



Interoffice Memorandum

June 28, 2024

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners

FROM: Tanya Wilson, Director  
Planning, Environmental, and Development  
Services Department 

CONTACT PERSON: **Renée H. Parker, LEP, Manager**  
**Environmental Protection Division**  
**(407) 836-1420**

SUBJECT: July 30, 2024 – Public Hearing Resolution Designating certain land within unincorporated Orange County consisting of Parcel ID 15-23-29-0000-00-020, as the Durham Place Green Reuse Area: ROCC (Redeveloping Orange County Communities) and as a Brownfield Area for the purpose of environmental remediation, rehabilitation, and economic development; District 3

This public hearing is to consider an application requesting Brownfield Area (BFA) designation, submitted to the Environmental Protection Division (EPD) by the applicant's agent in February 2022 (Attachment A). The applicant, Durham Place, Ltd., has requested that their property be designated as a BFA, to be known as Durham Place Green Reuse Area (GRA): ROCC (Redeveloping Orange County Communities) for the purpose of environmental remediation, rehabilitation, and economic development.

The proposed Durham Place GRA: ROCC consists of parcel ID: 15-23-29-0000-00-020 and is located at 5215 South Orange Blossom Trail within Orange County Commission District 3. A property location map is provided in the proposed resolution (Attachment B).

In accordance with section 376.80(2)(c), Florida Statutes (F.S.), which covers requests for BFA designation by persons other than a governmental entity, this request is being brought to the Board for consideration.

Public hearings have been held in the vicinity of the area to be designated in accordance with paragraph 376.80(1)(c)4a, F.S. and as follows:

- A notice of the first public hearing was published on May 1, 2022, in the Orlando Sentinel. On May 22, 2022, Orange County held a public hearing to provide an opportunity for constituents to give input on the size of the area to be designated, objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' concerns, and other related local concerns. Information on the Florida Brownfields Redevelopment Program was presented and copies of the proposed resolution and an area designation map of the proposed Durham Place GRA: ROCC were provided. A representative from the applicants' authorized agent, The Goldstein Environmental Law Firm, P.A. (Goldstein Firm), was present to discuss how the proposed BFA met the criteria for BFA designation listed

in paragraph 376.80(2)(c), F.S. Residents asked specific questions which were presented to the Goldstein Firm.

- In March 2024, Goldstein Firm responded to resident questions nearly two years after the first public hearing (Attachment C). Development of the site was complete when the response was received.
- EPD staff sought guidance from the Orange County Attorney's Office and were directed to begin the public notice process from the beginning. The following timeline summarizes administration of the first public hearing:
  - May 11, 2024: the public hearing was announced at the Board meeting by County Administrator Brooks.
  - May 23, 2024: A notice of first public hearing was published in the Orlando Sentinel.
  - May 24, 2024: A physical notice sign was placed at the site.
  - Late May 2024: Notices of public hearing were mailed to surrounding property owners as a courtesy.
  - June 6, 2024: A first public hearing was conducted at Holden Heights Community Center.

## **Background**

### *Property History and Environmental Site Assessments*

- The site is located on 20.81 acres of former agricultural land.
- The northeastern part of the property was a citrus grove from the 1950s through 1990s.
- Citrus grove operations include the use of pesticides, herbicides and fertilizers which may contain hazardous materials, including arsenic.
- The remaining portion of the property not used for citrus grove operations was undeveloped land.
- In 2022, when the application for BFA designation was submitted, the parcel was vacant vegetative land.

### *Current Site Conditions*

- The now-completed development consists of 102 affordable residential housing units and community amenities. Initial residents moved into the complex in December 2023.
- The property owner is seeking BFA designation to gain access to financial incentives including a sales tax refund on eligible building materials for affordable housing redevelopment.
- The units are rented to individuals and families earning 60% or less of the area median income and several units are reserved for persons with special needs and homeless individuals and families.

## **Benefits of Brownfield Designation**

The proposed Resolution is necessary for adoption so current and future property owners can enter into a Brownfield Site Rehabilitation Agreement with the State of Florida to reduce perceived and/or actual public health and environmental hazards on the existing parcel by offering incentives to encourage responsible persons to voluntarily develop and implement cleanup plans and make Federal and State economic incentives available immediately to the property owner. The following is a listing of incentives that become available:

*Upon adoption of the Resolution for the Durham Place GRA: ROCC*

- State low-interest loan guarantees for primary lenders: up to 50% on all Brownfield sites and up to 75% if the property's end use is an affordable housing or health care facility;

*Upon execution of a Brownfield Site Rehabilitation Agreement*

- Cleanup liability protection;
- Makes available risk based cleanup criteria using F.S. 62-780 and F.S. 62-777;
- Sales tax refund on building materials used for the construction of affordable housing;
- Brownfield federal tax incentives: allows environmental cleanup costs to be fully deductible in the same year they occur;
- Voluntary Cleanup Tax Credits (VCTC): allows tax credits of 50% or up to \$500,000 for site rehabilitation costs that are incurred in the same year the activities occur;
- A one-time 25% or up to \$500,000 additional tax credits if the property is redeveloped with affordable housing and/or obtains a site rehabilitation completion order; and
- Job creation bonus refund (up to \$2,500 per full time job with benefits under the State of Florida Brownfield Program).

**Criteria for consideration of BFA designation under Section 376.80(2)(c), F.S.**

The Act indicates that when a BFA is proposed by persons other than a local government, the applicant must establish that they meet each of the following five criteria. The criteria and responses from the applicants' authorized agent are noted below (note that in some cases the information below is an excerpt of what was provided by the Goldstein Firm).

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the site.

*"Durham Place satisfies this criterion in that it owns the Subject Property and has agreed to redevelop and rehabilitate it. Accordingly, Durham Place meets this first criterion."*

2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions . . . However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in section 420.0004.

*"Because all of the units at the Subject Property will be rented to Income Eligible Households under the Low-Income Housing Tax Credit program, rehabilitation and redevelopment of the Subject Property will "provide affordable housing as defined in s. 420.0004."4 Accordingly, the employment creation threshold of at least 5 new permanent jobs is not applicable to the Project. Notwithstanding the foregoing, the Project will directly create 4 new permanent jobs on-property. For the reasons discussed herein, Durham Place meets this second criterion."*

3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.

*“Durham Place satisfies this criterion in that the Subject Property is located in an R-3 Multiple Family Dwelling zoning district and is designated as Medium Density Residential on the County’s Future Land Use Map. Both the R-3 zoning district and the Medium Density Residential future land use designation allow residential development of the type planned by Durham Place at a density of up to 20 dwelling units per acre. The Subject Property’s approximately 20-acre area places the 102 units planned for the Project within this range and, accordingly, the Project as described above is specifically permitted by County Code. This consistency and permissibility is further demonstrated through the FHFC Local Government Verification that Development is Consistent with Zoning and Land Use Regulations Form signed by Orange County’s Chief Planner. Accordingly, the redevelopment is consistent with the local comprehensive plan and local land development regulations.”*

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.

- A notice of the first public hearing was published on May 23, 2024, in the *Orlando Sentinel*.
- Notices of the meeting were posted at the property proposed for BFA designation on May 24, 2024. On June 6, 2024, Orange County held a public hearing near the proposed area to be designated in accordance with section 376.80(1)(c)4.a., F.S. During this public hearing, EPD staff presented information on the Florida Brownfields Redevelopment Program and copies of the proposed resolutions and area designation maps of the proposed Durham Place Green Reuse Area: ROCC were provided.
- A representative from the Goldstein Firm was present to discuss how the proposed BFA meets the criteria for BFA designation listed in section 376.80(2)(c), F.S.
- In addition to the preceding steps required by F.S. 376.80, EPD staff also distributed notices of public hearing to surrounding property owners, an optional step that was conducted as a courtesy.

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

*“The total capital budget of approximately \$29.8 million for the Project has been fully funded using a combination of debt and equity. Specifically, the Project will be funded by \$21.7 million in LIHTC equity; a \$1 million permanent mortgage; a \$4.8 million State Apartments Incentive Loan (“SAIL”) program mortgage; a \$359,500*

*SAIL Extremely Low Income (“ELI”) program mortgage; and a \$1,029,630 deferred developer fee.*

*“In addition, Durham Place’s principal, Wendover Housing Partners, LLC (“Wendover”), through its various development affiliates, has an extensive track record of success in financing, building, and managing major affordable residential communities. Wendover has a well-deserved reputation as one of the premier real estate companies in the Southeast, with an expansive portfolio of affordable and mixed-income developments in economically and socially diverse neighborhoods. This proven history of leveraging assets with other capital sources, an impressive track record of success, and a staff of highly experienced and sophisticated development officials constitute reasonable assurance that Durham Place has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan. Accordingly, it satisfies this fifth and last criterion.”*

### **Staff Recommendation**

EPD has notified the Florida Department of Environmental Protection of this proposed Resolution.

EPD has reviewed the application and supplemental information provided by the applicant’s counsel. Based on an evaluation of the criteria in F.S. 376.80(2)(c), EPD recommends approval of the resolution establishing a BFA designation.

**ACTION REQUESTED: Approval and execution of Resolution of the Orange County Board of County Commissioners Regarding Designating Certain Land Within Unincorporated Orange County Consisting of Parcel ID 15-23-29-0000-00-020, As The Durham Place Green Reuse Area: ROCC (Redeveloping Orange County Communities) And As A Brownfield Area For The Purpose Of Environmental Remediation, Rehabilitation, And Economic Development. District 3**

TW/RHP:kh

Attachments

# **RESOLUTION**

*of the*

**ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS**

*regarding*

**DESIGNATING CERTAIN LAND WITHIN  
UNINCORPORATED ORANGE COUNTY CONSISTING OF  
PARCEL ID 15-23-29-0000-00-020, AS THE DURHAM PLACE  
GREEN REUSE AREA: ROCC (REDEVELOPING ORANGE  
COUNTY COMMUNITIES) AND AS A BROWNFIELD AREA  
FOR THE PURPOSE OF ENVIRONMENTAL REMEDIATION,  
REHABILITATION, AND ECONOMIC DEVELOPMENT**

**Resolution No. \_\_\_\_\_**

WHEREAS, the Brownfields Redevelopment Act, (the “Act”), Sections 376.77 - 376.85, Florida Statutes, authorizes and provides for designation by resolution, at the request of the property owner, of certain lands as a “Brownfield Area,” and for the corresponding provision of environmental remediation, rehabilitation, and economic development for such areas; and

WHEREAS, Durham Place, Ltd. (“Durham”), the property owner of property parcel ID: 15-23-29-0000-00-020; located at 5215 S. Orange Blossom Trail, within unincorporated Orange County, has requested that the property be designated as the Durham Place Green Reuse Area: ROCC (Redeveloping Orange County Communities), more particularly described in Exhibit “A,” attached hereto and incorporated by reference herein, and as a brownfield area; and

WHEREAS, on June 6, 2024, and July 30, 2024, public hearings were held near the area to be designated and at the Orange County Board of County Commissioners (the “Board”), respectively, to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents’ considerations, and other relevant local concerns in accordance with Section 376.80, Florida Statutes; and

WHEREAS, the Board has reviewed the requirements for designation set forth in Section 376.80(2)(c), Florida Statutes, based on the representations of Durham, and has determined that the proposed area qualifies for designation as a Brownfield Area because the following requirements have been satisfied:

1. The property owner, Durham, has requested the designation and has agreed to rehabilitate and redevelop the brownfield site;
2. The rehabilitation and redevelopment of the brownfield site will provide affordable housing, as defined in Section 420.0004, Florida Statutes;
3. The redevelopment of the proposed brownfield site is consistent with the Orange County 2010-2030 Comprehensive Policy Plan and is a permissible

