



**Economic Development Authority of the City of Richmond
Meeting Notice November 16, 2023**

WHAT: The City of Richmond’s Economic Development Authority will hold its **November Board Meeting.**

WHEN: Thursday, November 16, 2023, at 1:00 P.M.

WHERE: Main Street Station, 1500 East Main Street, 1st Floor Square Area

CONTACT: Rick Winston at (804) 646-5036 or rick.winston@rva.gov

For more information about The City of Richmond’s Economic Development Authority (EDA),
Visit: <http://www.richmondeda.com>

Agenda

ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND
REGULAR BOARD MEETING NOVEMBER 16, 2023
BOARD MEETING AGENDA

- I. Call to Order
 - A. Public Meeting Disclosure

- II. Comment (Maximum of Three Minutes Per Person)

- III. Meeting Minutes
 - A. Meeting Minutes – October 26, 2023

- IV. New Business
 - A. EDA Financial Report – September
 - B. Affordable Housing Performance Grants
 - a. Afton Avenue Apartments LLC
 - b. 2100 Bainbridge LLC
 - c. 700 West 44, LP

- V. Report of the Officers
 - A. Report of the Chairman
 - B. Report of the Secretary

- VI. Other Business

- VII. Adjournment

Upcoming Meetings

Board Meeting – December 21, 2023

Finance and Audit Committee Meeting – December 21, 2023

Meeting Minutes

Economic Development Authority (EDA) of the City of Richmond, Virginia
Board Meeting
Thursday, October 26, 2023 Minutes

Members present:

John Molster, Chair
Nupa Agarwal, Vice-Chairperson
Jer'Mykeal McCoy
Nathan Hughes
Neil Millhiser

Others present:

Bonnie Ashley- City of Richmond, City Attorney's Office
Katie McConnell - Department of Economic Development
Leonard Sledge - Department of Economic Development
Lisa Jones – A. G. Reese & Associates
Rick Winston - Department of Economic Development

Call to Order:

Mr. Molster called the meeting to order at 1:10 PM and Mr. Winston recorded the meeting.

Public Comment:

No public comments were received via email, phone, or otherwise by staff per Mr. Sledge. Mr. Sledge read the public disclaimer.

Approval of Minutes of the Previous Meeting:

Mr. Molster requested a motion to adopt the minutes of the August 24, 2023, Board Meeting as stated Ms. Agarwal moved to accept the minutes. Mr. McCoy seconded the motion. The Motion passed unanimously. Mr. Molster requested a motion to adopt the minutes of the September 21, 2023 Special Called Meeting as stated. Ms. Agarwal moved to accept the minutes. Mr. McCoy seconded the motion. The Motion passed unanimously.

Audit & Finance Committee – Mr. Nathan Hughes

Mr. Hughes reported that The Training Center ended the month of September with a net income of \$22,514. The month was budgeted at a net income of \$22,610, which left us with a negative variance (\$96). The Training Center's year to date net income is at \$93,417, leaving us with a positive variance of \$19,934 against our budgeted income of \$73,483.

As of September's financials, we anticipate meeting this fiscal year's budget of \$108,544. Four events were held in September 2023:

- Joyner Wedding - \$6.2k Net Income
- Chamber College Jam - \$4.3k Net Income
- Coley Wedding - \$5.3k Net Income
- Parks and Rec Youth Football - \$4k Net Income

Accounts Receivable: \$98k, mostly made up of event invoices and a few prior months' invoices that will be collected. The General Manager and Catering Sales Manager are reaching out to 90+ day invoices directly to collect payment. Accounts Payable were \$29k. No 90+ day invoices to report. Currently holding onto \$26k in advanced deposits for events through November 2023.

Salaries and Wages No large variances to report. Contracted Services Nothing to report. Operating Expense had an unbudgeted item for exterior window cleaning in the amount of \$2,512. Repairs and Maintenance had no large variances to report. Utilities No large variances to report.

August 2023

Ms. Jones reported Stone received 2 rent payments this month. YTD income of \$74,865 is slightly ahead of budget because expenses and maintenance to the roof have not been spent. Only had \$5000 expenses for the month.

EDA operations received \$700,000 for the Triple A grant and \$138,000 from another grant. The audit bill was paid during the month. Income for the month was \$800,000 due to grants that were received but not paid. YTD received \$1.3 million in grants and YTD income totaled \$1.8 million.

Leigh Street had an expense of \$24,495 for fence at the Westhampton site. Mr. Molster commented he needed to review agreement with Ms. Ashley regarding St. Gertrude's obligation for the expense. Payment was made for air condition automation system of \$10,293. YTD net income is ahead of budgeted by \$34,805. When the depreciation expense is included, there is a budgeted loss of \$28,000.

There was no unusual Loan activity.

Mr. Sledge requested a motion to approve the August 2023, financial statements for the Economic Development Authority of the City Of Richmond, Virginia. Mr. Hughes moved to accept the financial statements. Ms. Agarwal seconded the motion. The Motion passed unanimously.

New Business – Mr. Leonard Sledge

Mr. Sledge presented affordable housing grants for the following projects that were approved by city council: The View at Belle Isle Apartments, LP, Oak Grove Multifamily, LLC, and Walmsley Gardens, LLC. Mr. Sledge explained that the EDA is the conduit for these grants and the funds are appropriated by the City Council of Richmond. The program is managed by Ms. Sherrill Hampton and her team.

Ms. Sherrill Hampton, Director of Housing and Community Development provided the committee with an explanation of the projects, answered questions and presented the committee with a handout about the usage of these performance grants.

Mr. Sledge requested a motion to authorize the Board Chair to execute a Grant Agreement between the City, The View at Belle Isle Apartments, LP, and the Economic Development Authority of the City Of Richmond for the purpose of facilitating the construction of an affordable residential development located at 812 Hull Street, 811 Decatur Street, 813 Decatur Street, and 6 East 9th Street. Mr. McCoy moved to accept the request, Ms. Agarwal seconded the motion. The motion passed unanimously.

Mr. Sledge requested a motion to authorize the Board Chair to execute a Grant Agreement between the City, Oak Grove Multifamily, LLC, and the Economic Development Authority of the City Of

Richmond for the purpose of facilitating the construction of an affordable residential development located at 2200 Ingram Avenue. Mr. McCoy moved to accept the request, Ms. Agarwal seconded the motion. The motion passed unanimously

Mr. Sledge requested a motion to authorize the Board Chair to execute a Grant Agreement between the City , Walmsley Gardens, LLC, and the Economic Development Authority of the City Of Richmond for the purpose of facilitating the construction of an affordable residential development located at 4818, 4824, 4830, 4850, and 4890 Walmsley Boulevard. Mr. McCoy moved to accept the request, Ms. Agarwal seconded the motion. The motion passed unanimously

Mr. Sledge requested a motion to authorize the Board Chair, in consultation with the Executive Director and EDA Legal Counsel, to execute an estoppel certificate and condominium declaration for Phase 2 of the Westhampton Project. Mr. Hughes moved to accept the request. Mr. McCoy seconded the motion. The motion passed unanimously.

Report of the Officers:

Chairman Report – Mr. John Molster

Mr. Molster thanked the amazing staff. The City Of Richmond is on a roll and the EDA is a part of that.

Report of the Secretary – Mr. Leonard Sledge

Mr. Sledge reported a new team member, Glenna Chung, accepted the position of Senior Executive Assistant. Three positions remain to be filled for the department. Mr. Sledge asked the board to mark December 12th on their calendar for the Celebration of Business Event at Main Street Station. He stated that this is an annual event and it was held at the training center last year. Mr. Sledge gave an update on the Casino Resort.

Adjournment

The meeting adjourned at 2:04 p.m.

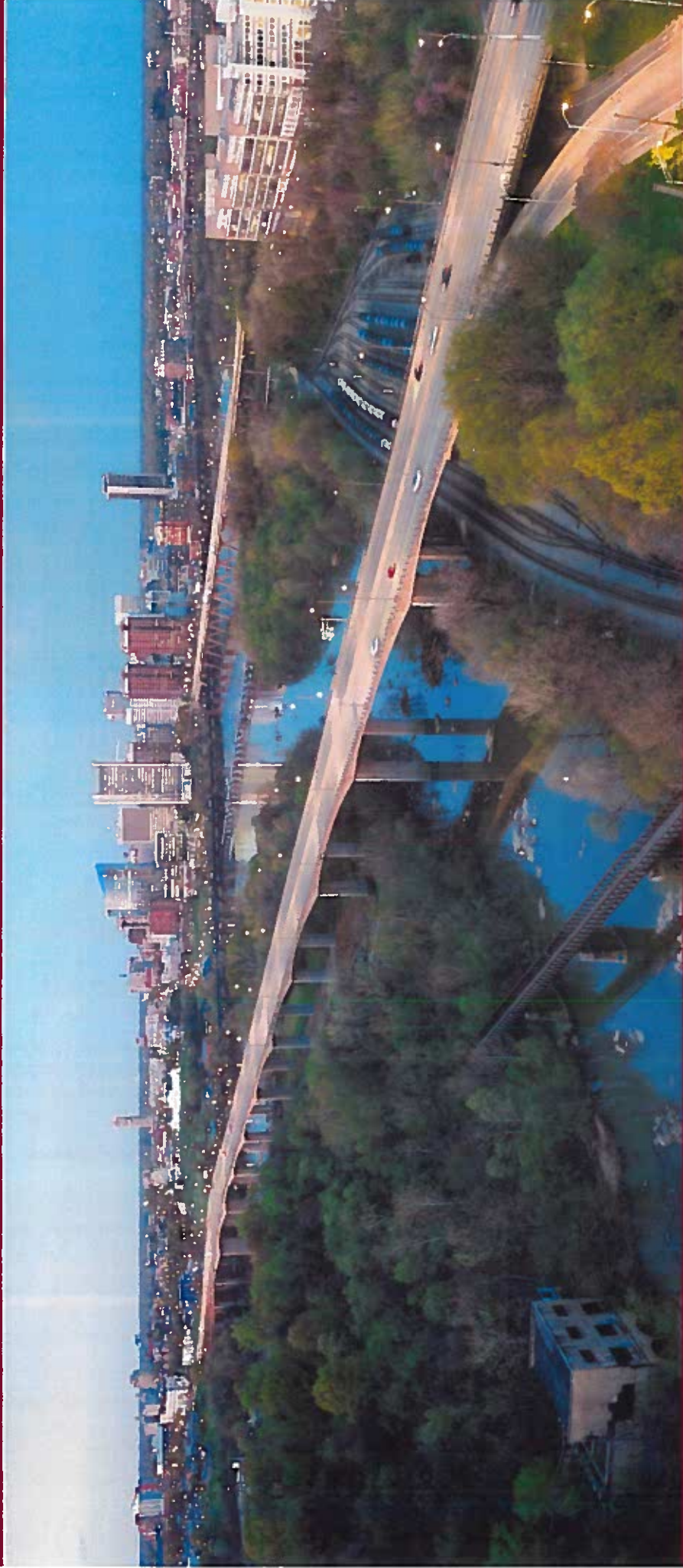
Respectfully submitted:

Secretary to the meeting

Approved:

John Molster, Chair

THE CITY OF RICHMOND – PERFORMANCE GRANTS



A New Innovative Tool for Furthering Affordable Housing Development

October 26, 2023

Introduction

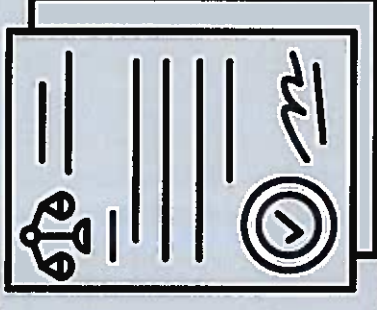
This presentation showcases an innovative tool provided to localities across the Commonwealth by HB1194, which amended Ch. 49, Title 15.2 of the Code of Virginia known as the “Industrial Development and Revenue Bond Act”, signed into law by Governor Glenn Youngkin, made effective July 1, 2022. The following slides will give an overview of how the Richmond Economic Development Authority and the City of Richmond are working collaboratively on the use of this tool to further the development of affordable housing.



Industrial Development and Revenue Bond Act

To combat the affordable housing shortage and incentivize the development of affordable housing across the Commonwealth, the General Assembly passed HB 1194 during the 2022 Session and became effective on July 1, 2022.

HB1194 amended Ch. 49, Title 15.2 of the Code of Virginia known as the “Industrial Development and Revenue Bond Act” which grants local Economic Development Authorities, in conjunction with their local governing bodies, the power to make grants associated with the construction of affordable housing.



The City of Richmond's Affordable Housing Crisis

On April 10, 2023, Mayor and City Council declared a housing crisis in the City through the adoption of Resolution No. 2023-R019. This declaration is in direct response to the following phenomena occurring in the City.

- Over the past several years, the City has seen a significant decrease in housing inventory and a resulting uptick in the cost of both rental properties and mortgages.
- The compounding impact of inflation, low housing inventory, and consistently rising interest rates have resulted in housing insecurity for working families.
- Many families have found themselves priced out of rental units, facing the threat of eviction and residents also face insurmountable barriers to homeownership.



THE CITY OF RICHMOND – PERFORMANCE GRANTS

The Use of the Performance Grant Tool

- ❑ The Richmond Economic Development Authority (EDA) and the City's Department of Housing and Community Development (HCD) worked collaboratively to create the performance grant model in efforts of incentivizing the development of safe and affordable housing in the City.
- ❑ Through the performance grant, the EDA and the city provide an *Incremental Real Estate Tax Revenue rebate* only on the new improvements at the project site.
- ❑ By reducing the tax liability for the developers, this rebate tool helps to reduce the ongoing operating costs of affordable multi-family rental properties.
- ❑ The performance grants also ensure the sustainability of the new units as the grant agreement requires that developers contribute towards maintenance and operation of the housing complex for a term of no less than 15 years.
- ❑ To date, the EDA has received seven (7) applications. One project has been approved by the City Council and the EDA and construction is underway. If the remaining six (6) projects are approved by the City Council and the EDA, it would result in the creation of over 1200 new affordable housing units.

