

**MASTER DEVELOPMENT AGREEMENT
BETWEEN
HOUSING AUTHORITY OF THE CITY OF COLUMBIA, SC
AND
BRINSHORE DEVELOPMENT, L.L.C.**

This MASTER DEVELOPMENT AGREEMENT (the "**Agreement**") is entered into as of June 29, 2021 ("**Effective Date**"), by and between the Housing Authority of the City of Columbia, SC, a public body corporate and politic ("**Columbia Housing**"), and Brinshore Development, L.L.C., an Illinois limited liability company ("**Developer**," Columbia Housing and the Developer hereinafter sometimes referred to individually as a "**Party**" and collectively as the "**Parties**").

BACKGROUND

- A. Columbia Housing is a public housing authority organized pursuant to the South Carolina Housing Authorities Law and was formed under the United States Housing Act of 1937.
- B. On September 14, 2020, a Request for Qualification was issued by Columbia Housing seeking development partners for the planning and construction of public housing replacement units on existing Public Housing sites owned by Columbia Housing, on other sites owned by Columbia Housing, or other sites identified by the Developer ("**RFQ**").
- C. On November 19, 2021, Columbia Housing's Board of Commissioners (the "**Board**") approved the selection of the Developer to develop the Carter Street site as replacement units for the Marion Street Public Housing Highrise and to possibly develop other sites to be identified by Columbia Housing and Developer and approved by the Board and the Developer.
- D. On February 18, 2021, Columbia Housing's Board approved certain business terms which will govern the development described in Exhibit A, as amended.
- E. The Parties hereto enter into this Agreement to set forth their understanding of the activities to be undertaken for the Development. The Developer and Columbia Housing have agreed that the Development shall be governed by this Agreement.
- F. The Parties intend for this Agreement, as supplemented by subsequent project specific Development Services Agreements, loan and equity documents, and other evidentiary documents and plans for the Development, to govern their relationship. To the degree that subsequent written agreements between Columbia Housing and Developer conflict with this Agreement, the subsequent agreements shall control.

NOW THEREFORE In consideration of the foregoing recitals (which are contractual) and underlying promises, which the Parties agree to be good and valuable consideration, the Parties agree as follows:

ARTICLE I.

ENGAGEMENT

1.1. Agreement Term. This Agreement shall commence as of the Effective Date and shall terminate on the tenth (10th) anniversary of the Effective Date unless otherwise terminated or extended in accordance with Section VIII of this Agreement. Notwithstanding the foregoing, upon the closing of the construction financing of the Development, this Agreement shall terminate with respect to the Development, and the terms of the Closing Documents will govern the relationship between the Parties.

1.2. Recitals and Exhibits. The foregoing recitals are true and correct and are incorporated herein by reference as the agreements of the Parties. All exhibits listed in this Section and attached to this Agreement are incorporated herein as the agreements of the Parties.

Exhibit A	Business Term Sheet
Exhibit B	M/W/SBE and Section 3 Policies
Exhibit C	Insurance Requirements
Exhibit D	Certification Regarding Lobbying
Exhibit E	Columbia Housing Statement of Values

1.3. Definitions. For purposes of this Agreement, in addition to the terms defined in the foregoing recitals and throughout this Agreement, the following terms shall have the meanings set forth below:

"Closing" shall mean the execution of all documents required to transfer land and secure financing for the Development.

"Closing Documents" shall mean the RAD Use Agreement, the HAP Contract, the limited partnership agreement of the owner of the Development, any Authority loan documents, and all other documents and agreements as may be reasonably required by the Developer, Columbia Housing, other lenders and financing parties, investors, or HUD to transfer the real property of the Authority and secure financing for the Development.

"Construction Documents" shall include or incorporate as they come into existence, (a) the construction contracts between the Owner-Entity and the general contractor; (b) the general, special, and supplemental conditions to such contracts; (c) drawings and specifications to be prepared or approved by the Architect or Architects selected by the Developer or Owner Entity for the Development and (d) all written or graphic interpretations, clarifications, amendments, and changes of any of the foregoing.

"Development" shall mean the site(s) identified on Exhibit A, as may be supplemented or amended by the Parties.

"PBV Units" shall mean all units in the Development controlled by a HAP Contract (as defined in Section 4.3 herein).

"Third-Party Contractor" shall mean any third party that is performing services in connection with the Development and that is not owned directly or indirectly by the Developer.

- 1.4. Cooperation.** Columbia Housing and the Developer shall individually and collectively agree to cooperate with one another in good faith to successfully implement the Development. Such cooperation shall include commercially reasonable efforts to respond to one another as expeditiously as possible to requests for information or approvals required hereby. Regarding materials or documents requiring the approval of one or more Parties, the Parties agree to comply with the procedures set forth in this Agreement. Columbia Housings Statement of Values [**Please send?**], attached hereto and incorporated herein by reference, and a spirit of good faith and a mutual desire for the success of the Development shall govern and inform the Parties' relationship and decisions under this Agreement.
- 1.5. Communications.** In connection with the development process, Columbia Housing, and the Developer will keep each other informed of all material events, information and communications relating to the Development.
- 1.6. Developer Not an Agent.** The Developer is an independent contractor and not an agent of Columbia Housing. Developer has no authority to bind Columbia Housing. The Developer has no fiduciary duty with respect to Columbia Housing.
- 1.7. Role of HUD and Parties' Relationships.** The Parties hereto acknowledge that the closing and certain obligations contemplated by this Agreement are subject to certain approvals by HUD. The Developer and Columbia Housing agree to cooperate in good faith to obtain all necessary approvals from HUD. Columbia Housing shall have the responsibility for all communications with HUD but shall advise Developer of substantive HUD discussions that concern the Developer and give the Developer the opportunity to participate in any substantive negotiations with HUD and Columbia Housing on matters directly affecting the Developer or the Development. All submissions to HUD shall be made by Columbia Housing or an agent designated by Columbia Housing. Developer shall not submit documents directly to HUD.

If, after compliance by Developer with an agreed upon development schedule, Columbia Housing provides written notice to the Developer that HUD has failed to timely respond to any request for approval, then Developer shall provide written notice to Columbia Housing that HUD's failure to respond will impact Developer's future compliance with the development schedule. Within ten (10) business days of receiving notice of HUD's response from Columbia Housing, Developer shall deliver to Columbia Housing a revised development schedule. The revised development schedule shall be subject to review and approval by Columbia Housing, provided however, that Columbia Housing review and approval of revisions under this paragraph shall relate only to the length of each deadline extension and not to Developer's right to revise the overall development schedule.

- 1.8. Authority to Execute Agreement.** Columbia Housing represents that it is a Public Housing Authority formed under the South Carolina Housing Authorities Law with full authority to execute, deliver and perform this Agreement and that the person signing for Columbia Housing is duly authorized to execute this Agreement on behalf of Columbia Housing. The Developer represents that it is a legal entity duly formed in the State of Illinois and authorized to conduct business in the State of South Carolina, with full power and authority to execute, deliver and perform this Agreement, and that the person signing for it below is duly authorized to execute this Agreement on such entity's behalf.

- 1.9. Written Materials, Public Statements and Columbia Housing Approvals.** The Parties agree to cooperate and consult with each other regarding any public statements or publication made regarding the Development process. The Developer shall provide Columbia Housing with drafts of applications or proposals prepared in connection with the Development for a government agency prior to submission and shall not submit such materials to a government agency without the approval of Columbia Housing which shall not be unreasonably withheld. With respect to drafts of applications or proposals prepared in connection with the Development for a private third party, upon request by Columbia Housing, the Developer shall provide copies of such drafts or proposals to Columbia Housing for informational purposes after submission.