- use under the County's land development regulations;
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to Section 376.80(1)(c), Florida Statutes, and Durham has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation; and
  5. Durham has provided reasonable assurance that it has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site; and

WHEREAS, the Board wishes to notify the Florida Department of Environmental Protection ("FDEP") of its decision to designate a Brownfield Area for remediation, rehabilitation, and economic development for the purposes set forth in the Act; and

WHEREAS, the procedures set forth in Section 376.80(1), Florida Statutes, including the notice and public hearing requirements set forth in Sections 125.66, 125.66(4)(b)1., and 125.66(4)(b)2., Florida Statutes, have been complied with.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

**Section 1.** The recitals and findings set forth in the Preamble to this Resolution are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

**Section 2.** Upon application by Durham, the property described in Exhibit "A," attached hereto and incorporated herein by reference, which is located within and coincides with the boundaries of that portion located in the unincorporated area of the County, less any real property for which a property owner within the area depicted in Exhibit "A" requests in writing to have his or her property removed from the designation provided for herein, is hereby designated as the "Durham Place Green Reuse Area: ROCC (Redeveloping Orange County Communities)" which shall hereafter be known as the "DURHAM PLACE GREEN REUSE AREA: ROCC" and as a brownfield area for environmental remediation, rehabilitation, and economic development as set forth in the Act, under the following terms and conditions:

- a. Pursuant to Section 376.80(3), Florida Statutes, Durham shall be the

“person responsible for the brownfield site rehabilitation” as that term is defined in Section 376.79(15), Florida Statutes.

b. The designation of the brownfield area by this Resolution does not in any sense render Orange County or its Board responsible for any costs or liabilities associated with site remediation, rehabilitation, economic development, or source removal, as those terms are defined in the Act.

c. Nothing in this Resolution shall be deemed to prohibit, limit, or amend the authority and power of the Board, otherwise legally available, to designate any other property or properties as a brownfield site or brownfield area, or to modify, amend, or withdraw the designation as established herein.

**Section 3.** In accordance with Section 376.80(1), Florida Statutes, the Board hereby directs the Orange County Environmental Protection Division to notify the FDEP of Orange County’s decision to designate this brownfield area for the purposes of remediation, rehabilitation, and economic development.



**Section 4.** This Resolution shall take effect upon the date of its adoption.

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: \_\_\_\_\_  
Jerry L. Demings  
Orange County Mayor

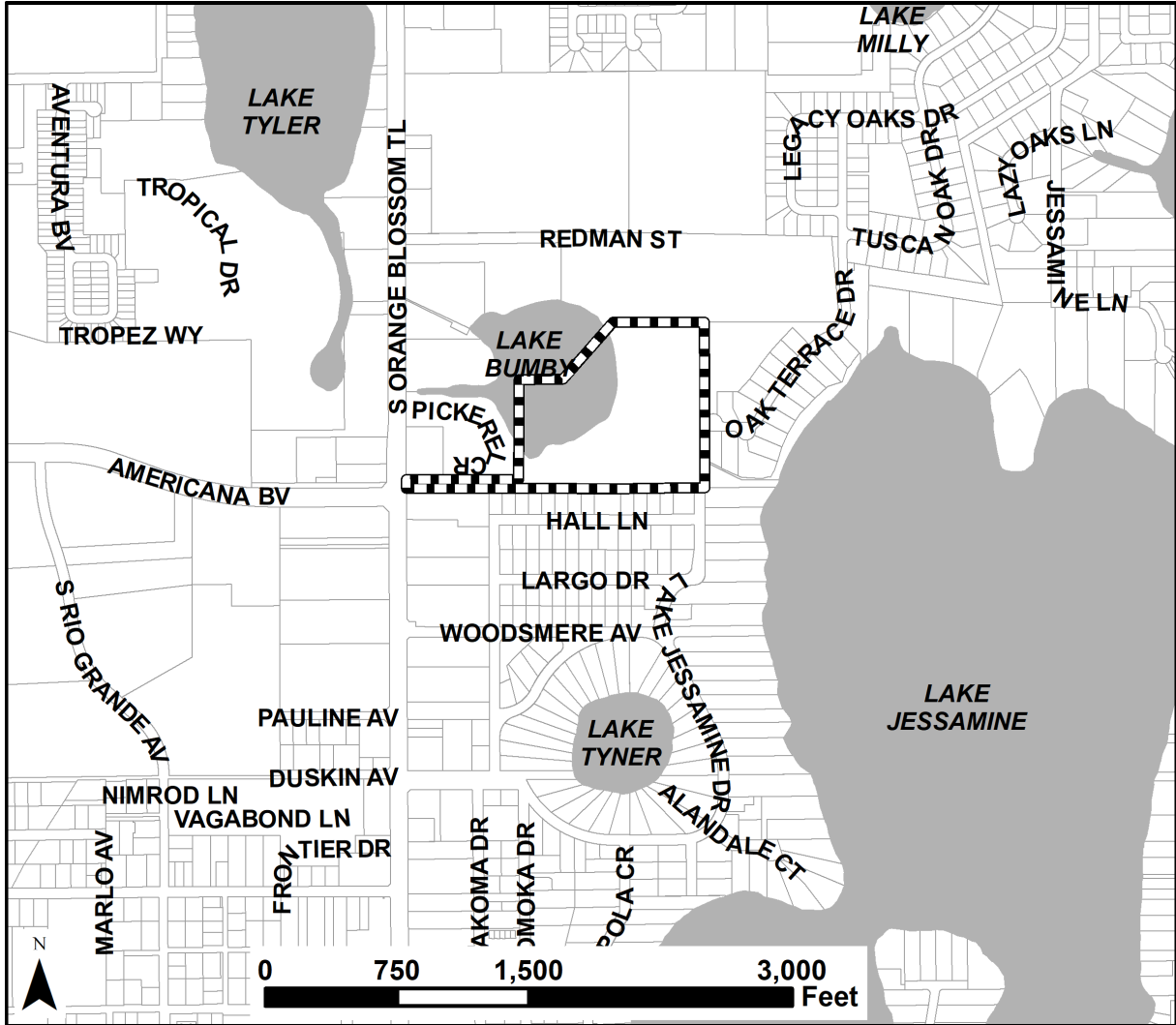
ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

# EXHIBIT A

## Proposed Brownfield

Parcel ID: 15-23-29-0000-00-020



THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.  
*Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance*

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2100 Ponce de Leon Boulevard, Suite 710  
Coral Gables, Florida 33134  
Telephone: (305) 777-1680  
[www.goldsteinenvlaw.com](http://www.goldsteinenvlaw.com)

Brett C. Brumund, Esq.  
Direct Dial: (305) 640-5300  
Email: [bbrumund@goldsteinenvlaw.com](mailto:bbrumund@goldsteinenvlaw.com)

June 13, 2024

**Via Email Only**

Beth Burkard, P.E.  
Orange County Environmental Protection Division  
3165 McCrory Place, Suite 200  
Orlando, FL

**Re: Satisfaction of Brownfield Area Designation Criteria for Durham Place, Ltd.**

Dear Ms. Burkhard:

This letter is provided in response to your request for additional information as to compliance with the criteria for brownfield area designation, dated June 11, 2024. As was provided in Durham Place, Ltd.'s ("Durham") application for brownfield area designation, the development at 5215 S. Orange Blossom Trail, Orange County, Florida 32839, Parcel Number: 15-23-29-0000-00-020 (the "Subject Property") satisfies all five of the criteria for brownfield area designation provided for in § 376.80(2)(c), Florida Statutes. Each criterion and the basis for Durham's satisfaction thereof are provided in detail below.

**1. Agreement to Redevelop the Brownfield Site.** As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that "[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site."

Durham Place satisfies this criterion in that it owns and has redeveloped the Subject Property, which meets the definition of a potential brownfield site as provided in § 376.79(4), Florida Statutes, (i.e., ". . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination."). Specifically, the Subject Property historically operated as a portion of a larger citrus grove from at least 1954 until the early to mid-1990s which was identified as a Business Environmental Risk in Durham's Phase I Environmental Site Assessment Report, thus warranting further investigation. Citrus groves are known to have historically used agrochemicals containing arsenic, which tend to persist in the environment and do not attenuate over time unless properly treated or removed. Over decades of agricultural use, agrochemicals may accumulate in soil or leach into groundwater causing localized environmental impacts that must be addressed during redevelopment. Durham therefore encountered a redevelopment complication based on this historical citrus grove use which necessitated soil and groundwater sampling for the presence of

agrochemicals. Accordingly, Durham conducted soil and groundwater sampling on October 20, 2021, and identified the presence of several contaminants but none above state Cleanup Target Levels for residential use. As such, the perception of environmental contamination resulting from the Subject Property's historical use complicated redevelopment for Durham Place by imposing additional assessment requirements that would not otherwise have been employed. Durham has therefore satisfied this first criterion.

**2. Economic Productivity.** As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

Durham satisfies this criterion in that the Project will result in significant economic productivity of the area. The budget for rehabilitation and redevelopment is approximately \$29.8 million, which was spent in material part on local labor, contractors, consultants, construction materials, furnishings, infrastructure improvements, and impact fees. This work supported numerous temporary construction jobs during redevelopment. Additionally, the recognized literature regarding the local benefits produced by the development of affordable housing developments shows that this type of development substantially contributes to the economic productivity of an area in the form of increased property taxes, stimulation of the local economy by residents, and transformation of vacant land into economically productive communities. For example, in The National Association of Home Builders' (“NAHB”) landmark study, The Local Economic Impact of Typical Housing Tax Credit Developments,<sup>1</sup> NAHB published models that estimate the local economic benefits of family tax credit developments and elderly tax credit developments. These models capture the effect of the construction activity itself, the positive economic ripple effect that occurs when income earned from construction activity is spent and recycled in the local economy, and the ongoing beneficial impacts that result from the new apartments becoming occupied by residents.

Redevelopment of the Subject Property has also provided affordable housing, as defined in § 420.0004, Florida Statutes, therefore the employment creation threshold of at least five new permanent jobs is not applicable to this project. Durham has therefore satisfied this second criterion.

**3. Consistency with Local Comprehensive Plan and Permittable Use under Local Land Development Regulations.** As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that “[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations.”

Durham satisfies this criterion in that the Subject Property is located in an R-3 Multiple Family Dwelling zoning district and is designated as Medium Density Residential on the County's Future Land Use Map. Both the R-3 zoning district and the Medium Density Residential future land use designation allow residential development

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<sup>1</sup> A complete copy of the NAHB report may be accessed here: [https://www.novoco.com/sites/default/files/atoms/files/nahb\\_jobs-report\\_2010.pdf](https://www.novoco.com/sites/default/files/atoms/files/nahb_jobs-report_2010.pdf)

at a density of up to 20 dwelling units per acre.<sup>2</sup> The Subject Property’s approximately 20-acre area brings the 102 units planned for the Project within this range and, accordingly, the Project as described above is specifically permitted by County Code. This consistency is further evidenced by Orange County’s issuance of site plan approval and all necessary Orange County development approvals.

With respect to non-commercial community-based services and resident programs provided to building residents, the primary use of the development remains affordable and supportive multifamily housing consistent with the R-3 zoning district and Medium Density Residential future land use designation. Such services and programs for residents are a component of the supportive housing and are considered Required Resident Programs under the Land Use Restriction Agreement (“LURA”) between Durham and the Florida Housing Finance Corporation, recorded in the Orange County Official Records on December 28, 2021, DOC# 20210788598. The LURA specifically requires that community-based services coordination be offered and made available onsite to residents who do not currently receive community-based services or who need additional assistance with coordination of community-based services. The availability of community-based services coordination at the Subject Property, in compliance with the LURA, should be considered separately from the redevelopment for purposes of this criterion. Due to the redevelopment’s construction, as approved by Orange County, being consistent with R-3 zoning district and the Medium Density Residential future land use designation, Durham has therefore satisfied this third criterion.