A New Innovative Tool for Furthering Affordable Housing Development

October 26, 2023



Incremental Real Estate Tax Rebate

- The “Base Real Estate Tax Revenue” is calculated for the site in which the development is located and is equal to the real estate taxes levied on the site for the current tax year.
- The developer is responsible for on-time, full payment of all real estate taxes levied against the new development for every year of the grant agreement.
- Once a payment of the full real estate tax has been made to the City, the developer is able to submit a written grant payment request to the EDA for a rebate in the amount of the Incremental Real Estate Tax increase.
(Incremental Real Estate Tax Revenue = Real Estate Tax Levy minus the Base Real Estate Tax Revenue Assessed for the Site)
- The Incremental Real Estate Tax Rebate grant period will remain effective for the initial fifteen (15) years of the project and can be extended another 15 years depending on the LIHTC compliance period.
- The EDA and HCD will continuously monitor the project details and verify satisfactory compliance with all grant agreement details including construction, maintenance, affordable housing, and on-time payment of real estate taxes.



THE CITY OF RICHMOND – PERFORMANCE GRANTS

Performance Grant Process



A New Innovative Tool for Furthering Affordable Housing Development

October 26, 2023

7000 CARNATION STREET

Project Overview

- ❑ The first approved performance grant project.
- ❑ Located in the Ninth District, where there is a significant shortage of affordable housing.
- ❑ All 218 units will house individuals and families who fall within the 50-70% AMI.
- ❑ Since the June 13, 2023 groundbreaking, project construction has been advancing on schedule.



Front View - September 15, 2023

“Without the new tax rebate program, our latest affordable housing developments - 218 units at 7000 Carnation, and 243 units at the former Oak Grove School, all at 50-70% AMI – simply would not be possible.”

John Gregory, Principal Developer
– Lynx Ventures



THE CITY OF RICHMOND – PERFORMANCE GRANTS

Questions?



A New Innovative Tool for Furthering Affordable Housing Development

October 26, 2023

EDA Financial Report

**EDA City of Richmond-Stone Brewery
Profit & Loss Budget Performance
September 2023**

	Sep 23	Sep 22	YTD 24	YTD Budget	\$ Over Budget	Annual Budget
Ordinary Income/Expense						
Income						
42800 · Interest Income	2,215.98	687.31	6,104.74	3,750.00	2,354.74	15,000.00
43000 · Interest on Capital Lease	95,653.16	98,795.54	287,705.61	285,051.54	2,654.07	1,140,206.17
Total Income	97,869.14	99,482.85	293,810.35	288,801.54	5,008.81	1,155,206.17
Expense						
62400 · Depreciation Expense	174.21	174.21	522.63	522.63	0.00	2,090.52
63300 · Insurance Expense	389.08	402.38	1,167.24	1,750.00	-582.76	7,000.00
63500 · Bank Fees	0.00	0.00	0.00	25.00	-25.00	100.00
66100 · Interest Expense-Bond	57,025.57	58,840.21	171,076.71	172,053.13	-976.42	688,212.50
66700 · Professional Fees	0.00	0.00	0.00	5,000.00	-5,000.00	20,000.00
67200 · Repairs and Maintenance	240.00	0.00	1,138.40	7,500.00	-6,361.60	30,000.00
67500 · Roof Expense	0.00	0.00	5,000.00	7,500.00	-2,500.00	30,000.00
Total Expense	57,828.86	59,416.80	178,904.98	194,350.76	-15,445.78	777,403.02
Net Ordinary Income	40,040.28	40,066.05	114,905.37	94,450.79	20,454.58	377,803.15
Other Income/Expense						
Other Income						
70200 · Miscellaneous Income	0.00	0.00	0.00	0.00	0.00	0.00
Total Other Income	0.00	0.00	0.00	0.00	0.00	0.00
Net Other Income	0.00	0.00	0.00	0.00	0.00	0.00
Net Income	40,040.28	40,066.05	114,905.37	94,450.79	20,454.58	377,803.15

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EDA City of Richmond-Stone Brewery
Balance Sheet Prev Year Comparison
As of September 30, 2023

	Sep 30, 23	Sep 30, 22
ASSETS		
Current Assets		
Checking/Savings		
10100 · Wells Fargo #2828	2,982,492.09	2,524,869.02
11000 · Accounts Receivable	17,000.19	17,000.19
14000 · Prepaid Expenses	2,726.61	2,816.67
Total Current Assets	<u>3,002,218.89</u>	<u>2,544,685.88</u>
Fixed Assets		
15602 · CIP- Ston Brewery	0.00	34,410.86
15603 · Building Improvements	83,625.00	83,625.00
16900 · Land	621,644.51	621,644.51
17000 · Accumulated Depreciation	-2,787.36	-696.84
Total Fixed Assets	<u>702,482.15</u>	<u>738,983.53</u>
Other Assets		
19000 · Net Invest-Cap Lease Rec-Curret		
19000.1 · Current-Capital Lease Receivabl	1,160,177.52	1,305,199.71
19000.2 · Current Portion Unearned int	-756,103.78	-878,465.55
Total 19000 · Net Invest-Cap Lease Rec-Curret	<u>404,073.74</u>	<u>426,734.16</u>
19500 · Net Investment on Capital Lease		
19500.1 · Capital Lease Receivable	29,584,526.97	31,324,793.25
19500.2 · Unearned Int on Capital Lease	-11,178,170.48	-12,318,376.65
Total 19500 · Net Investment on Capital Lease	<u>18,406,356.49</u>	<u>19,006,416.60</u>
Total Other Assets	<u>18,810,430.23</u>	<u>19,433,150.76</u>
TOTAL ASSETS	<u><u>22,515,131.27</u></u>	<u><u>22,716,820.17</u></u>
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
20000 · Accounts Payable	240.00	0.00
23100 · Accrued Interest Payable	228,102.28	235,360.84
25000 · Current Portion of Rec. Grant	750,000.00	730,000.00
Total Current Liabilities	<u>978,342.28</u>	<u>965,360.84</u>
Long Term Liabilities		
27200 · Recoverable Grant Payable		
27200.1 · Recoverable Grant Payable	17,635,000.00	18,385,000.00
Total Liabilities	<u>18,613,342.28</u>	<u>19,350,360.84</u>
Equity		
32000 · Retained Earnings	3,786,883.62	3,246,256.90
Net Income	114,905.37	120,202.43
Total Equity	<u>3,901,788.99</u>	<u>3,366,459.33</u>
TOTAL LIABILITIES & EQUITY	<u><u>22,515,131.27</u></u>	<u><u>22,716,820.17</u></u>

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Economic Development Authority-Operations
Balance Sheet Prev Year Comparison
As of September 30, 2023

	Sep 30, 23	Sep 30, 22
ASSETS		
Current Assets		
Checking/Savings		
10200 · FCB #7709 Savings	1,147,390.15	1,475,429.21
10300 · Towne Bank Savings	50,788.79	50,763.40
10450 · Well Fargo #7155 Checking	61,622.51	12,993.96
10500 · Restricted Checking/Savings		
10501 · FCB 8381 -Stone (GOF)	0.00	1,031,195.90
10501.1 · FCB 8605 Facade/Vent	89,060.33	136,387.48
10502 · C&F Bank #3929 Tobacco Rowe	140,125.99	117,629.52
10505 · Wells Fargo #0731 Grants	1,364,012.52	805,540.34
10509 · EDA-Hull Street Facade Program	250,042.13	0.00
10510 · EDA Triple A Grant Program	298,972.77	0.00
Total 10500 · Restricted Checking/Savings	<u>2,142,213.74</u>	<u>2,090,753.24</u>
Total Checking/Savings	3,402,015.19	3,629,939.81
11000 · Accounts Receivable	9,800.00	9,942.00
112000 · Due from City of Richmond	119,692.23	119,692.23
14000 · Prepaid Expenses	0.00	3,811.32
Total Current Assets	<u>3,531,507.42</u>	<u>3,763,385.36</u>
Fixed Assets		
15000 · Furniture and Equipment	3,168.47	3,168.47
17000 · Accumulated Depreciation	-792.00	-158.40
Total Fixed Assets	<u>2,376.47</u>	<u>3,010.07</u>
Other Assets		
17500 · Website	115,816.00	0.00
18000 · Investment City Center	13,173,606.89	0.00
19100 · Net Invest.-Cap Lease Rec-Curre		
19100.1 · Current-Capital Lease Rec	22,000.00	22,000.00
19100.2 · Current Portion Unearned Int	-12,841.08	-13,134.00
Total 19100 · Net Invest.-Cap Lease Rec-Curre	<u>9,158.92</u>	<u>8,866.00</u>
19500 · Net Investment on Capital Lease		
19500.1 · Capital Lease Receivable	550,000.00	594,000.00
19500.2 · Unearned Int on Capital Lease	-191,899.92	-226,741.00
Total 19500 · Net Investment on Capital Lease	<u>358,100.08</u>	<u>367,259.00</u>
Total Other Assets	<u>13,656,681.89</u>	<u>376,125.00</u>
TOTAL ASSETS	<u><u>17,190,565.78</u></u>	<u><u>4,142,520.43</u></u>
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
Accounts Payable		
27000 · Accounts Payable	11,976.59	16,975.30
20000 · Other Accounts Payable	302,082.45	1,638.60
Total Current Liabilities	<u>314,059.04</u>	<u>18,613.90</u>
Total Liabilities	314,059.04	18,613.90
Equity		
39005 · Retained Earnings	16,229,102.30	3,817,256.35
Net Income	647,404.44	306,650.18
Total Equity	<u>16,876,506.74</u>	<u>4,123,906.53</u>
TOTAL LIABILITIES & EQUITY	<u><u>17,190,565.78</u></u>	<u><u>4,142,520.43</u></u>

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Economic Development Authority-Operations
 Profit & Loss Budget Performance
 September 2023

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	Sep 23	Sep 22	\$ Over PY	YTD 24	YTD Budget	\$ Over Budget	Annual Budget
Ordinary Income/Expense							
Income							
40800 · Restricted Interest Income	61.06	28.54	32.52	185.33	7,500.00	-7,314.67	30,000.00
41200 · Grants	400,000.00	0.00	400,000.00	1,063,152.59	309,590.50	753,562.09	1,238,362.00
41220 · Grants (non-city)	0.00	0.00	0.00	700,000.00	175,000.00	525,000.00	700,000.00
41225 · Grants-Façade Program	0.00	0.00	0.00	0.00	50,000.00	-50,000.00	200,000.00
41400 · Contributed Asset	0.00	0.00	0.00	0.00	0.00	0.00	0.00
42000 · Administrative Loan Fee Income	3,000.00	3,000.00	0.00	9,000.00	20,250.00	-11,250.00	81,000.00
42300 · Annual Bond Administrative Fee	0.00	0.00	0.00	0.00	5,000.00	-5,000.00	20,000.00
42800 · Interest Income	1,119.73	599.00	520.73	3,129.61	7,500.00	-4,370.39	30,000.00
43000 · Parking Lot Rental Income	0.00	0.00	0.00	0.00	22,000.00	-22,000.00	22,000.00
43100 · Interest on Capital Lease	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Income	404,180.79	3,627.54	400,553.25	1,775,467.53	596,840.50	1,178,627.03	2,321,362.00
Expense							
60100 · Grants-Econ Dev Incentives	524,313.60	0.00	524,313.60	663,152.60	309,590.50	353,562.10	1,238,362.00
60115 · Grants Triple A	400,997.00	0.00	400,997.00	400,997.00	175,000.00	225,997.00	700,000.00
60200 · Grants-Façade	0.00	0.00	0.00	0.00	50,000.00	-50,000.00	200,000.00
60400 · Bank Service Charges	281.22	312.84	-31.62	773.62	1,250.00	-476.38	5,000.00
61700 · Computer & Internet Expenses	0.00	0.00	0.00	549.00	500.00	49.00	2,000.00
61900 · Contingency fund	0.00	0.00	0.00	0.00	1,250.00	-1,250.00	5,000.00
6240 · Depreciation	52.80	52.80	0.00	158.40	250.00	-91.60	1,000.00
6250 · Due & Memberships	0.00	0.00	0.00	0.00	1,250.00	-1,250.00	5,000.00
62550 · Accounting Services	3,000.00	2,800.00	200.00	9,000.00	10,000.00	-1,000.00	40,000.00
62552 · Audit Services	4,819.00	16,975.30	-12,156.30	34,908.00	10,500.00	24,408.00	42,000.00
63300 · Insurance Expense							
63300.1 · Board Insurance	206.16	190.34	15.82	618.48	625.00	-6.52	2,500.00
63300.2 · Insurance-Laurel/Stoney Point	429.33	429.33	0.00	1,287.99	1,250.00	37.99	5,000.00
Total 63300 · Insurance Expense	635.49	619.67	15.82	1,906.47	1,875.00	31.47	7,500.00
64100 · Legal Expense	0.00	0.00	0.00	0.00	3,125.00	-3,125.00	12,500.00
64200 · Marketing							
64200.1 · Web Hosting	1,299.00	40.00	1,259.00	3,897.00	5,000.00	-1,103.00	20,000.00
64200 · Marketing - Other	3,693.00	0.00	3,693.00	11,079.00	2,500.00	8,579.00	10,000.00
Total 64200 · Marketing	4,992.00	40.00	4,952.00	14,976.00	7,500.00	7,476.00	30,000.00
64300 · Meals and Entertainment	0.00	0.00	0.00	0.00	2,500.00	-2,500.00	10,000.00
64400 · Miscellaneous Expense	0.00	0.00	0.00	0.00	375.00	-375.00	1,500.00
64900 · Office Supplies	0.00	0.00	0.00	0.00	125.00	-125.00	500.00
66700 · Professional Fees	0.00	0.00	0.00	0.00	3,125.00	-3,125.00	12,500.00
67200 · Repairs and Maintenance	0.00	0.00	0.00	535.00	0.00	535.00	0.00
67800.7 · Workmans Comp Insurance	58.66	80.40	-21.74	175.98	250.00	-74.02	1,000.00
68400 · Meetings expense	0.00	0.00	0.00	582.43	0.00	582.43	5,000.00
68500 · Travel	0.00	0.00	0.00	0.00	500.00	-500.00	2,000.00
68600 · Utilities	133.36	0.00	133.36	216.59	0.00	216.59	0.00
68600.1 · Internet Service	44.00	44.00	0.00	132.00	125.00	7.00	500.00
Total Expense	939,327.13	20,925.01	918,402.12	1,128,063.09	579,090.50	548,972.59	2,321,362.00
Net Ordinary Income	-535,146.34	-17,297.47	-517,848.87	647,404.44	17,750.00	629,654.44	0.00
Net Income	-535,146.34	-17,297.47	-517,848.87	647,404.44	17,750.00	629,654.44	0.00