Columbia Housing acknowledges that delays in approval may impede Developer's ability to complete applications for funding which may only be submitted one or two times per calendar year, potentially resulting in substantial delays in schedule and Columbia Housing shall cooperate with Developer in good faith to avoid any such delays. The Developer shall revise such drafts in accordance with reasonable requests of Columbia Housing. In addition, the Developer shall provide Columbia Housing with any changes to such documents that materially affect activities or understandings reflected by this Agreement and the final versions of all material written submissions.

Unless otherwise required by this Agreement, Columbia Housing shall respond promptly, but in any event within five (5) business days to any request by Developer for approval under this Agreement, other than approvals requiring approval by Columbia Housing's board (which Columbia Housing shall undertake expeditiously). If Columbia Housing fails to respond to the Developer's request for approval pursuant to this Section 1.9, then Developer shall give written notice of such failure to Columbia Housing. After giving such notice the Developer may stop performance of work that cannot be performed because of such delay until Columbia Housing provides the required response. Within ten (10) business days of receiving receipt of Columbia Housing's response, Developer shall provide Columbia Housing with a revised development schedule. The revised development schedule shall be subject to review and approval by Columbia Housing, provided however, that Columbia Housing's review and approval of revisions under this paragraph of Section 1.9 shall relate only to the length of each deadline extension and not to Developer's right to revise the development schedule, which is hereby approved for the events outlined in this paragraph of this Section 1.9.

ARTICLE II.

DEVELOPMENT RESPONSIBILITIES OF THE DEVELOPER

As more specifically set forth herein, the Developer shall proceed to develop the site(s) identified on Exhibit A, as well as carry out all other work for which the Developer is responsible as described herein. The Developer is responsible for all development services reasonably required for the planning, design, development, construction, and marketing of the Development.

- 2.1. **Owner.** Columbia Housing shall form or cause to be formed an entity to own the Development ("**Owner**"). Developer shall cause each Owner to comply with all provisions of this Agreement. Columbia Housing shall form or cause to be formed an entity to act as managing member of the Owner ("**Managing Member**"). The Managing Member shall be owned by Columbia Housing, or its affiliate.
- 2.2. **Limited Partnership Provisions.** Developer or an affiliate thereof may, at its sole discretion, become a special limited partner or special member pursuant to the limited partnership agreement or operating agreement of the Owner so that it is able to effectively discharge its responsibilities as set forth in Article III and Article IV hereof. It is acknowledged that the Developer shall be required to execute guarantees in connection with such responsibilities. The Developer shall use its best efforts in representing the Owner during construction. The Developer's obligations as a special limited partner shall terminate at the time the Development is placed in service and receipt of Form 8609s, at which time (a) the Developer shall have the right, in its sole and absolute discretion, to put its interest in the Owner to the Managing Member for \$100 plus payment for any outstanding loans Developer shall have made to the Owner, not to exceed the total amount of the Authority's developer fee (the "**Developer Put Option**"), and (b) the Authority or its affiliate serving as general partner of the Owner shall have the right, in its sole and absolute discretion, to purchase the interest of the Developer for a price equal to \$100 plus any outstanding amount of loans made by the Developer to the Owner, not to exceed the total amount of the Authority's developer fee (the "**Authority Call Option**"). In order to exercise the Developer Put Option or the Authority Call Option, the Developer shall have been released of all guaranties with respect to development owned by the Owner. Any outstanding loans from Developer in excess of the Authority's developer fee shall be paid in accordance with the limited partnership agreement and from a senior priority position to any similar payment to the general partner thereunder in cash flow in accordance with the terms of the Owner's operating or partnership agreement. Any change in the partnership status of the Developer with respect to additional future projects shall be determined by written supplement hereto.
- 2.3. **Financing.** The Developer shall be responsible for obtaining financing necessary to complete the Development, including obtaining allocations of low-income housing tax credits. As noted herein, Columbia Housing shall cooperate with Developer on applications for financing. The Developer shall work diligently to secure all financing necessary to develop the Development. Should any of the proposed financing become unavailable, the Developer shall use commercially reasonable efforts, to obtain equivalent funds on equally favorable terms from other sources in a timely manner that does not increase the cost of administration to Columbia Housing. Columbia Housing will cooperate with and assist the Developer in its efforts to replace funding commitments. Columbia Housing acknowledges that several of the sources of financing require the approval of governmental agencies based on periodic application cycles. Notwithstanding the foregoing, Columbia Housing will support the Developer in its efforts to maximize public resources.

- 2.4. Development Budget and Schedule.** A budget and schedule for the Development ("Budget" and "Schedule") shall be prepared by Developer and submitted to Columbia Housing for review and approval. If circumstances arise (including changes in construction pricing, loan interest rates or tax credit equity pricing) the Developer may propose changes to the Budget and Schedule, provided however, that Columbia Housing must provide written approval of any such proposed changes for them to be effective, with such approval not to be unreasonably withheld, conditioned, or delayed.

Columbia Housing shall act promptly in reviewing and providing a decision regarding any Developer request to revise the Budget or Schedule, but in any event within fifteen (15) business days from the receipt thereof, provided, however, if the matter to be approved requires the approval of Columbia Housing Board, then the Developer must submit the request in accordance with Columbia Housing Board meeting procedures and schedules. Any objections by Columbia Housing to the updates received from the Developer shall describe in reasonable detail the basis for the objection.

- 2.5. Monthly Status Reports and Information.** Each month during which this Agreement is in effect, the Developer shall provide Columbia Housing with progress reports on the status of all Development activities, including work performed by the Developer's Third-Party Contractors, and compliance with the Schedule, as amended pursuant to this Agreement. In addition, the Developer shall, upon reasonable request by Columbia Housing, furnish the requesting party with copies of any work product prepared by the Developer or its Third-Party Contractors (not including drafts submitted by Third-Party Contractors but not yet approved by Developer or the Developer's attorney's work product that is or may be privileged communication or preliminary projections or other internal materials prepared by Developer) in connection with Development activities pursuant to this Agreement.

ARTICLE III.

OVERALL DESIGN AND CONSTRUCTION RESPONSIBILITIES

The Developer shall have the authority and obligation to:

- 3.1. Oversee Design and Manage the Design Process.** The architect(s) and engineers retained by the Developer (the "**Architects**") shall design the Development in accordance with this Agreement, and other applicable orders, governmental requirements, and the Schedule, as amended pursuant to the Agreement. The Developer shall provide all final written documents and drawings prepared by the Architects relating to any phase of design (including, without limitation, schematic design, design Development and construction drawings), to Columbia Housing for review and approval promptly following approval of same by Developer. The Developer shall further require that the Architects and all subcontractors for mechanical, electrical, plumbing, engineering, and structural engineering be appropriately licensed and insured for professional liability.

