.

d. In performing its obligations hereunder, One University Partners shall at all times comply with, and cause its submissions in connection with the Land Use Entitlement Approvals to comply with, the requirements of this Agreement and the herein described Development.

e. One University Partners shall be responsible for all costs associated with the Land Use Entitlement Approvals and the FCRHA shall not be obligated to reimburse One University Partners for any costs associated with the Land Use Entitlement Approvals. Upon any termination of this Agreement pursuant to Section 4(c), One University Partners shall (i) assign all of its rights and interests (if any) in and to any obtained Land Use Entitlement Approvals, and deliver originals or copies of any and all other documents related to the same to the FCRHA, and (ii) assign to the FCRHA all of its rights and interests to, and provide and deliver to the FCRHA, any and all work product produced by One University Partners and its contractors and consultants associated with the Land Use Entitlement Approvals and the Development, together with any third-party consents necessary therefor (collectively, the foregoing shall be referred to as the “**Work Product**”).

f. During the term of this Agreement, One University Partners and its agents may access One University pursuant to the terms and conditions of a separate “Temporary Right of Entry License” attached hereto and hereby made a part hereof.

4. Termination.

a. The FCRHA may terminate the agency granted to One University Partners, at any time and for any reason. The FCRHA will give written notice to One University Partners

if the FCRHA elects to terminate this Agreement whereon this Agreement will immediately terminate except for the One University Partners' obligations with regard to indemnification set forth in Section 6.

b. If the Parties are unable to reach agreement upon the terms and conditions of the Comprehensive Agreement by 11:59 p.m. eastern time on June 30, 2020 (or such later date as may be mutually agreed upon, in writing, by the Parties), this Agreement shall automatically terminate as of such date and the parties hereto shall have no further rights or obligations hereunder except for the One University Partners' obligations with regard to indemnification set forth in Section 6.

c. One University Partners may also terminate this Agreement at an earlier date if it reasonably determines that the Development is infeasible. Thereafter, the Parties hereto shall have no further rights or obligations hereunder, except for the One University Partners' obligations with regard to the Work Product, as described in Section 3(e) and the indemnification set forth in Section 6.

5. Insurance. One University Partners shall maintain a policy commercial general liability insurance insuring the FCRHA its agents, contractors, subcontractors and invitees against any liability arising out of One University Partners' activities under this Agreement. The insurance will be maintained for personal injury and property damage liability adequate to protect the FCRHA and Fairfax County against liability for injury or death of any person in connection with the Land Use Entitlements or the use, operation and condition of the property, in an amount not less than one million dollars (\$1,000,000) per occurrence. Prior to entering the property, One University Partners shall provide the FCRHA a Certificate of Insurance evidencing this insurance and showing the FCRHA and Fairfax County as additional insureds.

6. Indemnification. One University Partners will indemnify and save harmless the FCRHA, its officers, employees and visitors and Fairfax County, its officers, employees and visitors, from and against any claims, loss, cost, damage or liability of any kind caused by One University Partners, its agents, contractors, subcontractors or invitees, in connection with the work performed under this Agreement. This provision shall survive the termination of this Agreement.

7. Miscellaneous.

a. The FCRHA and One University Partners shall continue to negotiate certain other documents necessary to complete the Comprehensive Agreement and to effectuate the Development

b. This Agreement and any dispute, controversy or proceeding arising out of or relating to this Agreement (whether in contract, tort, common or statutory law, equity or otherwise) will be governed by Virginia law, without regard to conflict of law principles

of Virginia or of any other jurisdiction that would result in the application of laws of any jurisdiction other than those of Virginia.

c. Should any provision of this Agreement require judicial interpretation, the Parties hereby agree and stipulate that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a Party by reason of any rule or conclusion of law that a document should be construed more strictly against the Party who itself or through its agents prepared the same, it being agreed that all Parties hereto have participated in the preparation of this Agreement and that each Party had full opportunity to consult legal counsel of its choice before its execution of this Agreement.

d. This Agreement may be executed in two or more counterparts, each of which shall constitute one and the same instrument.

e. No person or other entity shall be a third party beneficiary of this Agreement.

(Remainder of Page Blank; Signatures Follow)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

FCRHA:

FAIRFAX COUNTY REDEVELOPMENT
AND HOUSING AUTHORITY, a political
subdivision of the Commonwealth of Virginia

By: _____

Title: _____

ONE UNIVERSITY DEVELOPMENT
PARTNERS, LLC, a Virginia limited liability
company

By: _____

Title: _____