**ECONOMIC DEVELOPMENT AUTHORITY-LEIGH ST OPERATING ACCT
Profit & Loss Budget Performance
September 2023**

	Sep 23	Sep 22	YTD 24	YTD Budget	\$ Over Budget	Annual Budget
Ordinary Income/Expense						
Income						
40000 · Event Income	19,951.00	11,273.00	81,316.00	11,968.75	69,347.25	47,875.00
41500 · Advertising & Other Income	0.00	416.00	79.00	787.50	-708.50	3,150.00
41600.1 · Building Rent-1st Floor	24,113.69	24,874.51	73,711.22	76,452.00	-2,740.78	305,808.00
41600.2 · Building Rent-2nd Floor	13,448.00	13,448.00	40,344.00	40,344.00	0.00	161,376.00
41600.3 · 1st Floor Ground Rent	1,767.00	1,767.00	5,301.00	5,301.00	0.00	21,204.00
41600.4 · 2nd Floor Ground Rent	563.00	563.00	1,689.00	1,689.00	0.00	6,756.00
41600.5 · 1st Floor CAM	16,625.00	16,625.00	49,875.00	50,000.00	-125.00	200,000.00
41600.6 · 2nd Floor CAM	7,695.00	7,695.00	23,085.00	25,000.00	-1,915.00	100,000.00
41650 · Rental Income-Westhampton	416.63	416.63	1,249.89	1,250.00	-0.11	5,000.00
41660 · Westhampton Maintenance Res	700.00	850.00	28,355.80	3,000.00	25,355.80	12,000.00
Total Income	85,279.32	77,928.14	305,005.91	215,792.25	89,213.66	863,169.00
Expense						
60100 · Amortization Expense	2,436.60	2,436.60	7,309.80	7,309.80	0.00	29,239.20
60500 · Staffing	15,763.00	14,686.00	45,467.00	39,945.00	5,522.00	159,780.00
60510 · Payroll Expenses	428.00	213.00	1,643.00	1,750.00	-107.00	7,000.00
61000 · General and Administrative	3,914.00	2,887.00	8,540.00	10,527.25	-1,987.25	42,109.00
61500 · Security Service	657.00	612.00	2,994.00	2,500.00	494.00	10,000.00
63400 · Interest Exp-lease	4,088.24	4,066.35	12,231.61	12,500.00	-268.39	50,000.00
63500 · Bank Service Charges	22.40	21.40	66.65	125.00	-58.35	500.00
63700 · Landscaping and Groundskeeping	1,600.00	850.00	5,100.00	3,000.00	2,100.00	12,000.00
66500 · Telephone Expense	605.00	579.00	1,815.00	2,000.00	-185.00	8,000.00
66670 · Insurance Expense	1,181.00	2,241.00	6,455.00	6,250.00	205.00	25,000.00
66700 · Professional Fees	0.00	0.00	0.00	1,250.00	-1,250.00	5,000.00
67100 · Ground Rent Expense	0.00	0.00	0.00	10,140.00	-10,140.00	40,560.00
67700 · Real estate taxes	4,930.72	0.00	4,930.72	2,500.00	2,430.72	10,000.00
68400 · Grounds Maintenance	9,709.00	10,010.00	29,127.00	25,000.00	4,127.00	100,000.00
68500 · Maintenance Expense	4,113.00	1,663.00	16,478.00	15,000.00	1,478.00	60,000.00
68510 · Janitorial Service Supplies	1,463.00	1,463.00	4,539.00	4,250.00	289.00	17,000.00
69000 · Base Management Expense	2,409.00	1,057.00	4,819.00	2,325.00	2,494.00	9,300.00
69001 · Incentive Management Fee	1,756.00	1,286.00	2,309.00	1,500.00	809.00	6,000.00
69500 · Operations	5,903.00	1,163.00	18,339.00	5,000.00	13,339.00	20,000.00
78000 · Utilities	11,738.00	11,382.48	33,175.18	27,500.00	5,675.18	110,000.00
Total Expense	72,716.96	56,616.83	205,338.96	180,372.05	24,966.91	721,488.20
Net Ordinary Income	12,562.36	21,311.31	99,666.95	35,420.20	64,246.75	141,680.80
Other Income/Expense						
Other Income						
42800 · Interest Income-Cking	1.48	1.74	4.86	20.00	-15.14	30.00
Total Other Income	1.48	1.74	4.86	20.00	-15.14	30.00
Other Expense						
72500 · Depreciation Expense	26,425.16	26,433.38	78,738.82	78,470.50	268.32	313,881.99
Total Other Expense	26,425.16	26,433.38	78,738.82	78,470.50	268.32	313,881.99
Net Other Income	-26,423.68	-26,431.64	-78,733.96	-78,450.50	-283.46	-313,851.99
Net Income	-13,861.32	-5,120.33	20,932.99	-43,030.30	63,963.29	-172,171.19

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ECONOMIC DEVELOPMENT AUTHORITY-LEIGH ST OPERATING ACCT
Balance Sheet Prev Year Comparison
 As of September 30, 2023

	Sep 30, 23	Sep 30, 22
ASSETS		
Current Assets		
Checking/Savings-Truist #5122		
10200 · Operating Funds	25,187.35	36,017.41
10200.1 · Reserve Funds	139,656.76	150,069.30
10200.2 · Westhampton Funds	33,834.55	28,870.86
Total Truist #5122	<u>198,678.66</u>	<u>214,957.57</u>
11000 · Accounts Receivable	12,247.50	0.00
11400 · ASM Escrow	89,852.59	180,572.29
11200 · Interest Receivable	77.21	838.19
Total Current Assets	<u>300,855.96</u>	<u>396,368.05</u>
Fixed Assets		
15000 · Furniture and Fixtures	49,999.59	39,706.59
15100 · Equipment	95,357.04	95,357.04
15300 · Other Depreciable Property	94,788.00	94,788.00
15350 · Improvement- Training Fields	74,434.50	62,187.00
15500 · Building Improvements	10,779,715.64	10,779,715.64
15501 · Construction in Progress	20,240.00	20,240.00
15550 · Building Improvements-2nd Floor	1,330,696.31	1,330,696.31
15600 · Building-Westhampton	3,135,228.00	3,135,228.00
16900 · Land-Westhampton	848,578.00	848,578.00
16990 · Leased capital assets		
16990.1 · Leased capital asset--Museum	1,505,819.00	1,505,819.00
16990.2 · Accumulated amortization	-65,788.00	-36,548.80
Total 16990 · Leased capital assets	<u>1,440,031.00</u>	<u>1,469,270.20</u>
17000 · Accumulated Depreciation	-134,703.61	-131,435.27
17300 · Accum Depr-Other	-84,054.04	-73,443.24
17500 · Accum Depr- Building	-3,135,228.00	-3,135,228.00
17600 · Accum Depr-Building Improvement	-2,988,625.35	-2,685,865.05
Total Fixed Assets	<u>11,526,457.08</u>	<u>11,849,795.22</u>
Other Assets		
19000 · Net Invest Lease Rec-Current		
19000.1 · Current Lease Rec-Training Cent	0.00	252,536.10
Total 19000 · Net Invest Lease Rec-Current	<u>0.00</u>	<u>252,536.10</u>
19500 · Lease Asset Receivable		
19500.1 · Lease Asset-Museum Lease	0.00	56,959.00
Total 19500 · Lease Asset Receivable	<u>0.00</u>	<u>56,959.00</u>
Total Other Assets	<u>0.00</u>	<u>309,495.10</u>
TOTAL ASSETS	<u><u>11,827,313.04</u></u>	<u><u>12,555,658.37</u></u>
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
20000 · Accounts Payable	6,613.87	180.48
23100 · Interest Payable	34,168.46	26,064.12

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ECONOMIC DEVELOPMENT AUTHORITY-LEIGH ST OPERATING ACCT
Balance Sheet Prev Year Comparison
As of September 30, 2023

	<u>Sep 30, 23</u>	<u>Sep 30, 22</u>
24800 · Deferred Revenue	3,750.11	3,750.11
25000 · Maintenance Reserve-Westhampton	139,656.76	150,069.30
Total Current Liabilities	184,189.20	180,064.01
Long Term Liabilities		
27100 · Recoverable Grant-City of Rich	6,000,000.00	6,500,000.00
27500.1 · LT Lease Liabiltiy-Museum	1,469,283.00	1,469,283.00
Total Long Term Liabilities	7,469,283.00	7,969,283.00
Total Liabilities	7,653,472.20	8,149,347.01
Equity		
Intercompany Transfer	0.00	380,065.00
30001 · Deferred Inflow of Resources-Le	-54,295.24	-81,442.44
39005 · Net Position	4,207,203.09	4,155,251.28
Net Income	20,932.99	-47,562.48
Total Equity	4,173,840.84	4,406,311.36
TOTAL LIABILITIES & EQUITY	11,827,313.04	12,555,658.37

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**ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF RICHMOND**
(A Component Unit of the City of Richmond, Virginia)
Statement of Net Position
Enterprise Funds
September 30, 2023

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	CARE	EZIL	CAP	CRLF	EDHLF	OPERATIONS	TOTAL
ASSETS							
Premier Bank	763,151.47		755,521.63	385,084.35		62,867.91	1,203,473.89
Wells Fargo Checking	105,067.18						763,151.47
Wells Fargo Money Market							105,067.18
Community Capital Bank		244,265.56		180,720.90			180,720.90
Atlantic Union Bank							244,265.56
Community Capital Bank GLFIA					459,543.58		459,543.58
Premier Bank LRA					1,624,875.56		1,624,875.56
Premier Bank GLFIA					1,028,213.80		1,028,213.80
Premier Bank GLFIA-2					357,359.73		357,359.73
Total Cash	868,218.65	244,265.56	755,521.63	565,805.25	3,469,992.67	62,867.91	5,966,671.67
Prepaid/Accounts Receivable							
Total Current Assets	868,218.65	244,265.56	755,521.63	565,805.25	3,469,992.67	62,867.91	5,966,671.67
Long Term Assets							
Note/Grant Receivable	25,106.73		144,039.34	1,024,862.03	7,802,675.28		8,996,683.38
Unused LOC							
Accrued Interest Receivable	9,773.39		53,060.51	115,314.20	1,445,834.63		1,623,982.73
Loan Loss Reserve	(12,155.68)		(87,326.39)	(230,962.00)	(159,898.36)		(490,342.43)
Total Long Term Assets	22,724.44		109,773.46	909,214.23	9,088,611.55		10,130,323.68
Total Assets	890,943.09	244,265.56	865,295.09	1,475,019.48	12,558,604.22	62,867.91	16,096,995.35
Accounts Payable	2,100.00		2,250.00	3,600.00		2,250.00	10,200.00
Due to City of Richmond						57,328.26	57,328.26
Net Position	888,843.09	244,265.56	863,045.09	1,471,419.48	12,558,604.22	3,289.65	16,029,467.09
Total Liabilities & Net Position	890,943.09	244,265.56	865,295.09	1,475,019.48	12,558,604.22	62,867.91	16,096,995.35

**ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF RICHMOND, VIRGINIA**

(A Component Unit of the City of Richmond, Virginia)

**Statement of Revenues, Expenses and Changes in Net Position
For the Three Months Ending September 30, 2023**

	CARE	EZIL	CAP	CRLF	EDHLF	OPERATIONS	TOTAL
Operating Revenues							
Program Income-Interest	401.54	-	3,799.24	13,006.15	91,145.19	-	108,352.12
Loan origination fee	-	-	-	-	-	-	-
Application fees	-	-	-	-	-	-	-
Loan Document Fees	-	-	-	-	-	-	-
Capital Contributions	-	-	-	-	-	-	-
Late fees , etc.	-	-	-	-	-	-	-
Total Revenues	401.54	-	3,799.24	13,006.15	91,145.19	-	108,352.12
Expenses							
Bank Charges/Late Fees	109.37	-	-	93.58	-	11.87	214.82
Loan Fund Grants	-	-	-	-	-	-	-
Loan Fund Expenses	-	-	-	-	-	-	-
ECD/FSG Administration	-	-	-	-	-	-	-
Marketing	-	-	-	-	-	-	-
Training/Seminars/Conference	-	-	-	-	-	-	-
Loan loss reserve	-	-	-	-	-	-	-
EDA Administration	3,150.00	-	2,250.00	3,600.00	-	-	9,000.00
Total Expenses	3,259.37	-	2,250.00	3,693.58	-	11.87	9,214.82
Net Increase (Decrease) From Operations	(2,857.83)	-	1,549.24	9,312.57	91,145.19	(11.87)	99,137.30
Other Income & Expenses							
Bank Interest Earned	2,235.43	153.85	34.22	700.46	2,455.54	2.94	5,582.44
Recoveries	-	-	-	-	-	-	-
Total Other Income & Expenses	2,235.43	153.85	34.22	700.46	2,455.54	2.94	5,582.44
Net Increase (Decrease) in Funds	(622.40)	153.85	1,583.46	10,013.03	93,600.73	(8.93)	104,719.74
Net Position, Beg of Year	889,465.49	244,111.71	861,461.63	1,461,406.45	12,465,003.49	3,298.58	15,924,747.35
Net Position, End of Period	888,843.09	244,265.56	863,045.09	1,471,419.48	12,558,604.22	3,289.65	16,029,467.09

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Affordable Housing Performance Grants

GRANT AGREEMENT

This **GRANT AGREEMENT** (the “Agreement”) is made and entered this ____ day of _____, 2023 (the “Effective Date”), by and among the **CITY OF RICHMOND, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the “City”), **AFTON AVENUE APARTMENTS, LLC** a Virginia Limited Liability Company, or its assigns or successors (the “Recipient”), and the **ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND**, a political subdivision of the Commonwealth of Virginia (the “Authority”).

RECITALS

- A. The Recipient plans to develop and operate on the Site, as defined below, the Project, as defined below.
- B. The City and the Authority have determined that the Project will result in significant investment and economic development on the Site, will promote safe and affordable housing in the City of Richmond, will result in substantial benefits to the welfare of the City and its inhabitants, is in the public interest, and serves governmental interests.
- C. The City plans to fund an economic development monetary grant (the “Grant”) by the Authority to the Recipient for the purpose of inducing the Recipient to construct and operate the Project in the City of Richmond.
- D. Payment of the Grant will be conditioned upon the Recipient’s completion of Project construction and continued maintenance of the Project, as defined herein, and the funds comprising payments of the Grant will be solely limited to a portion of the incremental real estate tax revenues for the Site generated by the Project (i.e., including both the fee interest (and leasehold interest, if applicable) in the land and all improvements), all as set forth herein.
- E. The City is authorized by Section 15.2-953 of the Code of Virginia and other laws, and the Authority is authorized by the Industrial Development and Revenue Bond Act, contained in Chapter 49, Title 15.2 of the Code of Virginia and other laws to perform the activities contemplated in this Agreement. The Authority is authorized by the Code of Virginia to make grants to non-public organizations such as Recipient in furtherance of the purpose of promoting economic development and affordable housing.
- F. This Agreement sets forth the understanding of the parties concerning the Recipient’s obligations, the Authority’s obligations, and the incentives offered by the City, subject to the approval of the Authority’s Board and the Richmond City Council and subject to appropriations.