**4. Public Notice and Comment.** Florida Statutes § 376.80(2)(c)(4) stipulates that “[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area.” Additional notice requirements pertaining to applicants other than a governmental entity can be found at Florida Statutes § 376.80(1)(c)(4)(b) and consist of publication in a newspaper of general circulation in the area, publication in ethnic newspapers or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing.

Durham, with assistance from Orange County, satisfied all applicable notice and opportunity to comment requirements established by Florida Statutes §376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) as follows:

- (i) notice was posted at the Subject Property on May 24, 2024;
- (ii) notice was published in the Orlando Sentinel newspaper on May 23, 2024;
- (iii) notice and publicly-available-for-review information was posted at the Orange County Environmental Protection Division front desk on May 22, 2024;
- (iv) public hearings were announced at scheduled Orange County Board of County Commissioners meetings on May 21, 2024; and
- (v) a public hearing was held on June 6, 2024, to afford those receiving notice the opportunity for comments and suggestions about rehabilitation.

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<sup>2</sup> See Table 1.1.2.A, Orange County Comprehensive Plan—Goals, Objectives and Policies, adopted February 2021.

Beth Burkhard, P.E.  
June 13, 2024  
Page 4

Additionally, Orange County went above and beyond the notice requirements provided in the statute by mailing notice of the public hearings directly to neighbors and nearby residents on May 20, 2024. Durham has therefore satisfied this fourth criterion.

**5. Reasonable Financial Assurance.** As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that “[t]he person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.”

The total capital budget of approximately \$29.8 million for the Project has been fully funded using a combination of debt and equity. Specifically, the Project was funded by \$21.7 million in Low-Income Housing Tax Credit equity; a \$1 million permanent mortgage; a \$4.8 million State Apartments Incentive Loan (“SAIL”) program mortgage; a \$359,500 SAIL Extremely Low Income program loan; a \$1 million deferred developer fee; and a \$75,000 impact fee credit from Orange County. Durham has therefore satisfied this fifth and final criterion.

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Thank you for the opportunity to respond to the additional question raised at the June 6, 2024, public hearing. Should additional information be requested, please let me know.

Thank you.

Very truly yours,

**THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.**



Brett C. Brumund, Esq.  
/bcb

APPROVED BY ORANGE  
COUNTY BOARD OF COUNTY  
COMMISSIONERS

BCC Mtg. Date: Oct. 26, 2021

Instrument prepared by:  
M. Rebecca Wilson, Esquire  
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.  
215 North Eola Drive  
Post Office Box 2809  
Orlando, FL 32802-2809  
(407) 843-4600

Return to:  
Orange County Housing  
and Community Development Division  
525 E. South Street  
Orlando, FL 32801-2891

**MULTI-FAMILY AFFORDABLE HOUSING  
DEVELOPER'S AGREEMENT FOR IMPACT FEE EXEMPTION  
(DURHAM APARTMENTS)**

THIS MULTI-FAMILY AFFORDABLE HOUSING DEVELOPER'S AGREEMENT FOR IMPACT FEE EXEMPTION (the "Agreement") is entered into by and between ORANGE COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida, whose address is 525 East South Street, Orlando, FL 32801, (the "County") and LAKE BUMBY PROPERTIES, a Florida general partnership, whose address is 558 W. New England Avenue, Suite 200, Winter Park, FL 32789 (the "Owner") and THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA a body corporate and political subdivision of the State of Florida, (the "School Board").

**RECITALS**

**WHEREAS**, the Owner owns that certain tract of real property, as described in **Exhibit "A"**, attached hereto and incorporated herein by reference (the "Property"); and

**WHEREAS**, the Owner hereby provides notice pursuant to Section 11, hereof, that it is under contract to sell the Property to Durham Place, Ltd. ("Developer," and together with the Owner, the "Applicant") which joins this agreement by and through the undersigned Joinder and Consent; and

**WHEREAS**, the Applicant intends to develop a multi-family rental affordable housing project to be known as Durham Apartments, (the "Project") on the Property; and

**WHEREAS**, the County and the School Board find creating affordable housing opportunities for low to extremely low-income residents of Orange County, Florida to be a valid public purpose under the laws of Florida; and

**WHEREAS**, in accordance with Section 163.31801, F.S., as may be amended from time to time, the County adopted Ordinance No. 2021-28 and Ordinance No. 2021-29, which, in part, provided an opportunity for exemption from the payment of school impact fees and transportation impact fees, respectively, for certain affordable housing projects; and

**WHEREAS**, the County supports the exemption of all or a portion of school and transportation impact fees, and the School Board supports the exemption of all or a portion of

Instrument prepared by:  
M. Rebecca Wilson, Esquire  
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.  
215 North Eola Drive  
Post Office Box 2809  
Orlando, FL 32802-2809  
(407) 843-4600

Return to:  
Orange County Housing  
and Community Development Division  
525 E. South Street  
Orlando, FL 32801-2891

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DEVELOPER'S AGREEMENT FOR IMPACT FEE EXEMPTION  
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**WHEREAS**, the County and the School Board find creating affordable housing opportunities for low to extremely low-income residents of Orange County, Florida to be a valid public purpose under the laws of Florida; and

**WHEREAS**, in accordance with Section 163.31801, F.S., as may be amended from time to time, the County adopted Ordinance No. 2021-28 and Ordinance No. 2021-29, which, in part, provided an opportunity for exemption from the payment of school impact fees and transportation impact fees, respectively, for certain affordable housing projects; and

**WHEREAS**, the County supports the exemption of all or a portion of school and transportation impact fees, and the School Board supports the exemption of all or a portion of



school impact fees, for the purpose of providing affordable rental units for lower income Orange County residents.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

**Section 1. Recitals.** The above recitals are true and correct and are incorporated herein as a material part of this Agreement.

**Section 2. Definitions.** In construing this Agreement the following words, phrases and terms shall have the following meanings, unless the context requires otherwise:

- A. *Affordable* shall be defined as a rental development in which a minimum of forty percent (40%) of the units must be rented to a household whose annual income does not exceed sixty percent (60%) of the area median income.
- B. *Affordable Units* shall be defined as those rental units described in Section 3 hereof.
- C. *Orlando Metropolitan Statistical Area ("MSA")* shall include the counties of Orange, Lake, Seminole, and Osceola as well as the municipalities within their respective jurisdictions.

**Section 3. Scope of Project.**

The Project shall consist of one hundred two (102) multi-family units in total. One hundred percent (100%) of the units shall be rented to households with income equal to or less than 60% of the MSA median income.

**Section 4. Payment of Law Enforcement, Fire/Rescue, and Parks and Recreation Impact Fees.**

The Applicant shall make payment of all law enforcement, fire/rescue, parks and recreation impact fees, and sewer and water connection fees upon submittal of their building permit application in accordance with the applicable provisions of Chapter 23, Impact Fees, Orange County Code.

**Section 5. Exemption of Payment of School and Transportation Impact Fees; Credit Account.**

- A. Section 23-161(b) of Article V, Chapter 23, Orange County Code, provides that the payment of all or a portion of School Impact Fees may be exempted for housing that meets or exceeds the definition of "affordable" pursuant Section 163.31801(11), Florida Statutes, 2021, provided the level and duration of such affordability is documented to the County's satisfaction prior to the granting of any impact fee exemption.
- B. Section 23-98(a)(11) of Article IV, Chapter 23, Orange County Code, provides that the payment of Transportation Impact Fees shall be exempted for housing that meets or exceeds the definition of "affordable" pursuant Section 163.31801(11), Florida

Statutes, 2021, provided the level and duration of such affordability is documented to the County's satisfaction prior to the granting of any impact fee exemption.

- C. Upon execution of this Agreement, and assuming continued compliance with the terms hereof, the Applicant shall have documented the affordability of the Project to the County's satisfaction; provided, however, that only those units defined as Affordable Units hereunder shall be entitled to an exemption from School and Transportation Impact Fees. The total amount of Impact Fees exempted under this agreement is Eight Hundred Fifty-Two Thousand, One Hundred Eight Dollars (\$852,108.00); \$603,738.00 of that total is School Impact Fees and \$248,370.00 of that total is Transportation Impact Fees.
  
- D. Pursuant to that certain Concurrency Mitigation Agreement entered into by and among Owner, Developer, County, and The School Board of Orange County, Florida, on October 26, 2021, the Project impacted a failing high school and, therefore, was required to pay Two Hundred Thousand Seven Hundred Thirty-three Dollars (\$200,733.00) in proportionate share mitigation (the "Mitigation Payment"). In order to comply with Section 163.31801(5), Florida Statutes, 2021, a credit account in an amount equivalent to the Mitigation Payment shall be created and shall run with the land (the "Credit Account"). The Credit Account shall not bear interest. If and when the Project, or any part thereof, becomes market rate housing, school impact fees shall become due and payable at the rate then in effect and the funds in the Credit Account shall be available to the Applicant, or its successors and assigns, to offset the cost of such school impact fees.

**Section 6. Restrictive Covenant.**

A. The Applicant acknowledges that this Agreement creates a restrictive covenant and that such covenant shall run with the Property.

B. The Applicant, its successors and assigns shall utilize the Property for the rental of one hundred two (102) multi-family housing units. In order to be deemed affordable, a minimum of forty percent (40%) of the units must be rented to a household whose annual income does not exceed sixty percent (60%) of the Orlando Metropolitan Statistical Area (MSA) median income. For this Project specifically, one hundred percent (100%) of the 102 units shall be rented to households whose annual income does not exceed sixty percent (60%) of the Orlando MSA. Rent levels of the 102 units shall be in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, and Section 8 of this Agreement, for a period of twenty (20) years from the date of issuance of the first certificate of occupancy for the Project. Provided further, however, that Applicant's construction loan lender, permanent loan lender, or any subsequent mortgagee shall, at its option, have the right to foreclose on the Property with this restrictive covenant in place or, in the alternative, to pay to the County, the principal amount of Eight Hundred Fifty-Two Thousand, One Hundred Eight Dollars (\$852,108.00) in order to obtain from the County a release of the restrictive covenant provisions as set forth herein. Applicant's construction loan lender, permanent loan lender or any subsequent mortgagee shall pay for the cost of recording any such release and any other expenses incident thereto.

**Section 7. Income Verification.**

A. The Applicant shall verify the household income of the occupants of the Affordable Units prior to the initial occupancy of such units. Income verifications shall be performed for such units on an annual basis thereafter.

B. The Applicant shall maintain complete and accurate records of the income for each of the qualifying occupants and the rents charged for the Affordable Units. All records shall be maintained in accordance with Chapter 67-37, Florida Administrative Code, or the HUD income limits, whichever is more restrictive. The Applicant shall permit any duly authorized representative of Orange County to inspect the books and records upon reasonable notice.

C. The Applicant shall furnish to the County's Housing and Community Development Division an Annual Report demonstrating all Affordable Units are in compliance with this Agreement. Similar reports required by Florida Housing Finance Corporation may be used to satisfy this requirement. Copies shall be submitted on annual basis subsequent to the issuance of the first certificate of occupancy for the Project.

**Section 8. Rents, Lease Provisions, and Administration.**

A. The Applicant agrees that the initial gross rents charged for the Affordable Units shall comply with the gross rent restrictions established by the Florida Housing Finance Corporation, or the HUD income limits, whichever is more restrictive, and shall not exceed thirty percent (30%) of the imputed income limitation applicable to each Affordable Unit adjusted for family size and number of bedrooms in accordance with Section 42(g)(2)(c) of the Internal Revenue Code of 1986, as amended. For purposes of this Agreement, gross rent shall include a utility allowance in accordance with Section 42(g)(2)(B) (ii) of the Internal Revenue Code of 1986, as amended.