- 3.2. Obtain Permits and Other Approvals.** The Developer shall obtain all zoning, building and construction permits, licenses, easements, and approvals necessary to obtain, establish, or construct the Development in accordance with the Schedule, as amended pursuant to this Agreement, including all on-site and off-site utilities necessary for the Development, and roads, transportation, and other facilities or physical improvements contemplated by the Construction Documents. The Developer shall be responsible for arranging and covering the costs associated with the surveying and applications required for all street and alley dedication needed for the Development. The Developer shall cause such street and alley dedications required for the Development to be accomplished in a manner consistent with the schedule. Columbia Housing shall cooperate and assist Developer in obtaining permits, licenses, easements, and approvals, as needed including, without limitation, joining any application or proceeding (i) where the Parties agree that it is necessary or desirable and (ii) subject to Authority Board approval where such approval is required. Unless prohibited by law, Columbia Housing shall file for property tax exemption pursuant to South Carolina law. The Developer shall, on an ongoing and timely basis, advise Columbia Housing as to the status of the processing of all applications necessary to obtain all governmental approvals required in accordance with this Agreement, and the Construction Documents. The Developer shall advise Columbia Housing of any hearings regarding matters described in this section with sufficient advance notice to enable Columbia Housing to elect to attend such hearings.
- 3.3. Compliance with Laws and Permits; Monitoring of Third-Party Contractors.** The Developer shall cause the Development to be designed and constructed in compliance with the permits, the plans and specifications and all applicable Federal, state, and local laws, codes, ordinances, rules, and regulations. Developer shall use commercially reasonable efforts to ensure that all Third-Party Contractors engaged by Developer possess the requisite licenses and qualifications necessary for work contracted to them. Developer shall comply and shall use commercially reasonable efforts to ensure the compliance of all Third-Party Contractors engaged by Developer, with laws prohibiting discrimination on the basis of disability, including but not limited to the Rehabilitation Act, the ADA, the Architectural Barriers Act, the Fair Housing Act, the Accessibility Code and the Environmental Barriers Act.
- 3.4. Documents, Drawings and Materials.** Columbia Housing shall be furnished with one (1) set of reproducible final drawings of record, final specifications and data sheets; results of subsurface investigations and environmental testing (other than results of environmental testing commissioned by Columbia Housing); results of civil, structural and hydraulic design calculations; structural calculations; equipment manufacturers' drawings and data, including installation, operating and maintenance instructions, data and parts lists, shop drawings, submittals and warranties from manufacturers, suppliers, and/or installers.

- 3.5. Selection of Third-Party Contractors.** The Parties to this Agreement acknowledge that 24 C.F.R. Part 85, which applies to Columbia Housing, does not apply to procurements conducted by the Developer. However, the Developer shall alert Columbia Housing to organizational conflicts of interest as well as noncompetitive practices that may restrict or eliminate competition or otherwise restrain trade. As used in this Agreement, the term "**conflicts of interest**" shall have the meaning given in any one of the following requirements: 24 CFR 85.36(b)(3), as amended from time to time. Columbia Housing shall have the power to require the Developer to terminate any Third-Party Contractor upon evidence of a conflict of interest. The Developer's agreements with Third Party Contractors shall permit termination upon such events and shall require appropriate certifications that conflicts do not exist.

Contract awards by Developer to Third-Party Contractors shall be made to the bidder or offeror whose bid or offer is in the Developer's sole determination, most advantageous to the Development, taking into consideration price, quality and other factors deemed by the Developer to be relevant. All bids or offers may be rejected when it is in the Developer's or a development's interest to do so. Nothing stated in this Agreement shall be interpreted as to preclude Developer from entering negotiations with potential Third-Party Contractors. Moreover, nothing in this Agreement shall be construed as to require Developer to select Third-Party Contractors solely based on price. Columbia Housing and its authorized representatives shall have access to and the right to examine, copy or reproduce all records pertaining to such selection and the Developer shall respond in five (5) business days to any questions raised by Columbia Housing related to the procurement or contracting process.

Agreements with Third-Party Contractors engaged in work related to the land comprising the Development, including, but not limited to architects, engineers, general contractors, surveyors, and contractors engaged in remediation or soil testing, shall (1) provide Columbia Housing with the ability to use all plans, specifications and other such materials for public purposes associated with the Development and (2) permit assignment of the agreements to Columbia Housing.

All bids or offers may be rejected when it is in the Developer's interest to do so. Nothing stated in this Agreement shall be interpreted as to preclude Developer from entering negotiations with potential consultants or Third-Party Contractors. Moreover, nothing in this Agreement shall be construed as to require Developer to select Third-Party Contractors solely based on price.

- 3.6. M/W/SBE and Section 3.** Developer shall comply with the requirements of Columbia Housing's Minority, Women and Small Business Enterprise goals to award a minimum of 30% of the total construction amount to M/W/SBE firms. The Developer shall openly solicit M/W/SBE contractors, conduct workshops and public forums to notify M/W/SBE firms of available opportunities. The Developer agrees to comply with Columbia Housing's Section 3 Policy and/or any Section 3 utilization plan to which the Parties agree. Developer shall create a minimum of ten new hires under Section 3 for each Development or each Phase of a Development.

3.7. Davis-Bacon Reporting. Pursuant to 24 CFR § 905.308 (3), Columbia Housing and the Developer shall ensure that labor standards applicable to the Project Based Vouchers (including, but not limited to Davis Bacon Act, 40 U.S.C. 276a et seq.) are met with respect to the Development of all units that may, at any time, be used as public housing replacement units. The Developer shall provide any required reports to Columbia Housing as otherwise directed.

3.8. Construction.

At a minimum, the Developer, either directly or through its affiliates, Owner or Third-Party Contractors, shall provide for, among other things, the following services, and considerations:

- A. *Construction Contract.* The Developer, or at its election, the Owner, shall enter into one or more construction contracts with one or more general contractors in connection with the Development and may, subject to the extent applicable to the provisions of the last sentence of this Section 3.8.A. act as general contractor with respect to certain portions of the Development. The contract shall set either a fixed price or guaranteed maximum price or another pricing mechanism acceptable to Columbia Housing (each, a "**GC Contract**"). The Developer shall submit each GC Contract to Columbia Housing for review and approval. Columbia Housing must approve each GC Contract prior to execution which approval, so long as such contract complies with the terms of this Agreement, will not be unreasonably withheld, or delayed. Should the Developer choose to enter into a GC Contract with an identity of interest contractor, the Developer agrees to comply with HUD regulations.
- B. *Insurance, Bonds, and Warranties Required of the General Contractor.* The GC Contract submitted to Columbia Housing for approval shall require the general contractor to provide, at a minimum: (a) insurance required by this Agreement; (b) 100 % performance and payment bonds or letters of credit reasonably satisfactory to all lenders, including Columbia Housing, and the equity investor, unless waived by all lenders and the equity investor because the general contractor is an affiliate of the Developer; (c) a warranty of good title to materials, equipment and supplies incorporated in the work; and, (d) a warranty that the work performed under the GC Contract conforms with the Construction Documents and is free of any defect in equipment, material or workmanship performed by the general contractor or any subcontractor or supplier in any tier. The warranties shall continue for a period of not less than one year from the date of final acceptance of the work.

All rights under the GC Contract shall be for the benefit of the Developer and its successors and assigns, including Columbia Housing, as applicable. Once Columbia Housing has approved the GC Contract, it will not request or require additional changes unless required by HUD or another applicable governmental agency.

C. *Monitoring Performance of Contractors.* The Developer shall require, or shall cause its Owner Entity to require the general contractor and its Architects or other consultant(s) to monitor the performance of all persons and entities who are to provide materials, equipment or services to the Development and shall require the Architect or such other consultant(s) to take such actions as are necessary to maintain adherence to quality standards, safety standards, production schedules, shipping dates, and job-site requirements contemplated herein and minimize the disturbance of residents in the immediate area (i.e., controlling dust, noise, etc.)

3.9. Guarantees. Developer and/or its affiliates will provide certain guarantees required by the equity investor, including, but not limited, to construction completion guarantees, placed in service guarantees, and operating deficit guarantees as set forth in Exhibit A. Columbia Housing shall provide operating deficit guaranties, tax credit delivery guaranties, and any other guarantees applicable to its role in ownership and/or commensurate with its percent of developer fee earned.

3.10. Environmental. The Developer will engage environmental consultants to prepare necessary environmental reports, including Phase I and Phase II reports (if necessary). The Developer will obtain any necessary local, state, and federal environmental approvals.