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises, and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

Section 1. Preliminary Provisions

1.1 Incorporation of Recitals. The foregoing recitals are incorporated herein by reference.

1.2 Definitions. For the purposes of this Agreement, the following terms shall have the following definitions:

“AMI” means area median gross income for the Richmond-Petersburg Metropolitan Statistical Area for each applicable year of the Grant Period.

“Base Real Estate Tax Revenue” means \$1,344 per year, being the amount equal to the real estate taxes levied on the Site for the current tax year as of the Effective Date.

“Grant” means a grant to be paid to the Recipient, or its successors or assigns, by the Authority pursuant to this Agreement.

“Grant Payment” means, for each real estate tax year during the Grant Period, an amount equal to one hundred percent (100%) of the Incremental Real Estate Tax Revenue for such corresponding tax year. The Parties acknowledge that the annual real estate tax levy is and may in the future be billed and due in installments (currently twice a year); therefore, as used herein “Grant Payment” shall include payments of Incremental Real Estate Tax Revenue for each installment payment corresponding to the applicable Real Estate Tax Levy as prorated for the applicable installment period.

“Grant Payment Request” means a written request for a Grant Payment, which shall include (1) documentation showing its full payment of the Real Estate Tax Levy to the City in full and on time (except as provided in Section 3.3 below), and (2) the amount of the requested Grant Payment and explanation of the calculation thereof (i.e., Real Estate Tax Levy *minus* Base Real Estate Tax Revenue *equals* Incremental Real Estate Tax Revenue, as pro-rated for the applicable installment period;).

“Grant Period” means that certain period commencing upon January 1st of the first real estate tax year following Recipient’s completion of Project construction, as shall be evidenced by receipt of a temporary Certificate of Occupancy (“Grant Commencement Date”) and ending on last day of the thirtieth (30th) real estate tax year following the Grant Commencement Date (“Grant Expiration Date”), subject to the provisions of Section 2.6 below. The parties acknowledge that the “Real Estate Tax Levy” for the last year of the Grant Period may not be received by the City until after the Grant Expiration Date and that a Grant Payment shall be paid to the Recipient corresponding to such Real Estate Tax Levy.

“Grant Management Fee” means a one-time non-fundable fee and an annual payment equal to 1% of the Grant Payment to cover the administrative expenses of the Authority for managing the Grant during the Grant Period.

“Incremental Real Estate Tax Revenue” means, for each applicable real estate tax year

during the Grant Period, the amount by which the Real Estate Tax Levy exceeds the Base Real Estate Tax Revenue, provided the Recipient pays the Real Estate Tax Levy to the City in full and on time (except as provided in Section 3.3 below). In no event shall the Incremental Real Estate Tax Revenue (or the Grant Payment) include penalties, interest, or any other charges resulting from any delinquent payment. The Parties acknowledge that the Real Estate Tax Levy is and may in the future be billed and due in installments (currently twice a year); therefore, as used herein “Incremental Real Estate Tax Revenue” shall be determined based on the applicable payment (or installment) of the Real Estate Tax Levy for each applicable real estate tax year.

“Maintain” means the Recipient’s continued maintenance and operation of the Project following completion of Project construction, as set forth by Section 2.2.2 of this Agreement.

“Project” means a development on the Site containing not less than 150 residential units, subject to income and rent restrictions as set forth in Section 2.4 and as shown on Exhibit A and monitored by the State Housing Finance Agency.

“Real Estate Tax Levy” means the amount of real estate taxes levied by the City on the Site (including both the fee interest (and leasehold interest, if applicable)) and Project (i.e., including land and all improvements) for a given real estate tax year, pursuant to Chapter 26 of the Code for the City of Richmond (“City Code”).

“Recipient” means Afton Avenue Apartments, LLC and its successors and assigns, to the extent permitted by this Agreement.

“Site” means that certain parcels 0.978 and 0.822 acres currently owned by 2400 Afton Avenue LLC, located respectively at 2400 and 2420 Afton Avenue and currently referred to in the records of the City Assessor as Parcels No. S0080237007 and S0080237001 respectively.

“State Housing Finance Agency” means Virginia Housing (formerly known as Virginia Housing Development Authority), a political subdivision of the Commonwealth of Virginia, or its successor.

Section 2. Recipient’s Obligations

2.0 Grant Management Fee.

The Recipient shall pay a Grant Management Fee consisting of (i) a one-time, non-refundable \$500.00 fee immediately upon execution of the agreement to the Authority, and, (ii) thereafter, the Recipient shall pay annually to the Authority 1% of the Grant Payment for the duration of the Grant Period. The Authority will invoice the Recipient on or before October 1 of each year and the Recipient shall remit payment within 30 days of issuance of the invoice.

2.1 Completion of Project Construction; Timeline.

2.1.1 Plan of Development. Recipient shall submit a Plan of Development or similar submission for the Project to the City’s Director of Planning and Development Review no later than nine (9) months after the Effective Date, which Plan of Development or similar

submission shall comply with the relevant provisions of the Richmond City Code and shall contain all elements of the Project as defined herein.

2.1.2 Commencement of the Project Construction. Recipient shall commence construction of the Project within eighteen (18) months of the Effective Date, (the “Construction Commencement Date”), which shall be evidenced by the issuance of all permits necessary for the commencement of construction of the Project.

2.1.3 Completion of Project Construction. Recipient shall complete the Project within three (3) years of the Construction Commencement Date, which shall be evidenced by the issuance of a temporary certificate of occupancy for the Project.

2.1.4 Failure to Comply. If the Recipient fails to timely comply with any of the provisions of this Section 2.1 then the City’s Chief Administrative Officer (“CAO”), in his sole discretion, may either extend the time by which the Recipient must comply with the corresponding requirement or provide written notice of the City’s intent to terminate this Agreement. If Recipient fails to cure its failure to comply within 30 days of such written notice, then this Agreement, including all rights and obligations herein, shall, upon the City’s election, terminate and neither the City nor the Authority shall have any further obligation to the Recipient and Recipient shall no longer be eligible for any Grant Payments hereunder.

2.2 Continued Maintenance and Operation of Project.

2.2.1 Continued Control of the Project by Recipient. Recipient shall continue to own, lease, or otherwise control the Site until completion of Project construction pursuant to Section 2.1.3 of this Agreement and thereafter shall continue to own, lease, or otherwise control the Project until expiration of the Grant Period. Notwithstanding the foregoing, Recipient may transfer the ownership or control interest in the Project to third parties (“Transferee”), and Recipient may (1) assign this Agreement, including the rights and obligations herein to such party or parties at the time it transfers ownership of the Project (including any leasehold interests), and (2) if the Agreement is assigned, Recipient shall provide the City and Authority 30 days prior written notice of its intent to transfer ownership or control of the Project, which notice shall include the contemplated date of transfer, the name of the party or parties to which it intends to transfer, and a written statement from such party that it is aware that this Agreement, including the rights and obligations herein, will be assigned to such party. Following the transfer of ownership in the Project to the Transferee as provided above, the term “Recipient” as used herein shall mean the Transferee.

2.2.2 Continued Maintenance and Operation of the Project. Following the Recipient’s completion of Project construction as set forth in Section 2.1.3 of this Agreement, the Recipient, or its successors or assigns, shall continue to Maintain the Project until the expiration of the Grant Period. For the avoidance of doubt, the Recipient’s obligation to Maintain the Project includes the Recipient’s ongoing compliance with the provisions set forth in Section 2.4 (Affordable Housing) of this Agreement.

2.3 MBE Participation.

2.3.1 Goal. The Recipient agrees to diligently work towards the following goal: Where capacity, capability, and competitive pricing among minority business enterprises and emerging small businesses exist, 30% of all expenditures for construction costs of the Project that will be paid to third-party subcontractors unaffiliated with the Recipient will be spent with minority business enterprises and emerging small businesses that perform commercially useful functions with regard to the prosecution and completion of the Project. The terms "minority business enterprise" and "emerging small business" have the meaning ascribed to them in Chapter 21 of the City Code. The Recipient shall include this goal in its contracts with all assignees, contractors, and subcontractors who will be providing any portion of the Project.

2.3.2 Reporting. To enable the City to measure the achievements of the Recipient and its assignees, contractors, and subcontractors with regard to the participation goals set forth above, during the period prior to completion of Project construction, the Recipient shall submit a report upon request detailing all expenditures with minority business enterprises and emerging small businesses, showing, at a minimum, (i) the name of the business, (ii) an itemization of what the business provided, (iii) the amount paid for each item, (iv) the total amount of spending to date with minority business enterprises and emerging small businesses and (v) the percentage of total expenditures for the quarter spent with minority business enterprises and emerging small businesses. If the City chooses, the Recipient shall submit these reports on forms prescribed by the City. The City will use these reports in evaluating the good faith minority business enterprise and emerging small business participation efforts, as defined in Section 21-4 of the City Code, of the Recipient and its assignees, contractors, and subcontractors that compete for City contracts.

2.4 Affordable Housing.

The Recipient shall restrict occupancy and rents of the Project according to the schedule shown on Exhibit A, according to standards promulgated by the State Housing Finance Agency. Ongoing compliance monitoring and approvals by the State Housing Finance Agency, as provided to the City upon the City's request, shall serve as evidence of the Recipient's compliance with this section.

2.5 Continued Investment and Capital Improvements

For purposes of continued investment and upkeep of the Project to the benefit of its tenants, payment of Grant Payments after the initial fifteen (15) years of the Grant Period shall be contingent upon receipt of proof that the Recipient has at a minimum made capital improvements to the Project in an aggregate amount of One Million Five Hundred Thousand dollars (\$1,500,000) since the Grant Commencement Date. On each fifth anniversary of the Grant Commencement Date, the Recipient shall upon request submit a report of capital improvements made to the Project since the Grant Commencement Date.

Section 3. Disbursement of Grant.

3.1. Grant. During the Grant Period, the City shall pay to Recipient (or such party to which Recipient has assigned Grant Payments pursuant to Section 9.1 of this Agreement), through the Authority, the Grant Payments for such real estate tax year subject to the provisions of this Section 3.

3.2. Grant Payment Requests. The Recipient shall submit each Grant Payment Request to the CAO, with copies to the Department of Economic Development, the Authority, and the Office of the City Attorney at the respective addresses set forth in Section 8.

3.3. Disbursement of Grant Payment. Upon receipt of a Grant Payment Request, the City shall review the accuracy of the request. The City shall not make a Grant Payment if the Recipient did not make full and timely payment of the Real Estate Tax Levy for the applicable installment (except when Recipient (i) makes full payment within 60 days after the date such payment was due to the City and (ii) pays all penalties and interest for such late payment in accordance with any applicable provisions of the Richmond City Code) and shall not make a Grant Payment if Recipient is delinquent in payment of any other taxes levied by the City for the Project (except when all penalties and interest for such late payment have been paid in accordance with any applicable provision of the Richmond City Code). Within fifteen (15) business days of receipt of a Grant Payment Request, the City shall notify Recipient either that (1) the City denies the request and will not make a Grant Payment for the foregoing reasons, (2) the City approves the request and intends to make a Grant Payment in the amount requested, or (3) the City approves making a payment to Recipient but in a different amount than the amount requested because the amount requested is inconsistent with this Agreement, in which case the City shall indicate the correct Grant Payment amount it intends to make. Notwithstanding the foregoing, the City's failure to respond within fifteen (15) business days shall not constitute approval of a requested Grant Payment and the Recipient shall not be entitled to any such payment due solely to the City's failure to timely respond. Subject to any necessary City Council action, including any necessary budget amendment or appropriation of funds, the City agrees to, within fifteen (15) business days of the City's approval of any Grant Payment, transfer the funds for the Grant Payment to the Authority. The Authority agrees to pay the Grant Payment to the Recipient (or such party to which the Recipient has assigned Grant Payments pursuant to Section 9.1 of this Agreement), within fifteen (15) business days of receipt of the funds from the City.

3.4 Recipient's Relief. Should the Recipient believe the City failed to comply with Section 3.3 of this Agreement, the Recipient may seek relief in accordance with Section 9.2 of this Agreement. Provided, however, Recipient's sole remedy shall be to receive payment for a Grant Payment to which it was entitled (subject to the restrictions set forth in this Agreement, including, but not limited to, Sections 3.3 and 9.5) and for which it did not receive payment.

Section 4. General Administration of Grant

4.1 The City agrees to transfer to the Authority, as and when appropriated by the City Council, the funds necessary for the Authority to meet its obligations under this Agreement relating to the Grant. No administrative fees or expenses shall be paid by the

City.

4.2 The Authority's obligation to undertake the activities herein is specially conditioned upon the City providing funding on a timely basis; provided, however, the City's obligation is subject to appropriation by the City Council and availability of funds.

4.3 The Authority agrees to provide the City's Chief Administrative Officer, or the designee thereof, with copies of all documents related to this Agreement, and will keep the CAO fully and timely informed of all matters related to this Agreement.

4.4 The Authority agrees that all funds transferred by the City to the Authority for the Grant shall be deposited by the Authority within a Project Fund, to be used only to satisfy the obligations contained in this Agreement related to the Grant.

4.5 It is the intent of the parties not to impose upon the Authority any responsibility, duty, or obligation other than what may be required to implement the Grant. Accordingly, the Authority does not assume any responsibility or liability whatsoever except as specifically stated herein. If litigation involving the Grant is initiated or expected to be filed against the Authority, the Authority shall immediately notify the City Attorney and CAO.

4.6 The Authority shall keep records of its financial transactions, if any, related to the Agreement in accordance with generally accepted accounting principles. The City Auditor or his designee may at any time audit the financial transactions undertaken under this Agreement. The Authority shall cooperate to ensure that the City Auditor is granted reasonable access on a timely basis to all books and records of the Authority necessary to complete such audits.