B. The Applicant may, for good cause, refuse to rent the Affordable Units to individuals or families who otherwise meet the income and eligibility guidelines set forth herein. Good cause may include, but shall not be limited to, the failure of the applicant to comply with the terms and conditions of past rental agreements.

C. For purposes of complying with the requirements of this Agreement, if the income of an individual or family renting an Affordable Unit initially meets the applicable income limitation at the commencement of occupancy of the unit, the income of such individual or family shall be treated as continuing to not exceed the applicable income limits so long as the rent charged for such Affordable Unit remains in accordance with the gross rent restrictions established by the Florida Housing Finance Corporation and this Section 8. The preceding sentence shall cease to apply to any individual or family whose income, as of the most recent determination, exceeds one hundred- forty percent (140%) of the applicable income limit, if after such determination, but before the next income determination, any Affordable Unit of comparable or smaller size in the building is occupied by a new resident whose income exceeds the applicable income limit for very low or low income tenants as defined in Orange County Administrative Regulation No. 4.08, as may be amended from time to time, or the HUD Regulations, whichever is more restrictive.

D. Applicant shall not be deemed to have breached this Agreement if, in verifying the household income of the occupants of the Affordable Units, Applicant (i) has relied in good faith upon information supplied to Applicant by the occupant; (ii) has no reason to believe such information is false; and (iii) shall have complied with all requirements of this Agreement with respect to verification of household income.

E. Notwithstanding anything contained herein to the contrary, in the event that the requirements set forth in this Section 8 shall in any manner conflict with the provisions of Section 42 of the Internal Revenue Code of 1986, as may be amended from time to time, the provisions of the Internal Revenue Code shall control.

F. The Applicant or its management company shall obtain a certification of income for each prospective tenant prior to admission to the Project. Source documentation for each adult household member shall be obtained to support income claims. The form of Certification shall be as required by the FHFC. Should the annual income recertification of such households result in non-compliance with income occupancy requirements, the next available unit must be rented to a qualifying household in order to ensure continuing compliance of the Project.

G. The Applicant shall not discriminate against any person or family on the grounds of race, color, national origin, religion, familial status, sex, sexual orientation or disability. The Applicant shall comply with the applicable provisions of the Human Rights Ordinance Chapter 22 of the Orange County Code, including, but not limited to, the Fair Housing provisions contained in Article IV, thereof. The Applicant shall abide by the following:

1. The Applicant shall provide rental information and attract eligible persons in the housing market area without regard to race, color, national origin, religion, sex, sexual orientation, or disability.
2. The Applicant shall employ the Equal Housing Opportunity slogan, logo or statement in all solicitations for tenants and posters with the fair housing logo will be prominently displayed at the Project.
3. The Applicant shall maintain records of its affirmative marketing efforts and keep them available for review by the County's Housing and Community Development Division staff.
4. The Applicant shall assess the success of its affirmative action efforts and when applicable, undertake all necessary corrective actions as mandated by the County, when affirmative marketing requirements are not met.

H. The Applicant shall not evict or terminate the tenancy of any tenant of any unit within the Project other than for good cause, and shall not increase the gross rent with respect to any Affordable Unit in excess of the amount allowed herein.

**Section 9. Default; Remedies.**

- A. If the Applicant breaches any provision set forth in this Agreement, other than the affordability levels contained in Section 6 and the rental requirements contained in

Section 8.A., the Applicant shall cure the breach within thirty (30) days of receiving notice of such breach. In the event that the Applicant is unable to cure the breach within the allotted thirty (30) days, the Applicant shall request an extension of time not to exceed ninety (90) days. Any such request for extension shall be made in writing and shall be submitted to the County within the first thirty (30) days' time period. In such instances where the Applicant is unable to correct the breach within the allotted thirty (30) day time period, the Applicant shall commence such correction(s) within the ninety (90) days, and thereafter diligently pursue the same to completion within such period. In the event that the Applicant fails to comply with the requirements of this Section, the Applicant shall pay to the County the principal amount of Eight Hundred Fifty-Two Thousand, One Hundred Eight Dollars (\$852,108.00) which is equal to the total sum of impact fees exempted pursuant to Section 5, hereof. Upon full repayment by the Applicant to the County of the total sum of the exempted impact fees, this Agreement shall become null and void and shall automatically terminate.

- B. If the Applicant rents any of the Affordable Units to individuals or families whose income is not in accordance with the affordability level provided for in Section 6 of this Agreement or rents any such unit above the applicable rental rate required in Section 8.A., the Applicant shall be deemed to be in default of this Agreement resulting in the disqualification of the Affordable Units. Upon the disqualification of any Affordable Unit(s), Applicant shall pay to the County the principal amount of Eight Hundred Fifty-Two Thousand, One Hundred Eight Dollars (\$852,108.00) which is equal to the total sum of impact fees exempted pursuant to Section 5, hereof. Upon full repayment by the Applicant to the County of the total sum of the exempted impact fees, this Agreement shall become null and void and shall automatically terminate.
- C. In addition to any other remedies contained herein, in the event of a breach of any material term of this Agreement, the County may avail itself of any remedy available at law or equity.

**Section 10. Foreclosure.**

A. If Applicant's construction loan lender, permanent loan lender, or any subsequent mortgagee (other than HUD) forecloses on the Property, such lender or subsequent mortgagee shall, at its option, have the right to foreclose with the restrictive covenant contained in Section 6 in place or, in the alternative, pay to the County the principal amount of Eight Hundred Fifty-Two Thousand, One Hundred Eight Dollars (\$852,108.00) in order to obtain from the County a release of the restrictive covenant provision contained herein.

B. Applicant's construction loan lender, permanent loan lender, or any subsequent first mortgagee (other than HUD), shall pay for the cost of recording any such release and any other expenses incident thereto. To the extent required by law, the rights, duties, and obligations in this Agreement shall be subordinate to the provisions of the first mortgage.

**Section 11. Sale or Transfer of the Project or any Building.** The Applicant shall not sell, exchange, assign, convey, transfer or otherwise dispose of the Property, the Project, or any building in the Project without prior written notice to the County.

**Section 12. Waiver of Breach.** Waiver of breach of one covenant or condition of this Agreement is not a waiver of breach of other covenants and conditions of this Agreement, or of a subsequent breach of the waived covenants or conditions.

**Section 13. Applicable Law.** The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement. Any and all legal action necessary to enforce the provisions of this Agreement will be held in Orange County, Florida. Venue for any litigation involving this Agreement shall be the Circuit Court in and for Orange County, Florida.

**Section 14. Notices.** Any notices required or allowed hereunder shall be in writing and shall be delivered to the addresses shown below or to such other addresses that the parties may provide to one another in accordance herewith. Such notices and other communications shall be given by any of the following means: (a) personal service; (b) national express air courier, provided such courier maintains written verification of actual delivery; (c) facsimile, or (d) U.S. Mail, Certified, Return Receipt. Any notice or other communication given by the means described in subsection (a) or (b) above shall be deemed effective upon the date of receipt or the date of refusal to accept delivery by the party to whom such notice or other communication has been sent. Any notice or other communication given by the means described in subsection (c) above shall be deemed effective the date on which the facsimile transmission occurs or if such date is not a business day on the business day immediately following the date on which the facsimile transmission occurs. Any party may change said address by giving the other parties hereto notice of such change of address in accordance with the foregoing provisions.

OWNER: Lake Bumby Properties  
558 W. New England Avenue, Suite 200  
Winter Park, FL 32789

DEVELOPER: Durham Place, Ltd.  
1105 Kensington Park Drive, Suite 200  
Altamonte Springs, Florida 32714

COPY: Rebecca Wilson  
215 N. Eola Drive  
Orlando, Florida 32801

COUNTY: Orange County  
Housing and Community Development Division  
525 East South Street  
Orlando, FL 32801  
Attn: Manager

COPY: County Administrator  
Orange County Administration  
201 S. Rosalind Ave, 5<sup>th</sup> floor  
Orlando, Florida 32802

SCHOOL BOARD: School Board of Orange County, Florida  
Attn: Superintendent  
445 West Amelia Street  
Orlando, Florida 32801

COPY: Orange County Public Schools  
Attn: Facilities Planning Department  
6501 Magic Way, Building 200  
Orlando, Florida 32809

**Section 15. Incorporation of County Policies.** This Agreement shall be read in conjunction with and be subject to all applicable County regulations, policies, resolutions and ordinances; such County regulations, policies, resolutions, and ordinances are incorporated herein by reference.

**Section 16. Termination of Approvals.** The County shall, in its sole discretion, have the right to terminate all approvals and acceptances granted by this Agreement in the event Applicant fails to comply with any of the terms and conditions of this Agreement. All approvals granted by this Agreement are conditioned upon the continued compliance with the terms of this Agreement as well as the payment of the applicable impact fees at the appropriate time, including the payment of school and transportation impact fees as outlined in Section 5 hereof.

**Section 17. Disclaimer of Third Party Beneficiaries.** This Agreement is solely for the benefit of the County, Owner and the Developer and no right or cause of action shall accrue to or for the benefit of any third party.

**Section 18. Assignment.** The County shall have the right to assign or transfer this Agreement in whole or in part to any properly authorized commission, authority, or other public agency empowered by law to serve the unincorporated area of Orange County. The Applicant shall not assign, sell, bargain, convey or transfer its interest in this Agreement without the prior written consent of the County.

**Section 19. Recordation of the Agreement.** The parties hereto agree that a fully executed original of this Agreement shall be recorded, at Applicant's expense, in the Public Records of Orange County, Florida. The obligations imposed in this Agreement shall be deemed a restrictive covenant which shall run with the Property and shall be binding upon Applicant's successors and assigns. The County or any successor agency or entity will, from time to time and upon the request of the Applicant, execute and deliver estoppel letters affirming the status of this Agreement.

**Section 20. Severability.** If any sentence, phrase, paragraph, provision, or portion of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, such portion shall be considered an independent provisions and the finding shall have no effect on the validity or the balance of this Agreement.

**Section 21. Entire Agreement and Modification.** This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings and



agreements relating to the matters set forth herein. Any changes to this Agreement shall be made in writing and approved and executed by the authorized representatives of the respective parties.

**Section 22. No Partnership or Agency.** Nothing in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relations of principal/agent, employer/employee, or joint venture partnership between the parties.

**Section 23. Land Use Approvals.** This Agreement shall not be construed as granting, assuring, or in any way indicating any future grant of any land use, zoning, or density approvals, development approvals, permissions, or rights with respect to the Property.

**Section 24. Effective Date; Term.** This Agreement shall become effective upon the date of full execution by the authorized representatives of the Owner, Developer and the County, and, except as otherwise set forth in Section 9 hereof, shall terminate twenty (20) years from the date of issuance of the first certificate of occupancy for the Project.

**Section 25. Headings.** The headings of the sections, paragraphs and subdivisions of this Agreement are for the convenience of reference only, and shall not limit or otherwise affect any of the terms hereof.

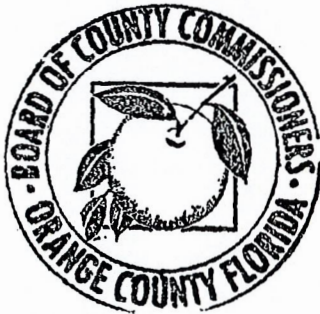
**Section 26. Counterpart Signatures.** This Agreement may be executed in one or more counterparts, all of which shall constitute, collectively, one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

“COUNTY”

ORANGE COUNTY, FLORIDA

By: Orange County Board of County Commissioners



BY: Jerry L. Demings

for Jerry L. Demings  
Orange County Mayor

Date: October 26, 2021

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

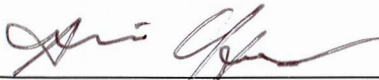
BY: Katie Smith  
Deputy Clerk




“SCHOOL BOARD”

Signed and sealed in the presence of:

**THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida

  
Print Name: Aravia Henley

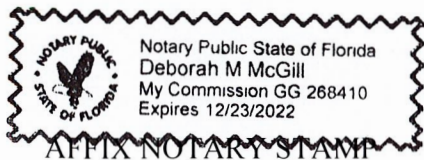
By:   
Teresa Jacobs, Chair


  
Print Name: Nancy Conover

Date: 9/28/21

STATE OF FLORIDA            )  
                                          ) s.s.:  
COUNTY OF ORANGE        )

The foregoing instrument was acknowledged before me by means of  physical presence or [ ] online notarization, this 28th day of September, 2021 by Teresa Jacobs, Chair, Chairman of The School Board of Orange County, Florida, a body corporate and political subdivision of the State of Florida, on behalf of The School Board, who is personally known to me or had produced \_\_\_\_\_ (type of identification) as identification.