3.11. Additional Services. The Developer may also provide additional services directly to Columbia Housing to the extent such services are requested by Columbia Housing, and the Developer and Columbia Housing reach agreement on the scope and compensation for such services. To the extent that such services are requested, and Developer agrees to provide them, the scope of such services and the agreement of the Parties regarding compensation for such services shall be set forth in written task orders executed on behalf of Columbia Housing and Developer.

ARTICLE IV.

FINANCING DOCUMENTS

Developer shall arrange for and provide opportunities for the Owner to enter into a series of agreements with Columbia Housing which are described in this Article IV and hereinafter individually referred to as a "Project Financing Document" and collectively as "Project Financing Documents."

4.1. Entity Formation. Columbia Housing shall form an Owner to own the Development.

4.2. Conveyances. Subject to the terms and conditions to be negotiated by Columbia Housing and the Developer on behalf of the Owner, in connection with the financing and Development, Columbia Housing shall transfer to an Owner a leasehold estate in Authority Land. The Developer may designate an entity other than the Owner to acquire property from Columbia Housing to qualify for additional financing, subject to Authority approval. After any conveyance, the Managing Member shall cause the Owner to record deed restrictions against the land being conveyed, which restrictions will contain terms acceptable to the Developer and Columbia Housing.

- 4.3. **HAP Contract, RAD Use Agreement.** Columbia Housing or its affiliate, as managing member of the Owner owning RAD Units, may enter into a Rental Assistance Demonstration Use Agreement ("**RAD Use Agreement**") which complies with HUD requirements. Columbia Housing or its affiliate, as managing member of the Owner owning PBV Units, shall enter into Housing Assistance Payments Contract ("**HAP Contract**"), if applicable, which comply with HUD requirements.
- 4.4. **Intentionally Deleted.**
- 4.5. **Other Loan Documents.** To secure financing, the Developer may enter into other loans, including but not limited to public affordable housing funds, private bank financing, and funds from the Federal Home Loan Bank, subject to the approval of Columbia Housing and HUD, which may be secured by mortgages and other security interests.
- 4.6. **Ownership Documents.** The Owner Entity for the Development shall be organized as limited liability companies with authority to transact business under the laws of the State of South Carolina. All documents evidencing the formation of the Owner Entity, their rights, and obligations, including but not limited to the payment of Development fees, guarantees, and pledges (collectively, the "**Ownership Documents**") shall be subject to the reasonable approval of Columbia Housing.
- 4.7. **Closing.** The Developer, the Owner Entity and Columbia Housing will participate in a closing (the "**Closing**") of the Development at which time all of the Project Financing Documents described in this Article IV, and such other documents as may be reasonably required by the Developer, Columbia Housing, lender, investor, or HUD will be executed. Once a Closing has occurred, if applicable, the Closing Documents shall govern the Parties' obligations as to matters set forth therein, and in the event of any conflict between such documents and this Agreement, the provisions of all such Closing Documents shall control.

ARTICLE V.

DEVELOPER COMPLIANCE WITH DEVELOPMENTS SCHEDULE

- 5.1. **Covenants to Comply and Right to Proceed.** Subject to the conditions and limitations contained in this Agreement, the Developer covenants to achieve each of the deadlines in the Schedule, as amended pursuant to this Agreement, in accordance with the terms of this Agreement. After the closing of the financing the Developer shall cause the Owner to issue a "notice to proceed" to the contractor.
- 5.2. **Achievement of Schedule Deadlines.** Upon the achievement of any deadline set forth in the Schedule, as amended pursuant to this Agreement, and at the request of the Developer, Columbia Housing shall issue a written Certificate of Completion with respect to such deadline that shall constitute Columbia Housing's confirmation that the deadline has been completed in compliance with this Agreement.

ARTICLE VI.

DUTIES/RESPONSIBILITIES OF COLUMBIA HOUSING

- 6.1. **General Information.** Provide the Developer with all necessary information to assure timely and orderly progress of the Project.
- 6.2. **Government Approvals.** Undertake all necessary actions to secure or assist the Developer in securing approval and authority from HUD, SC Housing, SFAA, or the City of Columbia for all activities related to the Project.
- 6.3. **Approval.** Timely review matters submitted by Developer and advise Developer, if required, of its approval or of why its approval is being withheld.
- 6.4. **Site Information.** Provide to the Developer all relevant information regarding the area of the Development in the possession of Columbia Housing, including without limitation zoning, utility locations, demographics, topography, land ownership, environmental studies, soil conditions, etc.
- 6.5. **Document Preparation.** Provide all relevant information and prepare documents required, including financial information and previous experience, which may be necessary to obtain investor approval of Columbia Housing as Managing Member or Management Agent.
- 6.6. **Relocation.** Undertake relocation of residents necessitated by the Development, as applicable and pay all costs for relocation.
- 6.7. **RAD Financing Plan.** Prepare all HUD documents related to the Rental Assistance Demonstration (RAD) conversion, if applicable; upload and manage the RAD Resource Desk requirements; secure the RCC and prepare all necessary documents to effectuate the RAD closing.
- 6.8. **Project Based Vouchers.** Provide Rental Assistance Demonstration Project Based Vouchers and/or RAD Project Based Vouchers ("PBV") as negotiated under the agreed upon financing plans for the project. The Business Terms in Exhibit A of this Agreement set forth the allocation of PBV's. The exact number of PBVs allocated to each Development of Phase of a Development shall be determined by Columbia Housing and based on financial necessity to make the Development feasible.
- 6.9. **Subdivision.** Provide the necessary subdivision of lots on the site and corresponding legal descriptions as necessary to execute the ground lease.
- 6.10. **Secondary Financing.** Provide secondary financing as negotiated under the agreed upon financing plan for each the project.
- 6.11. **Closing Documents.** Provide all Columbia Housing closing documents including opinions of counsel and all HUD documents, as applicable to assure timely closing of the Development.

ARTICLE VII.

FEE AND PAYMENT ARRANGEMENTS

- 7.1. **Business Terms** – Columbia Housing and the Developer have negotiated and agreed to the Development-specific terms set forth in Exhibit A attached hereto and incorporated herein by reference ("**Business Terms**"). To the extent the Business Terms conflict with any other provisions contained in this Agreement, the Business Terms shall control.
- 7.2. **Development Fee.** Subject to applicable caps imposed by SC Housing, HUD, other state or federal agencies or investors, the Developer, or its affiliate, and Columbia Housing, or its Affiliate, shall receive development fees ("**Development Fees**") for the Development in the amounts set forth in the Business Terms. Development Fees shall be divided between the Developer, or its affiliate, and Columbia Housing, or its affiliate, as set forth in the Business Terms, and take into account the following factors:
- (1) Time and effort to be contributed by each Party;
 - (2) Cash and in-kind contributions to the Development by each Party, including, but not limited to, cash loans or grants and contributions of land or improvements.
 - (3) Risk undertaken, including, but not limited to, Predevelopment funds expended or loans, Predevelopment loans, if any, guaranteed and other guarantees provided in connection with the financing.
 - (4) Experience in similar transactions.

Such Development Fees shall not preclude payment to Developer or its affiliates for additional services provided and approved by Columbia Housing. Development Fees shall be paid in accordance with the agreed upon split for each installment received. Every effort shall be made to avoid or minimize deferred Developer Fees. However, if it is necessary to defer fees, Columbia Housing shall forego its portion of the final installment to minimize deferred fees to the Developer upon their exit from the transaction. Columbia Housing shall receive payment of the deferred Developer Fee from cash flow of the project pursuant to the waterfall approved by the Investor.