4.7 The Authority shall not be required to furnish the City with a blanket corporate fidelity bond with surety.

Section 5. Representations of the Recipient

5.1 The Recipient is empowered to enter into this Agreement, to be bound hereby, and to perform according to the terms hereof.

5.2 Any and all actions necessary to enable the Recipient to enter this Agreement, and to be bound hereby, have been duly taken.

5.3 The person or persons executing or attesting the execution of this Agreement on behalf of the Recipient has or has been duly authorized and empowered to so execute or attest.

5.4 The execution of this Agreement on behalf of the Recipient will bind and obligate the Recipient to the extent provided by the terms hereof.

5.5 There exists no litigation pending against the Recipient or to the Recipient's knowledge threatened, which if determined adversely, would materially and adversely affect

the ability of the Recipient to carry out its obligations under this Agreement or the transactions contemplated hereunder.

Section 6. Default.

6.1 Events of Default. Each of the following events (hereinafter called an “Event of Default”) shall be a default hereunder by the Recipient as described:

6.1.1 Failure by the Recipient to maintain its corporate existence or the declaration of bankruptcy by the Recipient.

6.1.2 The failure of Recipient to comply with Section 2 of this Agreement; and

6.1.3 The failure of Recipient to pay annual Real Estate Tax Levy.

6.2 Effect of Event of Default. In the case of an occurrence of an Event of Default, the Grant provisions of Section 3 of this Agreement shall, at the City’s option, terminate ninety (90) days after the City’s notice to Recipient and Recipient’s designated lender, unless Recipient cures the Event of Default to the City’s satisfaction within such ninety (90) days, and neither the City nor the Authority shall have any further obligation relating thereto and the Recipient shall no longer be eligible for any Grant Payments hereunder. Notwithstanding the foregoing, Recipient’s obligations hereunder will remain in force and effect throughout the Grant Period and the City shall be entitled to any remedies available at law and equity, including, but not limited to, specific performance.

Section 7. Recipient Reporting.

The Recipient shall provide, at the Recipient’s expense, detailed updates and verification reasonably satisfactory to the City of the Recipient’s progress regarding the completion of Project construction and, following Project construction, of Recipient’s continued compliance with Section 2.2 of this Agreement.

Section 8. Notices.

Any notices required or permitted under this Agreement shall be given in writing and shall be deemed to be received upon receipt or refusal after the mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail or overnight courier package not accepted by the addressee):

if to the Recipient, to

Afton Avenue Apartments, LLC
Attention: Edward Solarz
101 West Commerce Road, 2nd Floor
Richmond, VA 23224

with a copy to:

T. Preston Lloyd Jr, Esq
Williams Mullen
200 S. 10th Street, Ste. 1600
Richmond, VA 23219

if to the City, to

with a copy to:

Chief Administrative Officer
City of Richmond, Virginia
900 East Broad Street, 14th Floor
Richmond, VA 23219

Department of Economic Development
City of Richmond, Virginia
1500 East Main Street
Richmond, VA 23219

if to the Authority, to

with a copy to:

Economic Development Authority
of Richmond VA – Attn: Chairman
1500 East Main Street
Richmond, VA 23219

City Attorney
City of Richmond, Virginia
900 East Broad Street Suite 400
Richmond, VA 23219

Section 9. General Terms and Conditions.

9.1 Entire Agreement; Amendments; Assignments. This Agreement constitutes the Entire agreement among the parties hereto and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that in no event may this Agreement or any of the rights, benefits, duties, or obligations of the parties hereto be assigned, transferred or otherwise disposed of without the prior written consent of the other, which consent neither party shall be obligated to give, except that Recipient may assign its right to receive payment to another entity authorized to transact business in Virginia by furnishing the City and the Authority with notice identifying the entity and providing both contact and payment information in a form acceptable to the City and the Authority. Notwithstanding anything to the contrary herein, (a) Recipient shall have the right to assign its interest in the Site and Project to any future owner of the Site, the Project, or both, provided the Recipient first shall have complied with the requirements set forth in Section 2.2.1 of this Agreement and shall have submitted to the City the form of all instruments by which it purports to make such assignment and shall have obtained the City's prior written approval thereof, which approval shall not be unreasonably withheld, in which event the assignor shall be released from all obligations and liabilities under this Agreement; and (b) Recipient shall have the right to grant to a lender a security interest in, and assignment of, Recipient's rights hereunder as collateral for the loan to be provided by a lender providing funds for the development of the Project, and any action taken by such lender or successor in interest to realize on such security interest or assignment and performance thereafter shall be deemed permitted under this Agreement, provided the Recipient first shall have submitted to the City the form of all instruments by which it purports to grant such security interest and assignment and shall have obtained the City's prior written approval thereof, which approval shall not be unreasonably withheld, but no such consent shall be required to the exercise by lender or any assignee of lender of its right to perform Recipient's obligations hereunder after a default by Recipient under the applicable loan documents. The City agrees that the lender shall not have any liability for any act or omission of Recipient hereunder and shall only be liable hereunder for obligations arising during such time as it is the owner of Recipient's interests in the Site and Project pursuant to foreclosure, deed in lieu of foreclosure or otherwise.

9.2 Governing Law; Venue. All issues and questions concerning the construction, enforcement, interpretation, and validity of this Agreement, or the rights and obligations of the parties shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia. All disputes, claims, and causes of action arising out of or in connection with this Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Richmond, Virginia. Each party shall be responsible for its own attorneys' fees in the event of any litigation or other proceeding arising from this Development Agreement.

9.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

9.4 Severability. If any provision of this Agreement is determined to be unenforceable, invalid, or illegal, then the enforceability, validity, and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

9.5 Subject-to-Appropriations. All payments and other performances by the City and the Authority under this Agreement are subject to City Council approval, Authority Board approval, and annual appropriations by the City Council. It is understood and agreed among the parties that the City and the Authority shall be bound hereunder only to the extent of the funds available, or which may hereafter become available for the purpose of this Agreement. Under no circumstances shall the City's or the Authority's total liability under this Agreement exceed the total amount of funds appropriated by the City Council for the payments hereunder for the performance of this Agreement.

9.6 Public Disclosure.

9.6.1 Applicable Law. The parties to this Agreement acknowledge that records maintained by or in the custody of the City and the Authority are subject to the provisions of the Virginia Public Records Act, Va. Code §§ 42.1-76 through 42.1-90.1, and the Virginia Freedom of Information Act, Va. Code §§ 2.2-3700 through 2.2-37 14 and thus are subject to the records retention and public disclosure requirements set forth in those statutes.

9.6.2 Challenges to Nondisclosure. If a party submitting records to the City or the Authority requests that those records not be disclosed under applicable law and the City or the Authority consequently denies a request for disclosure of such records based on the submitting party's request, and the City's or the Authority's denial of a request for disclosure of records is challenged in court, the submitting party shall indemnify, hold harmless and defend the City or the Authority, their respective officers and employees from any and all costs, damages, fees and penalties (including attorney's fees and other costs related to litigation) relating thereto.

9.7 No Waiver. Neither failure on the part of the City or the Authority to enforce any

covenant or provision contained in this Agreement nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision or affect the right of the City or the Authority to enforce the same right in the event of any subsequent default.

9.8 Effective Date of the Agreement. The effective date of this Agreement shall be the date upon which it has been fully executed by the parties following approval by the City Council and by the Authority's Board of Directors.

9.9 No Partnership or Joint Venture. It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstance whatsoever as creating and establishing the relationship of copartners or creating or establishing a joint venture between or among any of the parties or as designating any party to the Agreement as the agent or representative of any other party to the Agreement for any purpose.

9.10 No Third-Party Beneficiaries. The parties agree that (i) no individual or entity shall be considered, deemed, or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than the City, the Authority, or the Recipient; (iii) no other individual or entity shall obtain any right to make any claim against the City, the Authority, or the Recipient under the provisions of this Agreement; and (iv) no provision of this Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity.

9.11 Signature Authority. Except as specifically otherwise set forth in this Agreement, the CAO or the designee thereof may provide any authorization, approvals, and notices contemplated herein on behalf of the City.

SIGNATURE PAGE TO FOLLOW

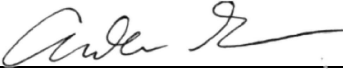
IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the date first written above.

CITY OF RICHMOND, VIRGINIA
a municipal corporation of the
Commonwealth of Virginia

By: _____
J.E. Lincoln Saunders Date
Chief Administrative Officer

Authorized by Ordinance No. _____

Approved as to Form:

By:  _____
City Attorney's Office

AFTON AVENUE APARTMENTS, LLC, a
Virginia limited liability company

By: _____
Date

Name: _____
Title: _____

**ECONOMIC DEVELOPMENT
AUTHORITY OF THE CITY OF
RICHMOND, VIRGINIA**,
a political subdivision of the
Commonwealth of Virginia

By: _____
Chairman Date

Approved as to Form:

By: _____
General Counsel to the Authority

EXHIBIT A

Affordable Housing Schedule

The Project shall restrict occupancy and rents to an average income designation of 60% of AMI, according to standards promulgated by the State Housing Finance Agency, for a minimum of thirty (30) years.

GRANT AGREEMENT

This **GRANT AGREEMENT** (the “Agreement”) is made and entered this ____ day of _____, 2023 (the “Effective Date”), by and among the **CITY OF RICHMOND, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the “City”), **2100 BAINBRIDGE, LLC**, a Virginia limited liability company, or its assigns or successors (the “Recipient”), and the **ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND**, a political subdivision of the Commonwealth of Virginia (the “Authority”).

RECITALS

- A. The Recipient plans to develop and operate on the Site, as defined below, the Project, as defined below.
- B. The City and the Authority have determined that the Project will result in significant investment and economic development on the Site, will promote safe and affordable housing in the City of Richmond, will result in substantial benefits to the welfare of the City and its inhabitants, is in the public interest, and serves governmental interests.
- C. The City plans to fund an economic development monetary grant (the “Grant”) by the Authority to the Recipient for the purpose of inducing the Recipient to construct and operate the Project in the City of Richmond.
- D. Payment of the Grant will be conditioned upon the Recipient’s completion of Project construction and continued maintenance of the Project, as defined herein, and the funds comprising payments of the Grant will be solely limited to a portion of the incremental real estate tax revenues for the Site generated by the Project (i.e., including both the fee interest (and leasehold interest, if applicable) in the land and all improvements), all as set forth herein.
- E. The City is authorized by Section 15.2-953 of the Code of Virginia and other laws, and the Authority is authorized by the Industrial Development and Revenue Bond Act, contained in Chapter 49, Title 15.2 of the Code of Virginia and other laws to perform the activities contemplated in this Agreement. The Authority is authorized by the Code of Virginia to make grants to non-public organizations such as Recipient in furtherance of the purpose of promoting economic development and affordable housing.
- F. This Agreement sets forth the understanding of the parties concerning the Recipient’s obligations, the Authority’s obligations, and the incentives offered by the City, subject to the approval of the Authority’s Board and the Richmond City Council and subject to appropriations.

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises, and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

Section 1. Preliminary Provisions

1.1 Incorporation of Recitals. The foregoing recitals are incorporated herein by reference.

1.2 Definitions. For the purposes of this Agreement, the following terms shall have the following definitions:

“AMI” means area median gross income for the Richmond-Petersburg Metropolitan Statistical Area for each applicable year of the Grant Period.

“Base Real Estate Tax Revenue” means \$2,232 per year, being the amount equal to the real estate taxes levied on the Site for the current tax year as of the Effective Date.

“Grant” means a grant to be paid to the Recipient, or its successors or assigns, by the Authority pursuant to this Agreement.

“Grant Payment” means, for each real estate tax year during the Grant Period, an amount equal to one hundred percent (100%) of the Incremental Real Estate Tax Revenue for such corresponding tax year. The Parties acknowledge that the annual real estate tax levy is and may in the future be billed and due in installments (currently twice a year); therefore, as used herein “Grant Payment” shall include payments of Incremental Real Estate Tax Revenue for each installment payment corresponding to the applicable Real Estate Tax Levy as prorated for the applicable installment period.

“Grant Payment Request” means a written request for a Grant Payment, which shall include (1) documentation showing its full payment of the Real Estate Tax Levy to the City in full and on time (except as provided in Section 3.3 below), and (2) the amount of the requested Grant Payment and explanation of the calculation thereof (i.e., Real Estate Tax Levy *minus* Base Real Estate Tax Revenue *equals* Incremental Real Estate Tax Revenue, as pro-rated for the applicable installment period).

“Grant Period” means that certain period commencing upon January 1st of the first real estate tax year following Recipient’s completion of Project construction, as shall be evidenced by receipt of a temporary Certificate of Occupancy (“Grant Commencement Date”) and ending on last day of the thirtieth (30th) real estate tax year following the Grant Commencement Date (“Grant Expiration Date”), subject to the provisions of Section 2.6 below. The parties acknowledge that the “Real Estate Tax Levy” for the last year of the Grant Period may not be received by the City until after the Grant Expiration Date and that a Grant Payment shall be paid to the Recipient corresponding to such Real Estate Tax Levy.

“Grant Management Fee” means a one-time non-refundable fee and an annual payment equal to 1% of the Grant Payment to cover the administrative expenses of the Authority for managing the Grant during the Grant Period.

“Incremental Real Estate Tax Revenue” means, for each applicable real estate tax year during the Grant Period, the amount by which the Real Estate Tax Levy exceeds the Base Real Estate Tax Revenue, provided the Recipient pays the Real Estate Tax Levy to the City in full and on time (except as provided in Section 3.3 below). In no event shall the Incremental Real Estate Tax Revenue (or the Grant Payment) include penalties, interest, or any other charges resulting from any delinquent payment. The Parties acknowledge that the Real Estate Tax Levy is and may in the future be billed and due in installments (currently twice a year); therefore, as used herein “Incremental Real Estate Tax Revenue” shall be determined based on the applicable payment (or installment) of the Real Estate Tax Levy for each applicable real estate tax year.

“Maintain” means the Recipient’s continued maintenance and operation of the Project following completion of Project construction, as set forth by Section 2.3.2 of this Agreement.

“Project” means a development on the Site containing not less than 84 residential units, subject to income and rent restrictions as set forth in Section 2.5 and as shown on Exhibit A and monitored by the State Housing Finance Agency.