  
NOTARY PUBLIC OF FLORIDA  
Print Name: Deborah M. McGill  
Commission No.: \_\_\_\_\_  
Expires: \_\_\_\_\_

[ADDITIONAL SIGNATURE PAGES TO FOLLOW]

**THE SCHOOL BOARD OF ORANGE COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida

Signed and sealed in the presence of:

[Signature]  
 Print Name: Arabic Henley

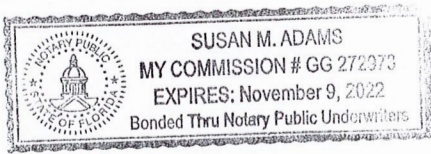
[Signature]  
 Print Name: Nancy Conover

Attest: [Signature]  
 Barbara M. Jenkins, Ed.D., as its Superintendent

Dated: 9.28.2021

STATE OF FLORIDA )  
 ) s.s.:  
 COUNTY OF ORANGE )

The foregoing instrument was acknowledged before me by means of  physical presence or [ ] online notarization, this 28th day of September, 2021, by Barbara M. Jenkins, Ed.D. as Superintendent of The School Board of Orange County, Florida, a body corporate and political subdivision of the State of Florida, on behalf of The School Board, who is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification.



AFFIX NOTARY STAMP

[Signature]  
 NOTARY PUBLIC OF FLORIDA  
 Print Name: Susan M. Adams  
 Commission No.: \_\_\_\_\_  
 Expires: \_\_\_\_\_

Reviewed and approved by Orange County Public School's Chief Facilities Officer

[Signature]  
 John T. Morris  
 Chief Facilities Officer

Date: SEPT 20, 2021

Approved as to form and legality by legal counsel to The School Board of Orange County, Florida, exclusively for its use and reliance.

[Signature]  
 Jad M. Brewer, Esq.

Date: Sept. 17, 2021

“OWNER”

LAKE BUMBY PROPERTIES, a Florida general partnership

By: Hewitt Development, LLC, a Florida Limited Liability Company, its General Partner

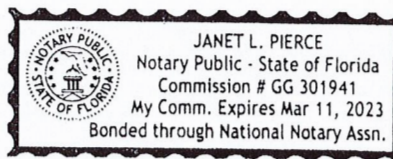
BY: [Signature]  
Name: Thomas Hewitt  
Title: Managing Member

STATE OF Florida )  
COUNTY OF Orange )

The foregoing instrument was acknowledged before me, a Notary Public, by means of  physical presence or  online notarization this 16 day of Sept., 2021, by Thomas Hewitt, as Managing Member of Hewitt Development, a LLC, on behalf of said Lake Bumby Properties who  is personally known to me or  has produced (type of identification) \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 16 day of Sept., 2021.

[Signature]  
Notary Public  
My Commission Expires: 3-11-23  
Printed Name: Janet L. Pierce





**JOINDER AND CONSENT**

Durham Place, Ltd., a Florida limited partnership, hereby joins in and consents to the obligations and responsibilities contained in that certain Multi-Family Affordable Housing Developer's Agreement For Impact Fee Exemption (Durham Apartments) entered into by and among Orange County, Florida, Lake Bumby Properties (the "Owner"), and the School Board of Orange County, Florida (the "Agreement"), for itself and on behalf of any affiliate that receives an assignment of the Agreement following notice to the County pursuant to Section 11, thereof, and upon acquisition of the Property hereby agrees to assume all rights and obligations of Owner thereunder and further agrees to comply with all conditions and procedures under the Agreement.

WITNESSES:

Durham Place, Ltd., a Florida limited partnership

Print Name: Ryan Weller  
Ryan von Weller

By: Durham Place GP, LLC, a Florida Limited Liability Company, its co-General Partner

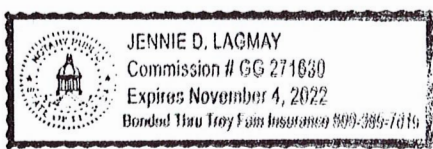
Print Name: Ethan Carpenter  
Ethan Carpenter

By: [Signature]  
Jonathan L. Wolf, Manager of Durham Place GP, LLC, co-general partner of Durham Place, Ltd.  
Date: 09-16-2021

STATE OF Florida )  
COUNTY OF Seminole )

The foregoing instrument was acknowledged before me, a Notary Public, by means of  physical presence or  online notarization this 16<sup>th</sup> day of September 2021, by Jonathan L. Wolf, as Manager of Durham Place GP, LLC, co-general partner of Durham Place, Ltd., on behalf of said Florida limited partnership, who  is personally known to me or  has produced (type of identification) \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 16<sup>th</sup> day of September, 2021.



[Signature]  
Notary Public  
My Commission Expires: 11/04/22  
Printed Name: Jennie D. Lagmay

## EXHIBIT A

### LEGAL DESCRIPTION

Being a portion of the NE1/4 of the SE1/4 of Section 15, Township 23 South, Range 29 East, and a portion of the NW1/4 of the SW1/4 of Section 14, Township 23 South, Range 29 East, more particularly described as follows:

From the West 1/4 corner of Section 14, Township 23 South, Range 29 East, run thence N 00°14'14" E along the West line of the NW1/4 of said Section 14 a distance of 402.27 feet, thence S 88°28'04" E a distance of 1154.15 feet, thence S 04°58'09" E a distance of 491.19 feet, thence N 89°34'57" W a distance of 770 feet for a Point of Beginning, run thence S 00°13'47" W a distance of 950 feet to the Northwest corner of Lot 1, Block "A" of Lake Jessamine Shores as per plat thereof recorded in Plat Book "R" on page 41, Public Records of Orange County, Florida, run thence N 89°34'57" W along the North Line of Block "B" and a Westerly extension thereof a distance of 1700.70 feet to a point on the East Right of Way line of U.S. Highway 17 and 92, thence N 00°04'55" E along said East Right of Way line a distance of 50 feet, thence S 89°34'57" E a distance of 642.88 feet, thence N 00°34'46" E a distance of 571.28 feet, thence S 89°55'05" E a distance of 250 feet, thence N 41°18'32" E a distance of 432.90 feet, thence S 89°34'57" E a distance of 520 feet to the Point of Beginning.

AND

Being a portion of the SE1/4 of the NE1/4 and a portion of the NE1/4 of the SE1/4 of Section 15, Township 23 South, Range 29 East, more particularly described as follows:

From the East 1/4 corner of Section 15, Township 23 South, Range 29 East run thence N 00°14'14" E along the east line of the NE1/4 of said Section 15 a distance of 402.27 feet, thence N 88°28'04" W a distance of 181.15 feet, thence S 89°37'22" W a distance of 1095.02 feet to a point on the East Right of Way line of U.S. Highway 17 and 92, thence S 00°04'55" W along said East Right of Way line a distance of 60 feet for a Point of Beginning; run thence N 89°37'22" E a distance of 890 feet, thence S 00°04'55" W a distance of 529.48 feet, thence N 89°55'05" W a distance of 437.97 feet, thence N 00°04'55" E a distance of 415 feet, thence N 89°52'45" W a distance of 452 feet to a point on the East Right of Way line of said U.S. Highway 17 and 92, thence N 00°04'55" E along said East Right of Way line a distance of 107.05 feet to the Point of Beginning.

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.  
*Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance*

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2100 Ponce de Leon Boulevard, Suite 710  
Coral Gables, Florida 33134  
Telephone: (305) 777-1680  
[www.goldsteinenvlaw.com](http://www.goldsteinenvlaw.com)

Michael R. Goldstein, Esq.  
Direct Dial: (305) 777-1682  
Email: [mgoldstein@goldsteinenvlaw.com](mailto:mgoldstein@goldsteinenvlaw.com)

February 9, 2022

**Via Email and Federal Express**

Ms. Sharon Smeenk  
Orange County Environmental Protection Division  
3165 McCrory Place, Suite 200  
Orlando, Florida 32803

**Re: Request to Designate Property Located at 5215 S. Orange Blossom Trail, Orange County, Florida 32839, Parcel Number: 15-23-29-0000-00-020, a Green Reuse Area Pursuant to Florida's Brownfields Redevelopment Act**

Dear Ms. Smeenk:

On behalf of Durham Place, Ltd., ("Durham"), we are pleased to submit this request to designate the above-referenced property (the "Subject Property") as a Green Reuse Area pursuant to section 376.80(2)(c), Florida Statutes, of Florida's Brownfields Redevelopment Act.

When fully developed as an affordable residential rental community, the Subject Property will consist of 102 affordable residential housing units and community amenities including energy efficient appliances, on-site laundry facilities, a splash pad, garden area, gazebo with tables and grills, tot lot, patio, community room with full kitchen, computer lab, activity rooms, conference room, consulting offices, children's room, and a classroom. The completed development will have an estimated cost of approximately \$29.8 million. The Orange County Brownfields Program Application Form and a property card depicting the location of the Subject Property are enclosed herein at Exhibit A.

Durham is applying for this designation to be able to utilize an important state economic and regulatory assistance program available to developers and local governments in situations where the risk and reality of contamination are demonstrated to overwhelm key opportunities for land revitalization, new housing, and job growth. In this instance, a perception of contamination due to the Subject Property's historical use as a citrus grove has significantly complicated redevelopment

Ms. Sharon Smeenk

February 9, 2022

Page 2

efforts and created a host of logistical, financing, design, engineering, and construction concerns for Durham. The resources available under Florida's Brownfields Redevelopment Program will significantly mitigate these concerns for Durham and come at no cost to the County.

In considering a request for designation as a Green Reuse Area under Florida's Brownfields Redevelopment Act, a local government must evaluate and apply the criteria set forth in section 376.80(2)(c), Florida Statutes. As reflected in the Statement of Eligibility incorporated herein at Exhibit B, Durham meets such statutory criteria. Accordingly, based on the foregoing, we respectfully request that staff recommend approval. Of course, as you evaluate the application and supporting materials, please feel free to contact us with any questions or if should further information be required. Thank you.

Very truly yours,

**THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.**

*Michael Goldstein*

Michael R. Goldstein

Encl.

/mrg

cc: Durham Place, Ltd.

# Exhibit A



**REDEVELOPING ORANGE COUNTY COMMUNITIES (ROCC)  
BROWNFIELDS PROGRAM APPLICATION FOR BROWNFIELDS  
DESIGNATION OR TRANSFER OF BSRA**

Please complete this form to request an area for brownfield designation or transfer of BSRA if a PRFBSR was identified by Resolution. It is important to complete all applicable sections and attach all necessary information. The County Brownfield Program Staff will schedule a Brownfields Pre-application meeting with the applicant/property owner before submitting this application to resolve any questions and go over the Orange County Brownfield designation process. If you should have any questions concerning completion of this application or wish to schedule a Pre-application Meeting, please contact Sharon Smeenk at [Sharon.Smeenk@ocfl.net](mailto:Sharon.Smeenk@ocfl.net) or call at 407-836-1425 or 407-868-0724.