- 7.3. **Predevelopment Costs of Development.** Funds provided to the Developer pursuant to the Predevelopment Loans for eligible third-party costs shall be repaid pursuant to the terms of the applicable Predevelopment Loan agreement and note executed in connection therewith. Columbia Housing will provide funds pursuant to such Predevelopment loan agreements only for eligible third-party costs incurred by the Developer for Predevelopment work in accordance with approved Predevelopment budgets approved by Columbia Housing. Predevelopment Loans shall be paid as reimbursement of third-party costs in accordance with Business Terms.
- 7.4. **Treatment of HUD Funds.** If applicable, any transfer of HUD funds pursuant to this Agreement will not be an assignment of HUD funds or be deemed an assignment of HUD funds. The Developer will not succeed to any rights or benefits Columbia Housing may have under the applicable grant agreements with HUD or attain any privilege, authority, interest, or right under applicable grant agreements between Columbia Housing and HUD. Nothing contained in this Agreement will be construed to create any relationship of third-party beneficiary or otherwise with HUD.

ARTICLE VIII.

TERMINATION AND DEFAULT

8.1. Events of Default by Developer. Each event listed this Section 8.1 shall constitute an event of default by the Developer under this Agreement (each an "**Event of Default**").

- A. The Developer materially breaches any obligation, representation, warranty, covenant, or certification herein not otherwise specifically addressed in this Section 8.1; or
- B. The Developer becomes insolvent, is adjudged a bankrupt, makes a general assignment for the benefit of creditors, or becomes a subject of any proceeding commenced under any statute or law for the relief of debtors; provided that the Developer shall have 120 days to affect the dismissal of any such involuntary proceeding; or
- C. A receiver, trustee, or liquidator of any of the property or income of the Developer or any guarantor of the Developer's performance hereunder shall be appointed which is not dismissed within one hundred twenty (120) days; or
- D. The Developer unilaterally withdraws from the Development project except as expressly allowed by the terms of the Agreement; or
- E. The Developer or an Owner fails to enforce any material terms, provisions, conditions, covenants, or agreements in the Construction Documents and/or Closing Documents to be observed and/or performed on the part of the general contractor or other contractors, if such failure materially and adversely affects Columbia Housing's interest hereunder and is not cured within any applicable cure periods; or
- F. The Developer fails to make payment to a Third-Party Contractor when due and funds for such payment have been received from Columbia Housing; or
- G. The Developer fails to obtain and maintain the insurance coverage as required under this Agreement.
- H. Developer fails to achieve any deadline set forth in the Schedule, as amended pursuant to this Agreement.
- I. A default by Developer occurs under any Closing Document and such default is not cured within the cure period provided therein.

Notwithstanding the foregoing, the events described in Section 8.1 shall not constitute an Event of Default (i) until after Columbia Housing shall have provided written notice thereof to the Developer and the Developer shall have failed to cure such default within thirty (30) days after the receipt of such notice of default, unless such default is not capable of being cured within such thirty (30) day period in which event such thirty (30) day period shall be extended for such additional time as is reasonably necessary to cure such default so long as the Developer is diligently pursuing such cure, provided that in no event shall any such cure period exceed one-hundred twenty (120) days in the aggregate from receipt of such notice and/or (ii) if such performance is excused or delayed due to the existence of (x) a Force Majeure Event subject to the terms and conditions of Section 8.2 hereof or (y) a Development Contingency subject to the terms and conditions of Section 8.3 hereof.

8.2. Force Majeure Event. If Developer is delayed in complying with the Schedule, as amended pursuant to this Agreement, or Columbia Housing is delayed in complying with its obligations under this Agreement due to causes beyond the control and without fault or negligence of the Developer or Columbia Housing, and such delay is not related to Development Contingency, then the Developer's or Columbia Housing's time for performance under this Agreement shall be extended for a period of time corresponding to the period by which the Developer's or Columbia Housing's performance is delayed due to such Force Majeure Event, provided, however, that the Developer or Columbia Housing, as the case may be, must deliver notice to the other Parties upon the occurrence of such causes. Examples of such causes include without limitation (a) acts of God or public enemy, (b) war, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes, (h) freight embargoes, and (i) unusually severe weather (a "**Force Majeure Event**").

8.3. Change in Circumstances Not Due to Default of Developer.

A. *Development Contingencies.* Columbia Housing acknowledges that the Developer's ability to perform some responsibilities under this Agreement may be contingent upon actions by third parties over which Developer has limited control, or factual circumstances which could not reasonably have been determined as of the date of this Agreement ("**Development Contingencies**"). Such Development Contingencies are limited to the following items:

1. Subject to the Developer or the Owner Entity having delivered to Columbia Housing, not less than one hundred fifty (150) days prior to the date of the applicable Closing of the subject Authority Land, complete title commitments, and legible copies of all documents evidencing any exceptions to title, the conveyance of Columbia Housing Land to the Developer or its Owner Entity, free and clear of any title defect that could reasonably be expected to have a material adverse effect on the subject portion of the Development and cannot be cured before the applicable Closing;
2. Subject to the Developer or the Owner Entity having submitted timely, complete, and competitive applications, requests, and responses for the same, the award of tax credits and/or tax-exempt bond financing allocations in the amount projected;

3. Subject to the Developer or the Owner Entity having submitted timely and complete applications, requests, and responses for the same, the receipt of all required approvals by local authorities including, without limitation, zoning and subdivision approval and issuance of building permits by the City and other required permits;
 4. Overall market conditions affecting the availability of financing that are favorable and consistent with what was projected by the Developer in preparing the Budget; or
 5. The absence of environmental conditions that would have a material adverse effect on the ability to develop the subject portion of the Development.
- B. *Process for Alternate Plan Upon Development Contingency Failure.* If a Development Contingency, as described above, necessary for completion of the Development fails to occur after commercially reasonable efforts by Developer to cause it to occur in a manner generally consistent with this Agreement, the Developer shall promptly notify Columbia Housing in writing to: (i) identify the Development Contingency and (ii) propose an alternative Development plan, which shall include a proposed revised Development Plan ("**Alternate Plan**"). The Alternate Plan must be consistent with Columbia Housing's goals for the Development, and HUD requirements. Columbia Housing agrees to review and respond to the Alternate Plan no later than 30 days after receipt of the Alternate Plan. The Parties recognize that any revision of the Development Plan must be reviewed and approved by HUD.
- C. *Failure to Agree to Alternate Plan.* If the Parties cannot agree to an Alternate Plan within ninety (90) days of the Developer's submission of the Alternate Plan despite good faith efforts to do so, or cannot secure HUD approval of said Alternate Plan within sixty (60) days of its submission to HUD, then with respect to the affected Development only the Developer may opt to withdraw from this Agreement in its entirety or Columbia Housing may opt to withdraw from this Agreement. To commence withdrawal from this Agreement, the withdrawing party must send written notice setting forth its intentions.
- D. *Effect of Withdrawal from Agreement.* If the Developer or Columbia Housing withdraws pursuant to this Section, then the Parties shall thereafter have no further obligations to each other under this Agreement. If withdrawal is due to an event set forth in Section 8.3.A above, then, so long as no uncured Event of Default shall have occurred and be continuing, Columbia Housing shall (i) reimburse the Developer for 100% of the eligible third-party Predevelopment costs incurred pursuant to this Agreement, less any Predevelopment Loan advances made to the Developer hereunder, and (ii) forgive any outstanding Predevelopment Loans.