“Real Estate Tax Levy” means the amount of real estate taxes levied by the City on the Site (including both the fee interest (and leasehold interest, if applicable)) and Project (i.e., including land and all improvements) for a given real estate tax year, pursuant to Chapter 26 of the Code for the City of Richmond (“City Code”).

“Recipient” means 2100 Bainbridge, LLC, and its successors and assigns, to the extent permitted by this Agreement.

“Site” means that certain 0.852-acre parcel currently owned by 2100 Bainbridge, LLC, located at 2100 Bainbridge Street, Richmond, Virginia and currently referred to in the records of the City Assessor as Parcel No. S0000413001.

“State Housing Finance Agency” means Virginia Housing (formerly known as Virginia Housing Development Authority), a political subdivision of the Commonwealth of Virginia, or its successor.

Section 2. Recipient’s Obligations

2.1 Grant Management and Application Fees.

2.2 Completion of Project Construction; Timeline.

2.2.1 Plan of Development. Recipient shall submit a Plan of Development or similar submission for the Project to the City’s Director of Planning and Development Review no later than nine (9) months after the Effective Date, which Plan of Development or similar submission shall comply with the relevant provisions of the Richmond City Code and shall contain all elements of the Project as defined herein.

2.2.2 Commencement of the Project Construction. Recipient shall commence construction of the Project within eighteen (18) months of the Effective Date, (the “Construction Commencement Date”), which shall be evidenced by the issuance of all

permits necessary for the commencement of construction of the Project.

2.2.3 Completion of Project Construction. The Recipient shall complete the Project within three years of the Construction Commencement Date, which shall be evidenced by the issuance of a temporary certificate of occupancy for the Project.

2.2.4 Failure to Comply. If the Recipient fails to timely comply with any of the provisions of this Section 2.2 then the City’s Chief Administrative Officer (“CAO”), in his sole discretion, may either extend the time by which the Recipient must comply with the corresponding requirement or provide written notice of the City’s intent to terminate this Agreement. If Recipient fails to cure its failure to comply within 30 days of such written notice, then this Agreement, including all rights and obligations herein, shall, upon the City’s election, terminate and neither the City nor the Authority shall have any further obligation to the Recipient and Recipient shall no longer be eligible for any Grant Payments hereunder.

2.3 Continued Maintenance and Operation of Project.

2.3.1 Continued Control of the Project by Recipient. Recipient shall continue to own, lease, or otherwise control the Site until completion of Project construction pursuant to Section 2.2.3 of this Agreement and thereafter shall continue to own, lease, or otherwise control the Project until expiration of the Grant Period. Notwithstanding the foregoing, Recipient may transfer the ownership or control interest in the Project to third parties (“Transferee”), and Recipient may (1) assign this Agreement, including the rights and obligations herein to such party or parties at the time it transfers ownership of the Project (including any leasehold interests), and (2) if the Agreement is assigned, Recipient shall provide the City and Authority 30 days prior written notice of its intent to transfer ownership or control of the Project, which notice shall include the contemplated date of transfer, the name of the party or parties to which it intends to transfer, and a written statement from such party that it is aware that this Agreement, including the rights and obligations herein, will be assigned to such party. Following the transfer of ownership in the Project to the Transferee as provided above, the term “Recipient” as used herein shall mean the Transferee.

2.3.2 Continued Maintenance and Operation of the Project. Following the Recipient’s completion of Project construction as set forth in Section 2.2.3 of this Agreement, the Recipient, or its successors or assigns, shall continue to Maintain the Project until the expiration of the Grant Period. For the avoidance of doubt, the Recipient's obligation to Maintain the Project includes the Recipient’s ongoing compliance with the provisions set forth in Section 2.5(Affordable Housing) of this Agreement.

2.4 MBE Participation.

2.4.1 Goal. The Recipient agrees to diligently work towards the following goal: Where capacity, capability, and competitive pricing among minority business enterprises and emerging small businesses exist, 30% of all expenditures for construction costs of the Project that will be paid to third-party subcontractors unaffiliated with the Recipient will be spent with minority

business enterprises and emerging small businesses that perform commercially useful functions with regard to the prosecution and completion of the Project. The terms "minority business enterprise" and "emerging small business" have the meaning ascribed to them in Chapter 21 of the City Code. The Recipient shall include this goal in its contracts with all assignees, contractors, and subcontractors who will be providing any portion of the Project.

2.4.2 Reporting. To enable the City to measure the achievements of the Recipient and its assignees, contractors, and subcontractors with regard to the participation goals set forth above, during the period prior to completion of Project construction, the Recipient shall submit a report upon request detailing all expenditures with minority business enterprises and emerging small businesses, showing, at a minimum, (i) the name of the business, (ii) an itemization of what the business provided, (iii) the amount paid for each item, (iv) the total amount of spending to date with minority business enterprises and emerging small businesses and (v) the percentage of total expenditures for the quarter spent with minority business enterprises and emerging small businesses. If the City chooses, the Recipient shall submit these reports on forms prescribed by the City. The City will use these reports in evaluating the good faith minority business enterprise and emerging small business participation efforts, as defined in Section 21-4 of the City Code, of the Recipient and its assignees, contractors, and subcontractors that compete for City contracts.

2.5 Affordable Housing.

The Recipient shall restrict occupancy and rents of the Project according to the schedule shown in Exhibit A, according to standards promulgated by the State Housing Finance Agency. Ongoing compliance monitoring and approvals by the State Housing Finance Agency, as provided to the City upon the City's request, shall serve as evidence of the Recipient's compliance with this section.

2.6 Continued Investment and Capital Improvements

For purposes of continued investment and upkeep of the Project to the benefit of its tenants, payment of Grant Payments after the initial fifteen (15) years of the Grant Period shall be contingent upon receipt of proof that the Recipient has at a minimum made capital improvements to the Project in an aggregate amount of Eight Hundred and Forty Thousand Dollars (\$840,000) since the Grant Commencement Date. On each fifth anniversary of the Grant Commencement Date, the Recipient shall upon request submit a report of capital improvements made to the Project since the Grant Commencement Date.

Section 3. Disbursement of Grant.

3.1. Grant. During the Grant Period, the City shall pay to Recipient (or such party to which Recipient has assigned Grant Payments pursuant to Section 9.1 of this Agreement), through the Authority, the Grant Payments for such real estate tax year subject to the provisions of this Section 3.

3.2. Grant Payment Requests. The Recipient shall submit each Grant Payment Request to the CAO, with copies to the Department of Economic Development, the Authority, and the Office of the City Attorney at the respective addresses set forth in Section 8.

3.3. Disbursement of Grant Payment. Upon receipt of a Grant Payment Request, the City shall review the accuracy of the request. The City shall not make a Grant Payment if the Recipient did not make full and timely payment of the Real Estate Tax Levy for the applicable installment (except when Recipient (i) makes full payment within 60 days after the date such payment was due to the City and (ii) pays all penalties and interest for such late payment in accordance with any applicable provisions of the Richmond City Code) and shall not make a Grant Payment if Recipient is delinquent in payment of any other taxes levied by the City for the Project (except when all penalties and interest for such late payment have been paid in accordance with any applicable provision of the Richmond City Code). Within fifteen (15) business days of receipt of a Grant Payment Request, the City shall notify Recipient either that (1) the City denies the request and will not make a Grant Payment for the foregoing reasons, (2) the City approves the request and intends to make a Grant Payment in the amount requested, or (3) the City approves making a payment to Recipient but in a different amount than the amount requested because the amount requested is inconsistent with this Agreement, in which case the City shall indicate the correct Grant Payment amount it intends to make. Notwithstanding the foregoing, the City's failure to respond within fifteen (15) business days shall not constitute approval of a requested Grant Payment and the Recipient shall not be entitled to any such payment due solely to the City's failure to timely respond. Subject to any necessary City Council action, including any necessary budget amendment or appropriation of funds, the City agrees to, within fifteen (15) business days of the City's approval of any Grant Payment, transfer the funds for the Grant Payment to the Authority. The Authority agrees to pay the Grant Payment to the Recipient (or such party to which the Recipient has assigned Grant Payments pursuant to Section 9.1 of this Agreement), within fifteen (15) business days of receipt of the funds from the City.

3.4 Recipient's Relief. Should the Recipient believe the City failed to comply with Section 3.3 of this Agreement, the Recipient may seek relief in accordance with Section 9.2 of this Agreement. Provided, however, Recipient's sole remedy shall be to receive payment for a Grant Payment to which it was entitled (subject to the restrictions set forth in this Agreement, including, but not limited to, Sections 3.3 and 9.5) and for which it did not receive payment.

Section 4. General Administration of Grant

4.1 The City agrees to transfer to the Authority, as and when appropriated by the City Council, the funds necessary for the Authority to meet its obligations under this Agreement relating to the Grant. No administrative fees or expenses shall be paid by the City.

4.2 The Authority's obligation to undertake the activities herein is specially conditioned upon the City providing funding on a timely basis; provided, however, the City's obligation is subject to appropriation by the City Council and availability of funds.

4.3 The Authority agrees to provide the City's Chief Administrative Officer, or the designee thereof, with copies of all documents related to this Agreement, and will keep

the CAO fully and timely informed of all matters related to this Agreement.

4.4 The Authority agrees that all funds transferred by the City to the Authority for the Grant shall be deposited by the Authority within a Project Fund, to be used only to satisfy the obligations contained in this Agreement related to the Grant.

4.5 It is the intent of the parties not to impose upon the Authority any responsibility, duty, or obligation other than what may be required to implement the Grant. Accordingly, the Authority does not assume any responsibility or liability whatsoever except as specifically stated herein. If litigation involving the Grant is initiated or expected to be filed against the Authority, the Authority shall immediately notify the City Attorney and CAO.

4.6 The Authority shall keep records of its financial transactions, if any, related to the Agreement in accordance with generally accepted accounting principles. The City Auditor or his designee may at any time audit the financial transactions undertaken under this Agreement. The Authority shall cooperate to ensure that the City Auditor is granted reasonable access on a timely basis to all books and records of the Authority necessary to complete such audits.

4.7 The Authority shall not be required to furnish the City with a blanket corporate fidelity bond with surety.

Section 5. Representations of the Recipient

5.1 The Recipient is empowered to enter into this Agreement, to be bound hereby, and to perform according to the terms hereof.

5.2 Any and all actions necessary to enable the Recipient to enter this Agreement, and to be bound hereby, have been duly taken.

5.3 The person or persons executing or attesting the execution of this Agreement on behalf of the Recipient has or have been duly authorized and empowered to so execute or attest.

5.4 The execution of this Agreement on behalf of the Recipient will bind and obligate the Recipient to the extent provided by the terms hereof.

5.5 There exists no litigation pending against the Recipient or to the Recipient's knowledge threatened, which if determined adversely, would materially and adversely affect the ability of the Recipient to carry out its obligations under this Agreement or the transactions contemplated hereunder.

Section 6. Default.

6.1 Events of Default. Each of the following events (hereinafter called an "Event of Default") shall be a default hereunder by the Recipient as described:

6.1.1 Failure by the Recipient to maintain its corporate existence or the declaration of bankruptcy by the Recipient.

6.1.2 The failure of Recipient to comply with Section 2 of this Agreement; and

6.1.3 The failure of Recipient to pay annual Real Estate Tax Levy.

6.2 Effect of Event of Default. In the case of an occurrence of an Event of Default, the Grant provisions of Section 3 of this Agreement shall, at the City's option, terminate ninety (90) days after the City's notice to Recipient and Recipient's designated lender, unless Recipient cures the Event of Default to the City's satisfaction within such ninety (90) days, and neither the City nor the Authority shall have any further obligation relating thereto and the Recipient shall no longer be eligible for any Grant Payments hereunder. Notwithstanding the foregoing, Recipient's obligations hereunder will remain in force and effect throughout the Grant Period and the City shall be entitled to any remedies available at law and equity, including, but not limited to, specific performance.

Section 7. Recipient Reporting.

The Recipient shall provide, at the Recipient's expense, detailed updates and verification reasonably satisfactory to the City of the Recipient's progress regarding the completion of Project construction and, following Project construction, of Recipient's continued compliance with Section 2.3 of this Agreement.

Section 8. Notices.

Any notices required or permitted under this Agreement shall be given in writing and shall be deemed to be received upon receipt or refusal after the mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail or overnight courier package not accepted by the addressee):

if to the Recipient, to

ElderHomes Corporation
Attention: Lee Householder
88 Carnation St.
Richmond, VA 23225

with a copy to:

T. Preston Lloyd, Jr., Esq.
Williams Mullen
200 South 10th Street, Suite 1600
Richmond, VA. 23219

if to the City, to

Chief Administrative Officer
City of Richmond, Virginia
900 East Broad Street, 14th Floor
Richmond, VA 23219

with a copy to:

Department of Economic Development
City of Richmond, Virginia
1500 East Main Street
Richmond, VA 23219

if to the Authority, to

with a copy to:

Economic Development Authority
of Richmond VA – Attn: Chairman
1500 East Main Street
Richmond, VA 23219

City Attorney
City of Richmond, Virginia
900 East Broad Street Suite 400
Richmond, VA 23219

Section 9. General Terms and Conditions.

9.1 Entire Agreement; Amendments; Assignments. This Agreement constitutes the Entire agreement among the parties hereto and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that in no event may this Agreement or any of the rights, benefits, duties, or obligations of the parties hereto be assigned, transferred or otherwise disposed of without the prior written consent of the other, which consent neither party shall be obligated to give, except that Recipient may assign its right to receive payment to another entity authorized to transact business in Virginia by furnishing the City and the Authority with notice identifying the entity and providing both contact and payment information in a form acceptable to the City and the Authority. Notwithstanding anything to the contrary herein, (a) Recipient shall have the right to assign its interest in the Site and Project to any future owner of the Site, the Project, or both, provided the Recipient first shall have complied with the requirements set forth in Section 2.3.1 of this Agreement and shall have submitted to the City the form of all instruments by which it purports to make such assignment and shall have obtained the City's prior written approval thereof, which approval shall not be unreasonably withheld, in which event the assignor shall be released from all obligations and liabilities under this Agreement; and (b) Recipient shall have the right to grant to a lender a security interest in, and assignment of, Recipient's rights hereunder as collateral for the loan to be provided by a lender providing funds for the development of the Project, and any action taken by such lender or successor in interest to realize on such security interest or assignment and performance thereafter shall be deemed permitted under this Agreement, provided the Recipient first shall have submitted to the City the form of all instruments by which it purports to grant such security interest and assignment and shall have obtained the City's prior written approval thereof, which approval shall not be unreasonably withheld, but no such consent shall be required to the exercise by lender or any assignee of lender of its right to perform Recipient's obligations hereunder after a default by Recipient under the applicable loan documents. The City agrees that the lender shall not have any liability for any act or omission of Recipient hereunder and shall only be liable hereunder for obligations arising during such time as it is the owner of Recipient's interests in the Site and Project pursuant to foreclosure, deed in lieu of foreclosure or otherwise.