**PROPERTY INFORMATION**

Property Name:

Address:

City:

State:

Zip Code:

**Please attach map showing location of property.**

Property Size (acres/square feet):

Parcel/Folio Number(s):

**PROPERTY DESCRIPTION**

Briefly describe property (for example, vacant land, unoccupied):

Current Zoning/Land Use:

Future Land Use Designation:

Community Redevelopment Area

Empowerment Zone

Other

Located within one-half mile of an existing major street?    Yes    No

Public Street Access?    Yes    No

Outside floodplain area?    Yes    No

Please describe all outstanding property taxes due on the property:

**APPLICANT INFORMATION**

Name:

Address:

City:

State:

Zip Code:

Phone:

E-mail:

Interest in Property:

**CURRENT PROPERTY OWNER(S) (if different from applicant)**

Name:

Address:

City:

State:

Zip Code:

Phone:

E-mail:

Legal Status of the Current Property Owner(s):

Individual/Sole Proprietorship

General Partnership

Limited Liability Company

Limited Partnership

Florida Corporation

Out of State Corporation

State of Incorporation:

**ENVIRONMENTAL STATUS**

Briefly describe the nature and geographical extent of contamination by hazardous substances and/or pollutants, if known:

Briefly describe any previous or current remedial action:

If remediation is needed, will you agree to enter into a Brownfield Site Rehabilitation Agreement with the Florida Department of Environment Protection or authorized designee?      Yes      No

Please Attach Phase I or Phase II Environmental Reports, if available.

## **DEVELOPMENT PLAN**

General Description of Redevelopment Plans:

Attach further illustrative or graphic information, as appropriate.

How many new permanent full-time or part-time jobs will the project create after remediation, and what are the job titles?

## **FINANCIAL RESOURCES**

Reasonable assurances must be provided by the applicant that sufficient financial resources are available to the applicant to implement and complete a rehabilitation agreement and redevelopment plan.

**Please attach a statement, as well as any other appropriate information, outlining the financial resources available to the applicant for rehabilitation and redevelopment.**

This statement can include financial resources the applicant anticipates to obtain (private loans, equity and assistance) through designation as a Brownfield Area. In short, describe your general financial plan for your project.

Have you had a Brownfields Pre-application Meeting?    Yes    No (It is required that applicants have a Pre-application Meeting. Please call Sharon Smeenk, 407-836-1425 or 407-868-0724, for more information.)

## **SERVICES TO BE PROVIDED**

In order to better assist you, please check the type of designation you are requesting and the type of assistance/incentives (check all that apply) you are seeking through this designation:

Type of Designation:    Several parcels    Single parcel    BSRA Transfer (new PRFBSR)



Please describe in greater detail the services you would like to receive as a participant in the Brownfields Program (Optional):

The Applicant would like to mitigate the environmental risk and redevelopment complications associated with the former citrus grove through: (i) immediate access to a Brownfield Site Rehabilitation Agreement with FDEP if actual contamination is discovered and (ii) eligibility for the Florida sales tax refund on building materials used to construct affordable housing in a designated brownfield area

What are your goals with respect to the property (for example, sale, redevelopment, or business expansion)?

Redevelopment for affordable multifamily residential.

Will the applicant reimburse the County for all costs associated with the Brownfield Designation (i.e. Public Noticing/Meeting Announcement i.e. Orlando Sentinel advertisement, meeting room rental charges etc. (if applicable)?  Yes  No

The contents of this application shall be considered public records of the County. The undersigned affirms that the information contained in this application is true and accurate.

Applicant: *Durham Place, Ltd.*

Signature:

Date: 02/09/2022

Print/Type Name: Jonathan L. Wolf, Manager of Durham Place GP, LLC, general partner for Durham Place, Ltd.

**For Office Use Only:**

Application Received By:

Date:

Complete  Incomplete (Specify reason[s] below):

Application Completeness Review Completed By:

Status of Application

Applicant Contacted on:

Date Information Received to Complete Application (if applicable):

Signature of Reviewer:

Date:

BCC proposed HEARING DATE(S) FOR DESIGNATION OF SITE AS A BROWNFIELD AREA:  
1<sup>st</sup> meeting 2<sup>nd</sup> Meeting

Estimated Cost Public Notice \$ 1,500.00: verify will applicant reimburse : Y  N

# Property Record - 15-23-29-0000-00-020

Orange County Property Appraiser • <http://www.ocpafl.org>

## Property Summary

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### Property Name

Durham Place Lihtc (Proposed)

### Names

Lake Bumby Properties

### Municipality

ORG - Un-Incorporated

### Property Use

1003 - Comm Vac Mult-Fam

### Mailing Address

558 W New England Ave Ste 200  
Winter Park, FL 32789-4240

### Physical Address

5215 S Orange Blossom Trl  
Orlando, FL 32839



QR Code For Mobile Phone



## Value and Taxes

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### Historical Value and Tax Benefits

| Tax Year Values |  | Land        | Building(s) | Feature(s) | Market Value | Assessed Value                                   |
|-----------------|--|-------------|-------------|------------|--------------|--------------------------------------------------|
| 2021            |  | \$1,000,725 | +           | \$0        | +            | \$0 = \$1,000,725 (224%) <b>\$940,131</b> (204%) |
| 2020            |  | \$309,210   | +           | \$0        | +            | \$0 = \$309,210 (2.0%) <b>\$309,210</b> (2.7%)   |
| 2019            |  | \$303,157   | +           | \$0        | +            | \$0 = \$303,157 (5.0%) <b>\$301,192</b> (10%)    |
| 2018            |  | \$288,745   | +           | \$0        | +            | \$0 = \$288,745 <b>\$273,811</b>                 |

## Tax Year Benefits

|      |                                                                                   |                                                                                   |
|------|-----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| 2021 |  |  |
| 2020 |  |                                                                                   |
| 2019 |  |  |
| 2018 |  |  |

## Tax Savings

**\$642**  
\$0  
**\$21**  
**\$159**

## 2021 Taxable Value and Estimate of Proposed Taxes

| Taxing Authority                              | Assd Value  | Exemption | Tax Value   | Millage Rate    | Taxes              | %    |
|-----------------------------------------------|-------------|-----------|-------------|-----------------|--------------------|------|
| Public Schools: By State Law (Rle)            | \$1,000,725 | \$0       | \$1,000,725 | 3.4890 (-3.33%) | <b>\$3,491.53</b>  | 21 % |
| Public Schools: By Local Board                | \$1,000,725 | \$0       | \$1,000,725 | 3.2480 (0.00%)  | <b>\$3,250.35</b>  | 19 % |
| Orange County (General)                       | \$940,131   | \$0       | \$940,131   | 4.4347 (0.00%)  | <b>\$4,169.20</b>  | 25 % |
| Unincorporated County Fire                    | \$940,131   | \$0       | \$940,131   | 2.2437 (0.00%)  | <b>\$2,109.37</b>  | 13 % |
| Unincorporated Taxing District                | \$940,131   | \$0       | \$940,131   | 1.8043 (0.00%)  | <b>\$1,696.28</b>  | 10 % |
| Library - Operating Budget                    | \$940,131   | \$0       | \$940,131   | 0.3748 (0.00%)  | <b>\$352.36</b>    | 2 %  |
| St Johns Water Management District            | \$940,131   | \$0       | \$940,131   | 0.2287 (0.00%)  | <b>\$215.01</b>    | 1 %  |
| Orange Blossom Trail Corridor                 | \$940,131   | \$0       | \$940,131   | 0.5932 (0.00%)  | <b>\$557.69</b>    | 3 %  |
| Orange Blossom Trail Neighborhood Improvement | \$940,131   | \$0       | \$940,131   | 0.2554 (0.00%)  | <b>\$240.11</b>    | 1 %  |
| Lake Jessamine Mstu                           | \$940,131   | \$0       | \$940,131   | 0.6545 (0.00%)  | <b>\$615.32</b>    | 4 %  |
|                                               |             |           |             | <b>17.3263</b>  | <b>\$16,697.22</b> |      |

## 2021 Non-Ad Valorem Assessments

| Levying Authority         | Assessment Description                          | Units | Rate     | Assessment      |
|---------------------------|-------------------------------------------------|-------|----------|-----------------|
| COUNTY SPECIAL ASSESSMENT | ORANGE BLSM TRL - STREET LIGHTS - (407)836-5770 | 1.00  | \$214.00 | <b>\$214.00</b> |
|                           |                                                 |       |          | <b>\$214.00</b> |

## Property Features

### Property Description

ERROR IN DESC - FROM W1/4 COR OF SEC 14-23-29 TH N0-14-14E 402.27 FT TH S88-28-4E 1154.15 FT TH S4-58-9E 491.19 FT TH N89-34-57W 770 FT TO POB TH S0-13-47W 950 FT TH N89-34-57W 1700.07 FT TH N0-4-55E 50 FT TH S89-34-57E 642.88 FT TH N0-34-46E 571.28 FT TH S89-55-5E 250 FT TH N41-18-32E 432.9 FT TH S89-34-57E 520 FT TO POB

### Total Land Area

906,483 sqft (+/-) | 20.81 acres (+/-) Deeded

### Land

| Land Use Code              | Zoning | Land Units   | Unit Price  | Land Value | Class  | Unit Price | Class Value |
|----------------------------|--------|--------------|-------------|------------|--------|------------|-------------|
| 1003 - Comm Vac Mult-Fam   | R-3    | 40 UNIT(S)   | \$10,000.00 | \$400,000  | \$0.00 | \$400,000  |             |
| 9530 - Pvt Pond            | R-3    | 4.61 ACRE(S) | \$100.00    | \$461      | \$0.00 | \$461      |             |
| 9600 - Pvt Wetland/Lowland | R-3    | 2.64 ACRE(S) | \$100.00    | \$264      | \$0.00 | \$264      |             |
| 1003 - Comm Vac Mult-Fam   | R-3    | 60 UNIT(S)   | \$10,000.00 | \$600,000  | \$0.00 | \$600,000  |             |

## Buildings

## Extra Features

| Description                                             | Date Built | Units | Unit Price | XFOB Value |
|---------------------------------------------------------|------------|-------|------------|------------|
| There are no extra features associated with this parcel |            |       |            |            |

## Sales

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### Sales History

| Sale Date  | Sale Amount | Instrument # | Book/Page    | Deed Code         | Seller(s) | Buyer(s) | Vac/Imp |
|------------|-------------|--------------|--------------|-------------------|-----------|----------|---------|
| 10/01/1987 | \$458,900   | 19872868661  | 03927 / 2265 | Warranty Multiple |           |          | Vacant  |
| 09/01/1980 | \$23,984    | 19801562345  | 03138 / 1952 | Special Warranty  |           |          | Vacant  |
| 06/01/1975 | \$270,000   | 19750954620  | 02669 / 0830 | Quitclaim Deed    |           |          | Vacant  |



# Exhibit B

# Green Reuse Area Designation Eligibility Statement

## Durham Place Green Reuse Area 5215 S. Orange Blossom Trail, Orange County, Florida 32839 Parcel Number: 15-23-29-0000-00-020

Durham Place, Ltd. (“Durham Place”) proposes the rehabilitation and redevelopment of real property located at 5215 S. Orange Blossom Trail, Orange County, Florida 32839, Parcel Number: 15-23-29-0000-00-020 (the “Subject Property”), as an affordable residential rental community consisting of 102 total units in two buildings to be called Durham Place. Amenities at the community will include energy efficient appliances, on-site laundry facilities, a splash pad, garden area, gazebo with tables and grills, tot lot, patio, community room with full kitchen, computer lab, activity rooms, conference room, consulting offices, children’s room, and a classroom (the “Project”). As demonstrated herein, the Project meets all five of the applicable designation criteria set forth at Section 376.80(2)(c), Florida Statutes.<sup>1</sup> In addition, the Subject Property meets the definition of a “brownfield site” pursuant to Section 376.79(4), Florida Statutes.