- 8.4. Columbia Housing Default.** Columbia Housing shall be deemed to have defaulted under this Agreement ("**Columbia Housing Default**") if Columbia Housing materially breaches any obligation herein and the Developer shall have provided written notice thereof to Columbia Housing and Columbia Housing shall have failed to cure such breach within thirty (30) days after the receipt of such notice of default, unless such default is not capable of being cured within such thirty (30) day period in which event such thirty (30) day period shall be extended for such additional time as is reasonably necessary to cure such default so long as Columbia Housing is diligently pursuing such cure, provided that in no event shall any such cure period exceed one hundred twenty (120) days in the aggregate, provided that no such event shall constitute a default if such performance is excused or delayed due to the existence of a Force Majeure Event.
- 8.5. Termination for Convenience.** Either party may, upon thirty (30) days' notice to the other party, terminate this Agreement for any reason (or no reason). If terminated for convenience by Columbia Housing, Columbia shall (i) reimburse the Developer for 100% of the eligible third-party Predevelopment costs incurred pursuant to this Agreement, less any Predevelopment Loan advances made to the Developer hereunder, and (ii) forgive any outstanding Predevelopment Loans.

ARTICLE IX.

REMEDIES

- 9.1. Remedies.** During the existence of an Event of Default or a Columbia Housing Default, and, where applicable, after the expiration of any cure period provided under this Agreement, the non-defaulting party may pursue any or all of the following remedies:

- A. terminate the Agreement;
- B. bring an action against the defaulting party for damages; and
- C. seek any other available legal or equitable remedy.

The Parties agree that an Event of Default or an Authority Default, as the case may be, may result in irreparable damage for which no remedy may be available. Accordingly, the Parties agree that an injunctive order or other equitable relief, will be available in addition to all other available remedies. The remedies of any party hereunder are cumulative and the exercise of any one or more of the remedies provided by the Agreement shall not be construed as a waiver of any of the other remedies of such party unless specifically so provided herein.

- 9.2. Additional Authority Remedies.** In addition to the remedies described elsewhere in this Agreement, during the existence of an Event of Default, Columbia Housing may pursue one or more of the following:

- A. terminate the Agreement in part with respect to Development causing Event of Default;
- B. reduce the scope of the Developer's work under the Agreement;

- C. require the Developer to obtain, at Developer's reasonable expense, additional technical or management assistance in substitution for any technical or management services failure which formed the basis of the default;
- D. require the Developer, within a reasonable time established by Columbia Housing, to prepare a revised plan for implementation at the Developer's expense; or
- E. require Developer to terminate defaulting contractors, subcontractors, and service providers.

ARTICLE X.

DEVELOPER REPRESENTATIONS AND WARRANTIES

10.1. Developer Representations and Warranties. The Developer hereby makes the following representations, warranties, and covenants:

- A. *Organization and Powers.* Developer is a limited liability company organized, validly existing in the State of Illinois and in good standing under the laws of the State of Illinois. Developer has the power and authority to own its assets and properties, to carry on its activities as now conducted by it, and to execute, deliver and perform this Agreement.
- B. *Authorization, Binding Agreement.* The execution, delivery and performance by the Developer of this Agreement have been duly authorized by all requisite action of Developer.
- C. *Litigation, Limited Denial of Participation, or Debarment.* There is no action, suit, investigation or proceeding pending or threatened before any court or government or administrative body or agency that may reasonably be expected to (i) result in a material adverse change in the activities, operations, assets, or properties or in the condition, financial or otherwise, of the Developer, or (ii) materially and adversely impair the ability of the Developer to perform its obligations under this Agreement. Further, Developer shall provide written notice to Columbia Housing within five (5) business days after learning of the threat of or commencement of any future action, suit, investigation or proceeding that may reasonably be expected to (i) result in a material adverse change in the activities, operations, assets or properties or in the condition, financial or otherwise, of the Developer, or (ii) materially and adversely impair the ability of the Developer to perform its obligations under this Agreement. This notice obligation shall survive the Closing. The Developer is not in default with respect to any judgment, writ, injunction, decree, rule, or regulation of any court or any governmental or administrative body or agency. Each of the Developer, its members, and its affiliates, is not the subject of a limited denial of participation or debarment by HUD or any similar prohibition on conducting business with public agencies in the State of South Carolina or other jurisdictions.

ARTICLE XI.

AUTHORITY REPRESENTATIONS AND WARRANTIES

11.1. Organization and Powers of Authority. Columbia Housing hereby makes the following representations and warranties:

- A. Organization and Powers of Authority. Columbia Housing is a municipal corporation and body corporate and politic duly formed under the South Carolina Housing Authorities Law.
- B. Authorization, Binding Agreement of Authority. The execution, delivery and performance by Columbia Housing of this Agreement have been duly authorized by all requisite action and constitute the binding obligations of Columbia Housing.
- C. Litigation. There is no pending or threatened suit, action, litigation or proceeding against or affecting Columbia Housing, to the best of its knowledge, that affects the validity or enforceability of this Agreement.

ARTICLE XII.

MISCELLANEOUS.

12.1. Notices. All notices, requests, approvals, demands, and other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows (provided, that any time for responding to any such communication shall not begin to run until such communication is received or delivery is refused):

If to Authority: Housing Authority of the City of Columbia, SC
1917 Harden Street
Columbia, SC 29204
Attn: Ivory N. Mathews, Executive Director

With a copy to: Horton Law Firm, PA
307 Pettigru St.
Greenville, SC 29601
Attn: Bo Campbell

If to Developer: Brinshore Development, L.L.C.
666 Dundee Road, Suite 1102
Northbrook, IL 60062
Attn: Peter Levavi


With copy to: Ice Miller
One American Square, Suite 2900
Indianapolis, IN 46282-0200
Attn: Tyler Kalachnik

- 12.2. Further Assurances.** Columbia Housing and the Developer shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement as mutually agreed by the Parties.
- 12.3. Assignment.** This Agreement shall not be assignable by any Party, except upon written consent of the other Party.
- 12.4. Disclaimer of Third-Party Beneficiaries.** Nothing contained in this Agreement, nor any act of HUD or Columbia Housing, shall be deemed or construed to create any relationship of third-party beneficiary, principal, and agent, limited or general partnership, joint venture, or any association or relationship involving HUD, except between HUD and Columbia Housing as provided by the terms of applicable grant agreements. In addition, there are otherwise no third-party beneficiaries of this Agreement, and no third party shall have any rights under this Agreement.
- 12.5. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.
- 12.6. Interpretation and Governing Law.** This Agreement shall not be construed against the party who prepared it, but shall be construed as though prepared by the Parties. This Agreement shall be construed, interpreted, and governed by the laws of the State of South Carolina.
- 12.7. Severability.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion shall be deemed severed from this Agreement, and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.
- 12.8. Parties Bound.** No officer, director, shareholder, member, manager, employee, agent, or other person authorized to act for and on behalf of any party hereto shall be personally liable for any obligation, express or implied, hereunder.
- 12.9. Final Agreement.** Unless otherwise provided herein, this Agreement constitutes the final understanding and agreement between Columbia Housing, the Developer with respect to the subject matter herein and supersedes all prior negotiations, understandings and agreements between Columbia Housing and the Developer whether written or oral. This Agreement may be amended, supplemented, or changed only by a writing signed or authorized by or on behalf of the party to be bound thereby.
- 12.10. Modification of Agreement.** This Agreement may not be altered, modified, rescinded, or extended orally.
- 12.11. Conflict of Interest.** The Developer covenants that neither it nor any of its directors, officers, members, managers, partners, or employees has any interest, nor shall acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder, including the causing of Columbia Housing to suffer a conflict of interest. The Developer further covenants that in the performance of this Agreement, no person having such interest shall be employed by it or shall subcontract with it to perform duties under this Agreement.