9.2 Governing Law; Venue. All issues and questions concerning the construction, enforcement, interpretation, and validity of this Agreement, or the rights and obligations of the parties shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia. All disputes, claims, and causes of action arising out of or in connection with this Agreement, or

any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Richmond, Virginia. Each party shall be responsible for its own attorneys' fees in the event of any litigation or other proceeding arising from this Development Agreement.

9.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

9.4 Severability. If any provision of this Agreement is determined to be unenforceable, invalid, or illegal, then the enforceability, validity, and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

9.5 Subject-to-Appropriations. All payments and other performances by the City and the Authority under this Agreement are subject to City Council approval, Authority Board approval, and annual appropriations by the City Council. It is understood and agreed among the parties that the City and the Authority shall be bound hereunder only to the extent of the funds available, or which may hereafter become available for the purpose of this Agreement. Under no circumstances shall the City's or the Authority's total liability under this Agreement exceed the total amount of funds appropriated by the City Council for the payments hereunder for the performance of this Agreement.

9.6 Public Disclosure.

9.6.1 Applicable Law. The parties to this Agreement acknowledge that records maintained by or in the custody of the City and the Authority are subject to the provisions of the Virginia Public Records Act, Va. Code §§ 42.1-76 through 42.1-90.1, and the Virginia Freedom of Information Act, Va. Code §§ 2.2-3700 through 2.2-37 14 and thus are subject to the records retention and public disclosure requirements set forth in those statutes.

9.6.2 Challenges to Nondisclosure. If a party submitting records to the City or the Authority requests that those records not be disclosed under applicable law and the City or the Authority consequently denies a request for disclosure of such records based on the submitting party's request, and the City's or the Authority's denial of a request for disclosure of records is challenged in court, the submitting party shall indemnify, hold harmless and defend the City or the Authority, their respective officers and employees from any and all costs, damages, fees and penalties (including attorney's fees and other costs related to litigation) relating thereto.

9.7 No Waiver. Neither failure on the part of the City or the Authority to enforce any covenant or provision contained in this Agreement nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision or affect the right of the City or the Authority to enforce the same right in the event of any subsequent default.

9.8 Effective Date of the Agreement. The effective date of this Agreement shall be the date upon which it has been fully executed by the parties following approval by the City Council and by the Authority's Board of Directors.

9.9 No Partnership or Joint Venture. It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstance whatsoever as creating and establishing the relationship of copartners or creating or establishing a joint venture between or among any of the parties or as designating any party to the Agreement as the agent or representative of any other party to the Agreement for any purpose.

9.10 No Third-Party Beneficiaries. The parties agree that (i) no individual or entity shall be considered, deemed, or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than the City, the Authority, or the Recipient; (iii) no other individual or entity shall obtain any right to make any claim against the City, the Authority, or the Recipient under the provisions of this Agreement; and (iv) no provision of this Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity.

9.11 Signature Authority. Except as specifically otherwise set forth in this Agreement, the CAO or the designee thereof may provide any authorization, approvals, and notices contemplated herein on behalf of the City.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the date first written above.

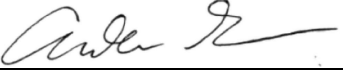
CITY OF RICHMOND, VIRGINIA

a municipal corporation of the
Commonwealth of Virginia

By: _____
J.E. Lincoln Saunders Date
Chief Administrative Officer

Authorized by Ordinance No. _____

Approved as to Form:

By:  _____
City Attorney’s Office

2100 BAINBRIDGE, LLC, a Virginia limited
liability company

By: _____
Date

Name: _____
Title: _____

**ECONOMIC DEVELOPMENT
AUTHORITY OF THE CITY OF
RICHMOND, VIRGINIA,**

a political subdivision of the
Commonwealth of Virginia

By: _____
Chairman Date

Approved as to Form:

By: _____
General Counsel to the Authority

EXHIBIT A

Affordable Housing Schedule

The Project shall restrict occupancy and rents to an average income designation of 60% of AMI, according to standards promulgated by the State Housing Finance Agency, for a minimum of thirty (30) years.

GRANT AGREEMENT

This **GRANT AGREEMENT** (the “Agreement”) is made and entered this ____ day of _____, 2023 (the “Effective Date”), by and among the **CITY OF RICHMOND, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (the “City”), **700 WEST 44, LP**, a Virginia limited partnership, or its assigns or successors (the “Recipient”), and the **ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND**, a political subdivision of the Commonwealth of Virginia (the “Authority”).

RECITALS

- A. The Recipient plans to develop and operate on the Site, as defined below, the Project, as defined below.
- B. The City and the Authority have determined that the Project will result in significant investment and economic development on the Site, will promote safe and affordable housing in the City of Richmond, will result in substantial benefits to the welfare of the City and its inhabitants, is in the public interest, and serves governmental interests.
- C. The City plans to fund an economic development monetary grant (the “Grant”) by the Authority to the Recipient for the purpose of inducing the Recipient to construct and operate the Project in the City of Richmond.
- D. Payment of the Grant will be conditioned upon the Recipient’s completion of Project construction and continued maintenance of the Project, as defined herein, and the funds comprising payments of the Grant will be solely limited to a portion of the incremental real estate tax revenues for the Site generated by the Project (i.e., including both the fee interest (and leasehold interest, if applicable) in the land and all improvements), all as set forth herein.
- E. The City is authorized by Section 15.2-953 of the Code of Virginia and other laws, and the Authority is authorized by the Industrial Development and Revenue Bond Act, contained in Chapter 49, Title 15.2 of the Code of Virginia and other laws to perform the activities contemplated in this Agreement. The Authority is authorized by the Code of Virginia to make grants to non-public organizations such as Recipient in furtherance of the purpose of promoting economic development and affordable housing.
- F. This Agreement sets forth the understanding of the parties concerning the Recipient’s obligations, the Authority’s obligations, and the incentives offered by the City, subject to the approval of the Authority’s Board and the Richmond City Council and subject to appropriations.

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises, and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

Section 1. Preliminary Provisions

1.1 Incorporation of Recitals. The foregoing recitals are incorporated herein by reference.

1.2 Definitions. For the purposes of this Agreement, the following terms shall have the following definitions:

“AMI” means area median gross income for the Richmond-Petersburg Metropolitan Statistical Area for each applicable year of the Grant Period.

“Base Real Estate Tax Revenue” means \$1,320 per year, being the amount equal to the real estate taxes levied on the Site for the current tax year as of the Effective Date.

“Grant” means a grant to be paid to the Recipient, or its successors or assigns, by the Authority pursuant to this Agreement.

“Grant Payment” means, for each real estate tax year during the Grant Period, an amount equal to one hundred percent (100%) of the Incremental Real Estate Tax Revenue for such corresponding tax year. The Parties acknowledge that the annual real estate tax levy is and may in the future be billed and due in installments (currently twice a year); therefore, as used herein “Grant Payment” shall include payments of Incremental Real Estate Tax Revenue for each installment payment corresponding to the applicable Real Estate Tax Levy as prorated for the applicable installment period.

“Grant Payment Request” means a written request for a Grant Payment, which shall include (1) documentation showing its full payment of the Real Estate Tax Levy to the City in full and on time (except as provided in Section 3.3 below), and (2) the amount of the requested Grant Payment and explanation of the calculation thereof (i.e., Real Estate Tax Levy *minus* Base Real Estate Tax Revenue *equals* Incremental Real Estate Tax Revenue, as pro-rated for the applicable installment period).

“Grant Period” means that certain period commencing upon January 1st of the first real estate tax year following Recipient’s completion of Project construction, as shall be evidenced by receipt of a temporary Certificate of Occupancy (“Grant Commencement Date”) and ending on last day of the thirtieth (30th) real estate tax year following the Grant Commencement Date (“Grant Expiration Date”), subject to the provisions of Section 2.6 below. The parties acknowledge that the “Real Estate Tax Levy” for the last year of the Grant Period may not be received by the City until after the Grant Expiration Date and that a Grant Payment shall be paid to the Recipient corresponding to such Real Estate Tax Levy.

“Grant Management Fee” means a one-time nonrefundable an annual payment equal to 1% of the Grant Payment to cover the administrative expenses of the Authority for managing the Grant during the Grant Period.

“Incremental Real Estate Tax Revenue” means, for each applicable real estate tax year during the Grant Period, the amount by which the Real Estate Tax Levy exceeds the Base Real Estate Tax Revenue, provided the Recipient pays the Real Estate Tax Levy to the City in full and on time (except as provided in Section 3.3 below). In no event shall the Incremental Real Estate Tax Revenue (or the Grant Payment) include penalties, interest, or any other charges resulting from any delinquent payment. The Parties acknowledge that the Real Estate Tax Levy is and may in the future be billed and due in installments (currently twice a year); therefore, as used herein “Incremental Real Estate Tax Revenue” shall be determined based on the applicable payment (or installment) of the Real Estate Tax Levy for each applicable real estate tax year.

“Maintain” means the Recipient’s continued maintenance and operation of the Project following completion of Project construction, as set forth by Section 2.3.2 of this Agreement.

“Project” means a development on the Site containing not less than 144 residential units, subject to income and rent restrictions as set forth in Section 2.5 and as shown on Exhibit A and monitored by the State Housing Finance Agency.

“Real Estate Tax Levy” means the amount of real estate taxes levied by the City on the Site (including both the fee interest (and leasehold interest, if applicable)) and Project (i.e., including land and all improvements) for a given real estate tax year, pursuant to Chapter 26 of the Code for the City of Richmond (“City Code”).

“Recipient” means 700 West 44, LP, and its successors and assigns, to the extent permitted by this Agreement.

“Site” means that certain 6.58-acre parcel currently owned by 700 West, LLC, located at 700 West 44th Street, Richmond VA. and currently referred to in the records of the City Assessor as Parcel No. S0053315011.

“State Housing Finance Agency” means Virginia Housing (formerly known as Virginia Housing Development Authority), a political subdivision of the Commonwealth of Virginia, or its successor.

Section 2. Recipient’s Obligations

2.1 Grant Management Fee.

The Recipient shall pay a Grant Management Fee consisting of (i) a one-time, non-refundable \$500.00 fee immediately upon execution of the agreement to the Authority, and, (ii) thereafter, the Recipient shall pay annually to the Authority 1% of the Grant Payment for the duration of the Grant Period. The Authority will invoice the Recipient on or before October 1 of each year and the Recipient shall remit payment within 30 days of issuance of the invoice.

2.2 Completion of Project Construction; Timeline.

2.2.1 Plan of Development. Recipient shall submit a Plan of Development or similar submission for the Project to the City’s Director of Planning and Development Review no later than nine (9) months after the Effective Date, which Plan of Development or similar submission shall comply with the relevant provisions of the Richmond City Code and shall contain all elements of the Project as defined herein.

2.2.2 Commencement of the Project Construction. Recipient shall commence construction of the Project within eighteen (18) months of the Effective Date, (the “Construction Commencement Date”), which shall be evidenced by the issuance of all permits necessary for the commencement of construction of the Project.

2.2.3 Completion of Project Construction. The Recipient shall complete the Project within three years of the Construction Commencement Date, which shall be evidenced by the issuance of a temporary certificate of occupancy for the Project.

2.2.4 Failure to Comply. If the Recipient fails to timely comply with any of the provisions of this Section 2.2 then the City’s Chief Administrative Officer (“CAO”), in his sole discretion, may either extend the time by which the Recipient must comply with the corresponding requirement or provide written notice of the City’s intent to terminate this Agreement. If Recipient fails to cure its failure to comply within 30 days of such written notice, then this Agreement, including all rights and obligations herein, shall, upon the City’s election, terminate and neither the City nor the Authority shall have any further obligation to the Recipient and Recipient shall no longer be eligible for any Grant Payments hereunder.

2.3 Continued Maintenance and Operation of Project.

2.3.1 Continued Control of the Project by Recipient. Recipient shall continue to own, lease, or otherwise control the Site until completion of Project construction pursuant to Section 2.2.3 of this Agreement and thereafter shall continue to own, lease, or otherwise control the Project until expiration of the Grant Period. Notwithstanding the foregoing, Recipient may transfer the ownership or control interest in the Project to third parties (“Transferee”), and Recipient may (1) assign this Agreement, including the rights and obligations herein to such party or parties at the time it transfers ownership of the Project (including any leasehold interests), and (2) if the Agreement is assigned, Recipient shall provide the City and Authority 30 days prior written notice of its intent to transfer ownership or control of the Project, which notice shall include the contemplated date of transfer, the name of the party or parties to which it intends to transfer, and a written statement from such party that it is aware that this Agreement, including the rights and obligations herein, will be assigned to such party. Following the transfer of ownership in the Project to the Transferee as provided above, the term “Recipient” as used herein shall mean the Transferee.

2.3.2 Continued Maintenance and Operation of the Project. Following the Recipient’s completion of Project construction as set forth in Section 2.2.3 of this Agreement, the Recipient, or its successors or assigns, shall continue to Maintain the Project until the expiration of the Grant Period. For the avoidance of doubt, the Recipient's

obligation to Maintain the Project includes the Recipient's ongoing compliance with the provisions set forth in Section 2.5(Affordable Housing) of this Agreement.

2.4 MBE Participation.

2.4.1 Goal. The Recipient agrees to diligently work towards the following goal: Where capacity, capability, and competitive pricing among minority business enterprises and emerging small businesses exist, 30% of all expenditures for construction costs of the Project that will be paid to third-party subcontractors unaffiliated with the Recipient will be spent with minority business enterprises and emerging small businesses that perform commercially useful functions with regard to the prosecution and completion of the Project. The terms "minority business enterprise" and "emerging small business" have the meaning ascribed to them in Chapter 21 of the City Code. The Recipient shall include this goal in its contracts with all assignees, contractors, and subcontractors who will be providing any portion of the Project.