### I. Subject Property Satisfies the Statutory Criteria for Designation

**1. Agreement to Redevelop the Brownfield Site.** As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that “[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.”

*Durham Place satisfies this criterion in that it owns the Subject Property and has agreed to redevelop and rehabilitate it.<sup>2</sup> Accordingly, Durham Place meets this first criterion.*

**2. Economic Productivity.** As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

*Durham Place satisfies this criterion in that the Project will result in significant economic productivity of the area. The budget for rehabilitation and redevelopment is approximately \$29.8 million, which will be spent in material part on local labor, contractors, consultants, construction materials, furnishings, infrastructure improvements, and impact fees. This work will support numerous temporary construction jobs during redevelopment and the construction workers will spend a percentage of their salaries with local merchants who, in turn, will reinvest locally in their respective businesses, as well as the businesses of other local merchants.*

*Additionally, the recognized literature regarding the local benefits produced by the development of affordable housing developments shows that this type of development substantially contributes to the economic productivity of an area in the form of increased property taxes, stimulation of the local economy by residents, and transformation of vacant land into economically productive communities. For example, in The National Association of Home Builders’ (“NAHB”) landmark study, The Local*

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<sup>1</sup> A copy of § 376.80, Florida Statutes, can be found at [Attachment A](#) to this Eligibility Statement.

<sup>2</sup> See [Attachment B](#) for the Subject Property deed.

*Economic Impact of Typical Housing Tax Credit Developments,*<sup>3</sup> NAHB published models that estimate the local economic benefits of family tax credit developments and elderly tax credit developments. These models capture the effect of the construction activity itself, the positive economic ripple effect that occurs when income earned from construction activity is spent and recycled in the local economy, and the ongoing beneficial impacts that result from the new apartments becoming occupied by residents. On a quantitative basis, the results are even more impressive. According to the NAHB report, the estimated one-year impacts of building 100 affordable residential rental apartments include the following:

- \$7.9 million in local income
- 122 local jobs

*According to the report, these one-year impacts include both the direct and indirect impact of the construction activity itself, and the impact of local residents who earn money from the construction activity spending part of it within the local area's economy. Moreover, on a recurring basis, the economic impacts of building 100 affordable residential rental apartments include the following:*

- \$2.4 million in local income
- 30 local jobs

*Extrapolating the NAHB model data to the redevelopment planned for the Subject Property, the year of construction and annual recurring impacts based on 102 units would be as follows:*

**Economic Productivity for Durham Place Development – Year of Construction**

\$8.1 million in local income  
124 local jobs

**Economic Productivity for Durham Place Development – Annually Recurring**

\$2.4 million in local income  
30 local jobs

*Because all of the units at the Subject Property will be rented to Income Eligible Households under the Low Income Housing Tax Credit program, rehabilitation and redevelopment of the Subject Property will “provide affordable housing as defined in s. 420.0004.”<sup>4</sup> Accordingly, the employment creation threshold of at least 5 new permanent jobs is not applicable to the Project. Notwithstanding the foregoing, the Project will directly create 4 new permanent jobs on-property. For the reasons discussed herein, Durham Place meets this second criterion.*

**3. Consistency with Local Comprehensive Plan and Permittable Use under Local Land Development Regulations.** As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that “[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations.”

*Durham Place satisfies this criterion in that the Subject Property is located in an R-3 Multiple Family Dwelling zoning district and is designated as Medium Density Residential on the County’s Future Land Use Map. Both the R-3 zoning district and the Medium Density Residential future land use designation allow residential development of the type planned by Durham Place at a*

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<sup>3</sup> A complete copy of the NAHB report may be accessed here: [https://www.novoco.com/sites/default/files/atoms/files/nahb\\_jobs-report\\_2010.pdf](https://www.novoco.com/sites/default/files/atoms/files/nahb_jobs-report_2010.pdf)

<sup>4</sup> Please see Durham Place’s Invitation to Enter Credit Underwriting from the Florida Housing Finance Corporation at Attachment C evidencing that the Project will provide affordable housing.

*density of up to 20 dwelling units per acre.<sup>5</sup> The Subject Property’s approximately 20-acre area places the 102 units planned for the Project within this range and, accordingly, the Project as described above is specifically permitted by County Code. This consistency and permitability is further demonstrated through the FHFC Local Government Verification that Development is Consistent with Zoning and Land Use Regulations Form signed by Orange County’s Chief Planner.<sup>6</sup> Accordingly, the redevelopment is consistent with the local comprehensive plan and local land development regulations.*

**4. Public Notice and Comment.** Florida Statutes § 376.80(2)(c)(4) stipulates that “[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area.” Additional notice requirements pertaining to applicants other than a governmental entity can be found at Florida Statutes § 376.80(1)(c)(4)(b) and consist of publication in a newspaper of general circulation in the area, publication in ethnic newspapers or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing.

*Durham Place satisfies all applicable notice and opportunity to comment requirements established by Florida Statutes § 376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) as follows:*

- (i) notice will be posted at the Subject Property;*
- (ii) notice will be published in the Orlando Sentinel newspaper;*
- (iii) notice will be published in the Orange County community bulletin section of Craigslist; and*
- (iv) a public hearing will be held, date to be announced, to afford those receiving notice the opportunity for comments and suggestions about rehabilitation*

*Proof of publication or posting, as appropriate, will be provided to the County.*

**5. Reasonable Financial Assurance.** As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that “[t]he person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.”

*The total capital budget of approximately \$29.8 million for the Project has been fully funded using a combination of debt and equity. Specifically, the Project will be funded by \$21.7 million in LIHTC equity; a \$1 million permanent mortgage; a \$4.8 million State Apartments Incentive Loan (“SAIL”) program mortgage; a \$359,500 SAIL Extremely Low Income (“ELI”) program mortgage; and a \$1,029,630 deferred developer fee.<sup>7</sup>*

*In addition, Durham Place’s principal, Wendover Housing Partners, LLC (“Wendover”), through its various development affiliates, has an extensive track record of success in financing, building, and managing major affordable residential communities. Wendover has a well-deserved reputation as one of the premier real estate companies in the Southeast, with an expansive portfolio of affordable and mixed-income developments in economically and socially diverse neighborhoods. This proven history of leveraging assets with other capital sources, an impressive track record of success, and a staff of highly experienced and sophisticated*

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<sup>5</sup> See Table 1.1.2.A, Orange County Comprehensive Plan—Goals, Objectives and Policies, adopted February 2021.

<sup>6</sup> See [Attachment D](#).

<sup>7</sup> See Sources and Uses, [Attachment E](#). See also documentation of the permanent mortgage and LIHTC equity at [Attachment F](#) and [Attachment G](#), respectively. Documentation of the SAIL and ELI mortgages is available in the FHFC Invitation to Enter Credit Underwriting at [Attachment C](#).

*development officials constitute reasonable assurance that Durham Place has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan. Accordingly, it satisfies this fifth and last criterion.*

## **II. Subject Property Meets the Definition of Brownfield Site**

Section 376.79(4), Florida Statutes, defines “brownfield site” to mean “. . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.” The facts here evidence that the Subject Property falls within the definition of the term “brownfield site” in that there is a significant perception of contamination that exists on the Subject Property arising out its former use as a citrus grove from at least 1954 until the early to mid-1990s.<sup>8</sup> Specifically, a Phase I Environmental Site Assessment (“ESA”) at the Subject Property identified the historical citrus grove use as a Business Environmental Risk and recommended soil sampling to identify the presence of chemical pesticides, herbicides, and fertilizers (“agrochemicals”).<sup>9</sup> Citrus groves are known to have historically used agrochemicals containing arsenic, which tend to persist in the environment and do not attenuate over time unless properly treated or removed. Over decades of agricultural use, agrochemicals may accumulate in soil or leach into groundwater causing localized environmental impacts that must be addressed during redevelopment. This has complicated redevelopment efforts for Durham Place by potentially imposing design and construction changes on the Subject Property that would not be required but for the perception of contamination. The historical uses of the Subject Property also increase Durham Place’s exposure to environmental and regulatory liability and makes it materially more expensive and time consuming to move forward with the Project.

If contamination related to the historical agricultural use of the Subject Property is discovered during redevelopment, the investigation and remediation of contamination itself adds yet another major level of complexity as it would require close and constant oversight by the Florida Department of Environmental Protection. The regulatory process associated with remediation can be lengthy, complicated, uncertain, and without guaranteed end points. Accordingly, Durham Place has no assurance that as it moves forward with the Project the total cost of cleanup, if required, will not in fact ultimately exceed what is currently projected. Such uncertainty constitutes an *acute* form of redevelopment complexity that goes to the heart of the Florida Brownfield Program and underscores why incentives are so important for sites and projects exactly like this one.

In sum, perceived contamination on the Subject Property creates a material level of regulatory, construction, health, and legal liability risk, complicates redevelopment efforts, and requires significant time and money for environmental, engineering, and legal consultants to property investigate and address. Accordingly, this designation, if granted, will allow Durham Place to access limited but important state-based economic incentives to help underwrite the unanticipated and unbudgeted costs associated with managing the environmental risk as well as, generally, to put the Project to a more certain financial ground. In this sense, the designation will not only play a critical role in the successful redevelopment of the Subject Property, but also in the larger efforts to bring high-quality affordable housing to Orange County.

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<sup>8</sup> See historical aerial photographs dating between 1954 and 1995 taken from the Phase I ESA at Attachment H. The citrus grove is identified by the rows of trees visible on the eastern portions of the Subject Property.

<sup>9</sup> See letter from Durham Place’s environmental consultant at Attachment I discussing the Business Environmental Risk posed by the historical citrus cultivation. A Business Environmental Risk is defined as, “a risk which can have a material environmental or environmentally-driven impact on the business associated with the current or planned use of a parcel of commercial real estate, not necessarily limited to those environmental issues required to be investigated in this practice.” See ASTM Standard E1527-13, § 3.2.11, “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process,” ASTM International, West Conshohocken, PA, 2013.

Based on all the foregoing, the Subject Property clearly falls within the definition of “brownfield site” as set forth in § 376.79(4), Florida Statutes.

### **III. Conclusion**

Durham Place has demonstrated that the Subject Property meets the definition of a “brownfield site” and that it satisfies the five statutory criteria for designation. Accordingly, designation of the Subject Property as the Durham Place Green Reuse Area pursuant to § 376.80(2)(c), Florida Statutes, of Florida’s Brownfields Redevelopment Act is appropriate.

# Attachment A

Select Year:

## The 2020 Florida Statutes

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[Title XXVIII](#)  
NATURAL RESOURCES; CONSERVATION,  
RECLAMATION, AND USE

[Chapter 376](#)  
POLLUTANT DISCHARGE PREVENTION  
AND REMOVAL

[View Entire  
Chapter](#)

### **376.80 Brownfield program administration process.—**

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of its decision to designate a brownfield area for rehabilitation for the purposes of ss. [376.77-376.86](#). The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [166.041](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [166.041\(3\)\(c\)2](#). For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [125.66](#), except that the procedures for the public hearings on the proposed resolution shall be in the form established in s. [125.66\(4\)\(b\)](#).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.



b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) *Local government-proposed brownfield area designation within specified redevelopment areas.*—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) *Brownfield area designation proposed by persons other than a governmental entity.*—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. [420.0004](#) or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) *Negotiation of brownfield site rehabilitation agreement.*—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination

changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. 376.81, including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. 376.77-376.86, and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into

account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

- (a) Meets all certification and license requirements imposed by law; and
- (b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. 376.82 are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. 403.182 to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

- (a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and
- (b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and

environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.
2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.
3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.
4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.
2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.
3. Any new or increased access to open, green, park, or other recreational spaces that provide recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.
4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term “brownfield area” within the name of the brownfield area designated by the local government.