- 12.12. Waivers.** The failure of any party to insist in any one or more cases upon the strict performance of any of the obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by any party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the party to be charged.
- 12.13. Successors.** The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties, their successors, and assigns.
- 12.14. Certain Approvals.** Unless otherwise stated, all approvals or consents required of either party hereunder shall not be unreasonably withheld, conditioned, or delayed.
- 12.15. References to this Agreement.** All references to this Agreement shall include all documents and exhibits incorporated by reference. If there is any ambiguity or conflict among any two or more of these, or internally in any one of these or if the ambiguity or conflict arises from the use of capital and/or Development funds, the resolution of the ambiguity shall be consistent with Columbia Housing's obligations and commitments to HUD, as determined by Columbia Housing in its sole discretion.
- 12.16. Headings.** The headings in this Agreement are inserted for convenience only and shall not be used to define, limit, or describe the scope of this Agreement or any of the obligations herein.
- 12.17. Construction.** Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.
- 12.18. Authority to Execute.** The undersigned individuals represent and warrant that they are expressly and duly authorized by their respective entities or agencies to execute this Agreement and to legally bind their respective entities or agencies as set forth in this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement by their duly authorized signatories on or as of the date first written herein.

HOUSING AUTHORITY OF THE CITY OF COLUMBIA, SC,
a public body corporate and politic

By: 
Name: Ivory N. Mathews
Title: Executive Director

BRINSHORE DEVELOPMENT, L.L.C.,
an Illinois limited liability company

By:  RJS Real Estate Services, Inc., a member

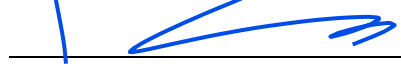
By: 
Name: Richard J. Sciortino
Title: President

EXHIBIT A

COLUMBIA HOUSING AUTHORITY

DEVELOPMENT PARTNER BRINSHORE

PROJECT NAME Haven at Palmer Pointe (Carter Street Replacement of Marion Street)

MASTER DEVELOPMENT AGREEMENT BUSINESS TERMS	
Site Control/Land Lease	Land Owned by Columbia Housing
	Upfront Ground Lease Payment of \$350,000
	99 Year Ground Lease to Project Owner Entity
Ownership/Guarantees	Managing Member - Sole Asset Entity whose sole members is South Carolina Affordable Housing Initiative (SCAHI)
	Guarantees to be provided by Developer through Construction Completion and Placed in Service
	CH to provide operating deficit guarantees; tax credit compliance guarantees; and environmental guarantees. SCAHI SAE will provide 168h election.
Developer Fees	Maximum permissible by SC Housing
	70% Development Partner / 30% Columbia Housing
	Payable based on investor schedule
	Prorated share to be paid with each installment received.
Primary Financing	Tax Exempt Bonds and 4% LIHTC
	CH will issue bonds with all applicable fees to be paid by project
Secondary Financing	SC Department of Mental Health Grants - \$500,000
Rental Assistance	Project Based Vouchers
	100% for Senior Units
Predevelopment Loan	Not to exceed \$500,000
	Reimbursable Predevelopment Loan - 50% of costs based on agreed upon budget
	Repayable in full at closing or converts to permanent loan if secondary financing.
MBE/Section 3	30% Minimum MBWDE
	Minimum Section 3 - 10 new hires
Management	CH Third Party Company with Developer approval
NOTES	Developer fee would be available to cover any development cost overruns; Developer would be paid all fees at completion of construction and acceptance of building; CH will assume deferred fees from cash flow if applicable. DSA or other agreement to provide Brinshore with final veto during construction to protect construction completion guarantee.

EXHIBIT B

COLUMBIA HOUSING

MINORITY/WOMEN/SMALL BUSINESS ENTERPRISE AND SECTION 3 POLICIES

General

CH requires that all contractors doing business with the Authority make a "good faith effort" to use area residents as trainees and employees and to award contracts to businesses located within the Section 3 covered project areas. Good faith efforts will include concrete steps to expand resident training and employment opportunities, such as making residents aware of the employment application process and employing qualified Section 3 area residents.

It is the policy of CH to ensure that employment and other economic opportunities generated by the result of contracts awarded that are funded with federal financial assistance shall, to the greatest extent feasible, be directed toward low and very low income persons, particularly those who are recipients of government assistance for housing.

This policy sets forth the practices required for contractors to hire Section 3 Residents and to subcontract with business concerns owned in whole or in part by Section 3 Residents. This document also sets forth the requirements for the contracting with business concerns owned in whole or in part by Section 3 Residents, Minority, Women, Disadvantaged, Disabled Veterans and Labor Surplus Area Business Enterprises.

Contractors who are not able to otherwise meet the Section 3 requirements set forth in this policy may contribute to the CH Resident Services Section 3 Employment Education fund. Such contribution shall be in the amount of a minimum of 5% of the total contract costs below \$250,000; 4% of the total contract costs between \$250,001 and \$500,000; and, 2% for contracts in excess of \$1,000,000.

Required Efforts

Consistent with Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the HUD Act of 1968, all feasible efforts shall be made to ensure that minority-owned, small disadvantaged and Section 3 businesses, women's business enterprises, labor surplus area businesses and other individuals or firms located in or owned in substantial part by persons residing in the area of the CH project are used when possible. Such efforts shall include, but shall not be limited to:

1. Including such firms, when qualified, on solicitation mailing lists;
2. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;

5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
6. Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 CFR Part 135 (so-called Section 3 businesses); and
7. Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above.

Definitions

1. A small business is defined as a business that is: independently owned; not dominant in its field of operation; and not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in 13 CFR Part 121 should be used to determine business size.
2. A minority-owned business is defined as a business which is at least 51% owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals.

Minority group members include, but are not limited to Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Asian Indian Americans, and Hasidic Jewish Americans.

3. A women's business enterprise is defined as a business that is at least 51% owned by a woman or women who are U.S. citizens and who control and operate the business.
4. A Section 3 business concern" is as defined under 24 CFR Part 135.
5. A Disabled Veterans Enterprise (DVE) is a sole proprietorship, partnership, or corporation owned, operated, controlled by a disabled veteran (as determined by the Veterans Administration) who have at least 51% ownership. The disabled veteran must have operational and managerial control, interest in capital, and earnings commensurate with the percentage of women ownership. To qualify as an eligible DVE, the business must be certified and in good standing with the State of South Carolina.
6. A labor surplus area business is defined as a business which, together with its immediate subcontractors, will incur more than 50% of the cost of performing the contract in an area of concentrated unemployment or underemployment, as defined by the DOL in 20 CFR Part 654, Subpart A, and in the list of labor surplus areas published by the Employment and Training Administration.

7. Section 3 Residents are residents of housing programs managed, administered or sponsored by CH; an individual residing in the Greenville County Statistical Metropolitan Survey Area and, who is a low-income person, earning less than 80% of area median income; or a very low-income person, earning less than 50% of area median income.

Goals

1. **Section 3 Resident Participation Goal.** CH has established a goal of a minimum percentage of 10% of Section 3 Residents as new hires for all contracts in excess of \$250,000.

2. **Minority/Women Business Enterprise Goal.** CH has set a goal of achieving at least 30% of each Section 3 Covered Contract sum to be awarded to minority and disadvantaged in the categories described above.

Priority for Selection of Section 3 Residents

For purposes of Section 3 Resident hiring and Contracting Requirements, the term Section 3 Residents" includes the following categories of individuals, in the order of priority set forth below:

1. Residents of CH public housing communities.
2. Residents of CH mixed finance communities.
3. Participants of CH's Housing Choice Voucher Program.
4. Residents of the City of Greenville to the extent such residents are low or very low income as defined above.
5. Residents of Greenville County (outside the City of Greenville or Greer) to the extent such residents are low or very low income as defined above.