2.4.2 Reporting. To enable the City to measure the achievements of the Recipient and its assignees, contractors, and subcontractors with regard to the participation goals set forth above, during the period prior to completion of Project construction, the Recipient shall submit a report upon request detailing all expenditures with minority business enterprises and emerging small businesses, showing, at a minimum, (i) the name of the business, (ii) an itemization of what the business provided, (iii) the amount paid for each item, (iv) the total amount of spending to date with minority business enterprises and emerging small businesses and (v) the percentage of total expenditures for the quarter spent with minority business enterprises and emerging small businesses. If the City chooses, the Recipient shall submit these reports on forms prescribed by the City. The City will use these reports in evaluating the good faith minority business enterprise and emerging small business participation efforts, as defined in Section 21-4 of the City Code, of the Recipient and its assignees, contractors, and subcontractors that compete for City contracts.

2.5 Affordable Housing.

The Recipient shall restrict occupancy and rents of the Project according to the schedule shown in Exhibit A, according to standards promulgated by the State Housing Finance Agency. Ongoing compliance monitoring and approvals by the State Housing Finance Agency, as provided to the City upon the City's request, shall serve as evidence of the Recipient's compliance with this section.

2.6 Continued Investment and Capital Improvements

For purposes of continued investment and upkeep of the Project to the benefit of its tenants, payment of Grant Payments after the initial fifteen (15) years of the Grant Period shall be contingent upon receipt of proof that the Recipient has at a minimum made capital improvements to the Project in an aggregate amount of One Million Four Hundred and Forty Thousand (\$1,440,000) since the Grant Commencement Date. On each fifth anniversary of

the Grant Commencement Date, the Recipient shall upon request submit a report of capital improvements made to the Project since the Grant Commencement Date.

Section 3. Disbursement of Grant.

3.1. Grant. During the Grant Period, the City shall pay to Recipient (or such party to which Recipient has assigned Grant Payments pursuant to Section 9.1 of this Agreement), through the Authority, the Grant Payments for such real estate tax year subject to the provisions of this Section 3.

3.2. Grant Payment Requests. The Recipient shall submit each Grant Payment Request to the CAO, with copies to the Department of Economic Development, the Authority, and the Office of the City Attorney at the respective addresses set forth in Section 8.

3.3. Disbursement of Grant Payment. Upon receipt of a Grant Payment Request, the City shall review the accuracy of the request. The City shall not make a Grant Payment if the Recipient did not make full and timely payment of the Real Estate Tax Levy for the applicable installment (except when Recipient (i) makes full payment within 60 days after the date such payment was due to the City and (ii) pays all penalties and interest for such late payment in accordance with any applicable provisions of the Richmond City Code) and shall not make a Grant Payment if Recipient is delinquent in payment of any other taxes levied by the City for the Project (except when all penalties and interest for such late payment have been paid in accordance with any applicable provision of the Richmond City Code). Within fifteen (15) business days of receipt of a Grant Payment Request, the City shall notify Recipient either that (1) the City denies the request and will not make a Grant Payment for the foregoing reasons, (2) the City approves the request and intends to make a Grant Payment in the amount requested, or (3) the City approves making a payment to Recipient but in a different amount than the amount requested because the amount requested is inconsistent with this Agreement, in which case the City shall indicate the correct Grant Payment amount it intends to make. Notwithstanding the foregoing, the City's failure to respond within fifteen (15) business days shall not constitute approval of a requested Grant Payment and the Recipient shall not be entitled to any such payment due solely to the City's failure to timely respond. Subject to any necessary City Council action, including any necessary budget amendment or appropriation of funds, the City agrees to, within fifteen (15) business days of the City's approval of any Grant Payment, transfer the funds for the Grant Payment to the Authority. The Authority agrees to pay the Grant Payment to the Recipient (or such party to which the Recipient has assigned Grant Payments pursuant to Section 9.1 of this Agreement), within fifteen (15) business days of receipt of the funds from the City.

3.4 Recipient's Relief. Should the Recipient believe the City failed to comply with Section 3.3 of this Agreement, the Recipient may seek relief in accordance with Section 9.2 of this Agreement. Provided, however, Recipient's sole remedy shall be to receive payment for a Grant Payment to which it was entitled (subject to the restrictions set forth in this Agreement, including, but not limited to, Sections 3.3 and 9.5) and for which it did not receive payment.

Section 4. General Administration of Grant

4.1 The City agrees to transfer to the Authority, as and when appropriated by the City Council, the funds necessary for the Authority to meet its obligations under this Agreement relating to the Grant. No administrative fees or expenses shall be paid by the City.

4.2 The Authority's obligation to undertake the activities herein is specially conditioned upon the City providing funding on a timely basis; provided, however, the City's obligation is subject to appropriation by the City Council and availability of funds.

4.3 The Authority agrees to provide the City's Chief Administrative Officer, or the designee thereof, with copies of all documents related to this Agreement, and will keep the CAO fully and timely informed of all matters related to this Agreement.

4.4 The Authority agrees that all funds transferred by the City to the Authority for the Grant shall be deposited by the Authority within a Project Fund, to be used only to satisfy the obligations contained in this Agreement related to the Grant.

4.5 It is the intent of the parties not to impose upon the Authority any responsibility, duty, or obligation other than what may be required to implement the Grant. Accordingly, the Authority does not assume any responsibility or liability whatsoever except as specifically stated herein. If litigation involving the Grant is initiated or expected to be filed against the Authority, the Authority shall immediately notify the City Attorney and CAO.

4.6 The Authority shall keep records of its financial transactions, if any, related to the Agreement in accordance with generally accepted accounting principles. The City Auditor or his designee may at any time audit the financial transactions undertaken under this Agreement. The Authority shall cooperate to ensure that the City Auditor is granted reasonable access on a timely basis to all books and records of the Authority necessary to complete such audits.

4.7 The Authority shall not be required to furnish the City with a blanket corporate fidelity bond with surety.

Section 5. Representations of the Recipient

5.1 The Recipient is empowered to enter into this Agreement, to be bound hereby, and to perform according to the terms hereof.

5.2 Any and all actions necessary to enable the Recipient to enter this Agreement, and to be bound hereby, have been duly taken.

5.3 The person or persons executing or attesting the execution of this Agreement on behalf of the Recipient has or have been duly authorized and empowered to so execute or attest.

5.4 The execution of this Agreement on behalf of the Recipient will bind and obligate the Recipient to the extent provided by the terms hereof.

5.5 There exists no litigation pending against the Recipient or to the Recipient's knowledge threatened, which if determined adversely, would materially and adversely affect the ability of the Recipient to carry out its obligations under this Agreement or the transactions contemplated hereunder.

Section 6. Default.

6.1 Events of Default. Each of the following events (hereinafter called an "Event of Default") shall be a default hereunder by the Recipient as described:

6.1.1 Failure by the Recipient to maintain its corporate existence or the declaration of bankruptcy by the Recipient.

6.1.2 The failure of Recipient to comply with Section 2 of this Agreement; and

6.1.3 The failure of Recipient to pay annual Real Estate Tax Levy.

6.2 Effect of Event of Default. In the case of an occurrence of an Event of Default, the Grant provisions of Section 3 of this Agreement shall, at the City's option, terminate ninety (90) days after the City's notice to Recipient and Recipient's designated lender, unless Recipient cures the Event of Default to the City's satisfaction within such ninety (90) days, and neither the City nor the Authority shall have any further obligation relating thereto and the Recipient shall no longer be eligible for any Grant Payments hereunder. Notwithstanding the foregoing, Recipient's obligations hereunder will remain in force and effect throughout the Grant Period and the City shall be entitled to any remedies available at law and equity, including, but not limited to, specific performance.

Section 7. Recipient Reporting.

The Recipient shall provide, at the Recipient's expense, detailed updates and verification reasonably satisfactory to the City of the Recipient's progress regarding the completion of Project construction and, following Project construction, of Recipient's continued compliance with Section 2.3 of this Agreement.

Section 8. Notices.

Any notices required or permitted under this Agreement shall be given in writing and shall be deemed to be received upon receipt or refusal after the mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean the return of certified mail or overnight courier package not accepted by the addressee):

if to the Recipient, to

The Lawson Companies, Inc.
Attention: William Sexauer
150 W. Main Street Ste. 1650

with a copy to:

T. Preston Lloyd, Jr., Esq
Williams Mullen
200 South 10th Street Ste. 1600

Norfolk, VA. 23510

Richmond, VA 23219

if to the City, to

with a copy to:

Chief Administrative Officer
City of Richmond, Virginia
900 East Broad Street, 14th Floor
Richmond, VA 23219

Department of Economic Development
City of Richmond, Virginia
1500 East Main Street
Richmond, VA 23219

if to the Authority, to:

with a copy to:

Economic Development Authority
of Richmond VA – Attn: Chairman
1500 East Main Street
Richmond, VA 23219

City Attorney
City of Richmond, Virginia
900 East Broad Street Suite 400
Richmond, VA 23219

Section 9. General Terms and Conditions.

9.1 Entire Agreement; Amendments; Assignments. This Agreement constitutes the Entire agreement among the parties hereto and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that in no event may this Agreement or any of the rights, benefits, duties, or obligations of the parties hereto be assigned, transferred or otherwise disposed of without the prior written consent of the other, which consent neither party shall be obligated to give, except that Recipient may assign its right to receive payment to another entity authorized to transact business in Virginia by furnishing the City and the Authority with notice identifying the entity and providing both contact and payment information in a form acceptable to the City and the Authority. Notwithstanding anything to the contrary herein, (a) Recipient shall have the right to assign its interest in the Site and Project to any future owner of the Site, the Project, or both, provided the Recipient first shall have complied with the requirements set forth in Section 2.3.1 of this Agreement and shall have submitted to the City the form of all instruments by which it purports to make such assignment and shall have obtained the City's prior written approval thereof, which approval shall not be unreasonably withheld, in which event the assignor shall be released from all obligations and liabilities under this Agreement; and (b) Recipient shall have the right to grant to a lender a security interest in, and assignment of, Recipient's rights hereunder as collateral for the loan to be provided by a lender providing funds for the development of the Project, and any action taken by such lender or successor in interest to realize on such security interest or assignment and performance thereafter shall be deemed permitted under this Agreement, provided the Recipient first shall have submitted to the City the form of all instruments by which it purports to grant such security interest and assignment and shall have obtained the City's prior written approval thereof, which approval shall not be unreasonably withheld, but no such consent shall be required to the exercise by lender or any assignee of lender of its right to perform Recipient's obligations hereunder after a default by Recipient under the

applicable loan documents. The City agrees that the lender shall not have any liability for any act or omission of Recipient hereunder and shall only be liable hereunder for obligations arising during such time as it is the owner of Recipient's interests in the Site and Project pursuant to foreclosure, deed in lieu of foreclosure or otherwise.

9.2 Governing Law; Venue. All issues and questions concerning the construction, enforcement, interpretation, and validity of this Agreement, or the rights and obligations of the parties shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia. All disputes, claims, and causes of action arising out of or in connection with this Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Richmond, Virginia. Each party shall be responsible for its own attorneys' fees in the event of any litigation or other proceeding arising from this Development Agreement.

9.3 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

9.4 Severability. If any provision of this Agreement is determined to be unenforceable, invalid, or illegal, then the enforceability, validity, and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

9.5 Subject-to-Appropriations. All payments and other performances by the City and the Authority under this Agreement are subject to City Council approval, Authority Board approval, and annual appropriations by the City Council. It is understood and agreed among the parties that the City and the Authority shall be bound hereunder only to the extent of the funds available, or which may hereafter become available for the purpose of this Agreement. Under no circumstances shall the City's or the Authority's total liability under this Agreement exceed the total amount of funds appropriated by the City Council for the payments hereunder for the performance of this Agreement.

9.6 Public Disclosure.

9.6.1 Applicable Law. The parties to this Agreement acknowledge that records maintained by or in the custody of the City and the Authority are subject to the provisions of the Virginia Public Records Act, Va. Code §§ 42.1-76 through 42.1-90.1, and the Virginia Freedom of Information Act, Va. Code §§ 2.2-3700 through 2.2-37 14 and thus are subject to the records retention and public disclosure requirements set forth in those statutes.

9.6.2 Challenges to Nondisclosure. If a party submitting records to the City or the Authority requests that those records not be disclosed under applicable law and the City or the Authority consequently denies a request for disclosure of such records based on the submitting party's request, and the City's or the Authority's denial of a request for disclosure of records is challenged in court, the submitting party shall indemnify, hold harmless and defend the City or the

Authority, their respective officers and employees from any and all costs, damages, fees and penalties (including attorney's fees and other costs related to litigation) relating thereto.

9.7 No Waiver. Neither failure on the part of the City or the Authority to enforce any covenant or provision contained in this Agreement nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision or affect the right of the City or the Authority to enforce the same right in the event of any subsequent default.

9.8 Effective Date of the Agreement. The effective date of this Agreement shall be the date upon which it has been fully executed by the parties following approval by the City Council and by the Authority's Board of Directors.

9.9 No Partnership or Joint Venture. It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstance whatsoever as creating and establishing the relationship of copartners or creating or establishing a joint venture between or among any of the parties or as designating any party to the Agreement as the agent or representative of any other party to the Agreement for any purpose.

9.10 No Third-Party Beneficiaries. The parties agree that (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than the City, the Authority, or the Recipient; (iii) no other individual or entity shall obtain any right to make any claim against the City, the Authority, or the Recipient under the provisions of this Agreement; and (iv) no provision of this Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity.

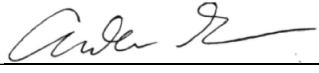
9.11 Signature Authority. Except as specifically otherwise set forth in this Agreement, the CAO or the designee thereof may provide any authorization, approvals, and notices contemplated herein on behalf of the City.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this Performance Agreement as of the date first written above.

CITY OF RICHMOND, VIRGINIA
a municipal corporation of the
Commonwealth of Virginia

By: _____
J.E. Lincoln Saunders Date
Chief Administrative Officer
Authorized by Ordinance No. _____

Approved as to Form:
By: 
City Attorney's Office

700 WEST 44, LP, a Virginia limited partnership

By: _____
Date
Name: _____
Title: _____

**ECONOMIC DEVELOPMENT
AUTHORITY OF THE CITY OF
RICHMOND, VIRGINIA,**
a political subdivision of the
Commonwealth of Virginia

By: _____
Chairman Date

Approved as to Form:
By: _____
General Counsel to the Authority

EXHIBIT A

Affordable Housing Schedule

The Project shall restrict occupancy and rents to an average income designation of 60% of AMI, according to standards promulgated by the State Housing Finance Agency, for a minimum of thirty (30) years.