Training and Employment Preference for Section 3 Residents

CH, through its Resident Services Programs will work with its Service Partners that offer job readiness programs and training in day-to-day employment skills and apprenticeship programs.

Contractor Requirements

1. **Section 3 Employees.** Contractors and subcontractors shall be required to submit a notice of intent to comply with the Section 3 regulations within all contracts. These notices are to be posted in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference. The notice shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each and the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.

The contractor shall, to the greatest extent feasible, give preference to Section 3 Residents when hiring any full-time employee for permanent, temporary or seasonal employment under the contract. The contractor will be deemed to be in compliance with the training and employment requirements of the Section 3 Policy if 10% of all new hires are Section 3 Residents. The contractor is responsible for complying with the requirements of this policy in its own operations and for assuring compliance in the operations of its subcontractors.

2. **Contract Preference for Section 3 Business Concerns.** The contractor shall, to the greatest extent feasible, give preference to Section 3 Business Concerns when entering into any contract for the work of the Project. The Contractor will be deemed to be in compliance with the contract preference for Section 3 Business Concerns if it commits to award to Section 3 Business Concerns at least 30% of the total dollar amount of the Contract.

3. **Certifications and Assurances** The form of contract executed by Contractors/Subcontractors will include the requirements set forth in this policy.

CH Marketing Efforts

CH will market the Section 3 policies to Residents and Program Participants through posting of information on its website; posting of notices at CH offices and developments; and issuance of flyers describing employment and training opportunities. CH will also provide notices at strategic locations within the community where people gather (i.e., schools recreational facilities, and area churches). CH will also inform community leaders, contractors, political leaders and interested community organizations of the Section 3 and MBE/WBE hiring commitments.

The Resident Services Staff will identify and maintain a list of Section 3 Residents interested in employment and training opportunities. This list will be provided to Contractors and Subcontractors in an effort to assist them with meeting the stated goals.

Compliance and Monitoring

1. **Reporting.** The contractor shall submit to CH a completed Monthly Employee/Business Concern Utilization Report in a format determined by CH each month throughout the contract period. The contractor shall promptly provide to CH at its request, any such other information or reports which CH may require and shall permit access to the job site and to any books, records, accounts and/or other material deemed by CH to be necessary to monitor the contractor's compliance with this Policy.

2. **Termination.** The contractor or any of its subcontractors may terminate the employment of a Section 3 Resident or the contract of a Section 3 Business Concern for good cause, provided that the contractor or subcontractor first notifies CH in writing of the proposed termination and the specific reasons for dismissal. If any Section 3 Resident employed by the contractor or a subcontractor pursuant to this Provision leaves or is terminated from such employment, or if any Section 3 Business Concern fails to perform under its contract or its contract is terminated, CH shall require the contractor and/or its subcontractor to employ another Section 3 Resident or contract with another Section 3 Business Concern in order to remain in compliance with the requirements of this Policy.

3. **Department of Labor Requirements.** Contractors subject to the Section 3 Resident Employment Provision are also required to comply with Executive Order 11246, as amended by Executive Order 12036 and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally-assisted construction contracts.

4. **Sanctions.** If contractors or subcontractors do not comply with Section 3 mandates, CH will address the issues promptly. All sanctions against any contractor should be based on language in the signed contract.

Performance Standards

On each construction job site, it is expected from the contractor/subcontractors, that all referred and hired Section 3 Residents will be treated with the same respect and consideration that is demonstrated toward non-Section 3 Residents.

At no time should there be any disparity in hours worked per day, nor days worked per week, unless both contractor and employee agree upon it. Violation of these performance standards by the general contractor and its subcontractors will be interpreted as violation of contract agreement.

EXHIBIT C

INSURANCE REQUIREMENTS

The Developer shall cause the appropriate entity to maintain and keep in force the following insurance:

A. General Liability including bodily injury and property damage:

\$4,000,000 General Aggregate Limit
\$2,000,000 Products & Completed Operations Aggregate Limit
\$2,000,000 Per Occurrence
\$1,000,000 Personal Liability & Advertising Liability Insurance
\$1,000,000 Fire/Legal Liability
\$ 10,000 Medical Expense

Endorsement: Designated Construction Project General Aggregate Limit, including contractual liability.

B. Excess and Umbrella Liability:

\$5,000,000 Per Occurrence
\$10,000,000 Aggregate
Endorsement: Designated Construction Project General Aggregate Limit

C. Workers Compensation and Employers Liability:

\$500,000 Each Accident
\$500,000 Disease-Policy Limit
\$500,000 Disease-Each Employee

D. Builders Risk:

(1) The Developer shall have "All Risk" insurance against loss or damage by fire, flood and such other risks and matters, including without limitation, business interruption, rental loss, public liability, and boiler damage and liability. The amount of such insurance will not be less than 100% of the full replacement value of the Development, including the cost of debris removal, without deduction for depreciation. The deductible shall not be in excess of \$1,000.

(2) All contractors, sub-contractors should provide proof they have a Builders Risk/Installation Floater in place with limits not less than the cost of their portion of the job/contract.

(3) Riggers Liability: Limit of Liability \$2,000,000 Aggregate/\$1,000,000 Per Occurrence if the contractor or sub-contractor's operation include rigging.

Endorsement: Designated Construction Project General Aggregate Limits.

E. Business Automobile Liability - \$1,000,000

F. Professional Liability - \$2,000,000. Additionally, the following contractors must be required to provide \$1,000,000 of professional liability coverage:

- (1) Engineers
- (2) Architects; and
- (3) Attorneys

G. Employee Dishonesty Policy - \$400,000

H. The Developer's insurance shall include the following:

- (1) Waiver of subrogation all liability policies.
- (2) Hold Harmless Agreement covering TGHA, and all successors and assigns, commissions, officers, directors, agents, lessees, employees, and authorized representatives.
- (3) All Carriers should be "A" rated by AM Best.

All policies of insurance (other than professional liability) must be made on an occurrence basis.

EXHIBIT D

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

BRINSHORE DEVELOPMENTS, L.L.C.,
an Illinois limited liability company

By: RJS Real Estate Services, Inc., a member

By: _____
Name: Richard J. Sciortino
Title: President



Our Mission, Vision, and Values

Our Mission

Because CH cares, we are leveraging the power of housing to build a foundation for individuals to thrive.

Our Vision

To ensure that every citizen of our community, regardless of their economic status, has good choices in where they live, and opportunities to reach their fullest potential.

Our Guiding Principles and Values

- We believe that all individuals, no matter what their backgrounds or life circumstances, have **the right to safe, quality, affordable housing**.
- We believe in the **human potential** to make positive choices, productive life changes, and valuable contributions to the community.
- We will provide the **highest quality housing**, complemented by supportive services and **excellent property management**.
- We will design, develop and rehabilitate **resident and service-oriented communities** to promote well-being and a sense of place and protect residents from housing insecurity.
- We will expand **individual and community capacity** by engaging local minority, women and small business enterprise in all development efforts.
- We aspire to have a deep awareness of our community's diversity, and will treat all individuals with **compassion and respect**.
- We will **advocate** for individual opportunity and systemic change supporting those whose voices often remain unheard and unheeded.
- We will conduct all aspects of our business with **integrity and accountability**.
- We believe that **collaborations and partnerships** with community stakeholders will enable us to further enhance our work.
- We strive to utilize **best practices** and develop a culturally competent workforce.
- We will **engage and develop our employees**, enhancing their knowledge, growth, and understanding so that they may better serve.
- We are **stewards of limited resources** and will use our resources to thoughtfully develop properties and programs that meet immediate and long-term needs to achieve maximum impact.