**History.**—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239; s. 2, ch. 2014-114.

# Attachment B

# Attachment C



Via E-Mail

July 21, 2020

Jonathan L. Wolf  
Durham Place, Ltd.  
1105 Kensington Park Drive, Suite 200  
Altamonte Springs, FL 32714

Re: Durham Place (2020-480CSN)  
Invitation to Enter Credit Underwriting  
RFA 2020-103 – Housing Credit and SAIL Financing for Homeless Housing  
Developments Located in Medium and Large Counties

Dear Mr. Wolf:

On June 11, 2020, Florida Housing's Board of Directors approved your application for a State Apartment Incentive Loan (SAIL), an Extremely Low Income (ELI) loan, a National Housing Trust Fund (NHTF) loan, and Housing Credits (HC). As such, Florida Housing is extending an invitation to enter credit underwriting for the programs mentioned above.

This letter represents a preliminary commitment for a SAIL loan in an amount up to \$4,771,550, an ELI loan in an amount up to \$359,500, and an NHTF loan in the amount of \$872,000.

This funding would be contingent upon:

1. Borrower and Development meeting all requirements of RFA 2020-103, and all other applicable federal, state and FHFC requirements;
2. A positive credit underwriting recommendation;
3. Availability of funds appropriated and funded by the legislature; and
4. Final approval of the Credit Underwriting Report by the Florida Housing Board of Directors.

Section 42 of the Internal Revenue Code, as amended, requires Florida Housing to make a determination of the amount of housing credits needed for the financial feasibility and viability of the Development throughout the credit period. The Credit Underwriter will perform this analysis of credit need. In addition, the Credit Underwriter will: evaluate the past performance of the Development Team, verify and validate information within the Application, perform other credit underwriting duties, and provide its findings and recommendation with a Preliminary Recommendation Letter (PRL). Based on this letter, Florida Housing may then issue a preliminary allocation of housing credits.

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Ron DeSantis, Governor

Board of Directors: Ron Lieberman, Chairman • Ray Dubuque, Vice Chairman  
Ryan Benson • Sandra Einhorn • LaTasha Green-Cobb  
Bill Gulliford • Ken Lawson

Harold "Trey" Price, Executive Director

Jonathan L. Wolf  
Durham Place  
July 21, 2020  
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The NHTF loan funding will subsidize additional deep targeted units for Persons with Special Needs (NHTF Units) at 22% AMI as further described in Section One, Section Four, A.10.a.(4) and Exhibit I of the RFA. The NHTF Units will be in addition to the requirement to set aside ELI Set-Aside units and the required number of Link Units for Persons with Special Needs. As such, the Development will be required to set aside four (4) units as NHTF Units, in addition to the ELI Set-Aside units.

Along with other Federal Requirements, the NHTF Program is covered under Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135]. Additionally, the requirements of Section 3 apply to recipients of funding exceeding \$200,000 for activities involving housing construction, demolition, rehabilitation, or other public construction, i.e. roads, sewers, community centers, etc. Contractors or subcontractors that receive contracts in excess of \$100,000 for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients. **Along with your preliminary commitment, a Developer Section 3 Plan must be received.**

Pursuant to RFA 2020-103, the firm loan commitment must be issued within twelve (12) months of the Applicant's acceptance to enter credit underwriting. The firm loan commitment for the NHTF loan will be issued at the time of the firm loan commitments for the SAIL and ELI loans. Unless an extension is approved by the Corporation in writing, failure to achieve Credit Underwriting Report approval and issuance of a firm loan commitment by the specified deadline shall result in withdrawal of the preliminary commitment. Applicants may request one (1) extension of up to six (6) months to secure a firm loan commitment. The Corporation shall charge a non-refundable extension fee of one (1) percent of each loan amount if the request to extend the credit underwriting and firm loan commitment process beyond the initial twelve (12) month deadline is approved. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

The Corporation loans and other mortgage loans related to the Development must close within 120 Calendar Days of the date of the firm loan commitment(s). Unless an extension is approved by the Board, failure to close the loan(s) by the specified deadline outlined above shall result in the firm loan commitment(s) being deemed void and the funds shall be de-obligated. Applicants may request one (1) extension of the loan closing deadline outlined above for a term of up to 90 Calendar Days. The Corporation shall charge an extension fee of one (1) percent of each Corporation loan amount if the Board approves the request to extend the loan closing deadline beyond the 120 Calendar Day period. In the event the Corporation loan(s) does not close by the end of the extension period, the firm loan commitment(s) shall be deemed void and the funds shall be de-obligated.

By **July 28, 2020**, you must submit a check for \$25,529, for the SAIL, ELI, HC and NHTF credit underwriting fees and the PRL fee, payable to Seltzer Management Group, Inc., the Credit Underwriter assigned to your development, at the address listed below.

Ben Johnson, Seltzer Management Group, Inc.  
17633 Ashley Drive  
Panama City, FL 32413  
(850) 233-3616

The underwriter will contact you for an additional fee for a market study, appraisal and, if applicable, a Subsidy Layering Review and a Capital Needs Assessment Report which are to be conducted at the Developer's expense by disinterested parties as required by RFA 2020-103. Pursuant to Section 42 of the IRC an acceptable comprehensive market study of the housing needs of low-income individuals in the area to be served by the Development is a requirement to obtain a housing credit allocation. A Carryover



Jonathan L. Wolf  
Durham Place  
July 21, 2020  
Page 3 of 4

Allocation Agreement will not be issued to the Development until Florida Housing is in receipt of an acceptable market study.

Please acknowledge the credit underwriting assignment by uploading the enclosed Acknowledgment to the Procorem work center by **July 28, 2020**.

Florida Housing's agreement to provide funds to this development is conditioned upon its determination to proceed with, modify or cancel the development based on the results of a subsequent environmental review. The environmental review is expected to take approximately 90 days to complete.

Echo Kidd Gates, Genesis Halff, Inc., at the address below, has been assigned to prepare the HUD environmental review analysis for your Proposed Development.

Echo Kidd Gates, Genesis Halff, Inc.  
2507 Callaway Road, Suite 100  
Tallahassee, FL 32303  
(850) 224-4400, ext. 112

**Pursuant to Exhibit D of RFA 2020-103, you must provide the items listed on Exhibit A attached to this invitation to Florida Housing within the timeframes specified.**

Florida Housing looks forward to working with you and the development team to facilitate affordable housing in Florida. If you have any questions, please do not hesitate to contact me.

Sincerely,



Tim Kennedy,  
Assistant Director of Multifamily Programs

Enclosure

Cc: Heather Strickland, Multifamily Programs Coordinator  
Lisa Walker, Multifamily Programs Manager  
Charles Jones, Multifamily Programs Manager  
Melissa Levy, Assistant Director of Multifamily Programs  
Lisa Nickerson, Multifamily Programs Administrator  
Jade Grubbs, Multifamily Programs Administrator  
Sofia Edwards, Multifamily Programs Manager  
Nicole Gibson, Assistant Director of Homeownership Programs  
David Woodward, Federal Loan Programs Manager  
Janet Peterson, Asset Management Systems Manager  
Tammy Bearden, Loan Closing Manager  
Kenny Derrickson, Assistant Comptroller  
Ben Johnson, Seltzer Management Group, Inc.  
Echo Kidd Gates, Genesis Halff, Inc.



# Attachment D

**FLORIDA HOUSING FINANCE CORPORATION  
LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS  
CONSISTENT WITH ZONING AND LAND USE REGULATIONS**

Name of Development: Duham Place

Lake Jessamine Drive: Approximately 725 feet Northwest of the intersection of Lake Jessamine

Development Location: Drive and Hall Lane, Unincorporated Orange County  
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county) The location of all Scattered Sites, if applicable, must also be included.

Number of Units in the Development: 116  
This number must be equal to or greater than the number of units stated by the Applicant in Exhibit A of the RFA.

The undersigned service provider confirms that, as of the date that this form was signed, the above referenced Development's proposed number of units, density, and intended use are consistent with current land use regulations and zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming use. To the best of my knowledge, there are no hearings or approvals required to obtain the appropriate zoning classification. Assuming compliance with the applicable land use regulations, there are no known conditions that would preclude construction or rehabilitation of the referenced Development on the proposed site.

**CERTIFICATION**

I certify that the City/County of Orange has vested in me the authority to verify  
(Name of City/County)  
consistency with local land use regulations and zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming use" and I further certify that the foregoing information is true and correct. In addition, if the proposed Development site is in the Florida Keys Area as defined in Rule Chapter 67-48, F.A.C., I further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO) allocations from the Local Government.

Signature 

Jason Sorensen  
Print or Type Name

11-1-19  
Date Signed

Chief Planner  
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If there are alterations made to this form that change the meaning of the form, the form will not be accepted.

# Attachment E

Forecasted Sources & Uses of Funds  
Durham Place Homeless - Orange County, FL

| SOURCES OF FUNDS                          |      |       | TOTAL<br>BUDGET      | Permanent<br>Period  | Construction<br>Period |
|-------------------------------------------|------|-------|----------------------|----------------------|------------------------|
| PERMANENT MORTGAGE                        | Rate | 4.25% | \$ 1,000,000         | \$ 1,000,000         |                        |
| NHTF                                      | Rate | 0.00% | \$ 872,000           | \$ 872,000           | \$ 872,000             |
| SAIL                                      | Rate | 1.00% | \$ 4,771,550         | \$ 4,771,550         | \$ 4,771,550           |
| ELI Loan                                  | Rate | 0.00% | \$ 359,500           | \$ 359,500           | \$ 359,500             |
| CONSTRUCTION LOAN                         | Rate | 3.50% |                      |                      | \$ 15,700,000          |
| DEFERRED DEVELOPER FEE                    |      |       | \$ 1,029,630         | \$ 1,029,630         | \$ 1,311,106           |
| Developer Fee Reserves                    |      |       | \$ -                 | \$ -                 | \$ 1,132,734           |
| Equity Pay-In during Construction Period  |      |       | \$ -                 |                      | \$ 5,614,650           |
| TOTAL EQUITY                              |      |       | \$ 21,728,860        | \$ 21,728,860        | \$ -                   |
| <b>TOTAL SOURCES OF FUNDS</b>             |      |       | <b>\$ 29,761,540</b> | <b>\$ 29,761,540</b> | <b>\$ 29,761,540</b>   |
| <b>USES OF FUNDS</b>                      |      |       |                      |                      |                        |
| <b>Hard Construction Costs</b>            |      |       |                      |                      |                        |
| New Rental Units                          |      |       | \$ 13,667,319        | \$ 13,667,319        | \$ 13,667,319          |
| Site Work                                 |      |       | \$ 1,600,000         | \$ 1,600,000         | \$ 1,600,000           |
| <b>TOTAL HARD COSTS</b>                   |      |       | <b>\$ 15,267,319</b> | <b>\$ 15,267,319</b> | <b>\$ 15,267,319</b>   |
| <b>General Contractor Fees</b>            |      |       |                      |                      |                        |
| General Conditions                        |      |       | \$ 916,039           | \$ 916,039           | \$ 916,039             |
| Overhead                                  |      |       | \$ 305,346           | \$ 305,346           | \$ 305,346             |
| Builders Profit                           |      |       | \$ 916,039           | \$ 916,039           | \$ 916,039             |
| Payment & Performance Bond                |      |       | \$ 100,275           | \$ 100,275           | \$ 100,275             |
| <b>TOTAL GC FEES</b>                      |      |       | <b>\$ 2,237,700</b>  | <b>\$ 2,237,700</b>  | <b>\$ 2,237,700</b>    |
| <b>TOTAL CONSTRUCTION CONTRACT</b>        |      |       | <b>\$ 17,505,019</b> | <b>\$ 17,505,019</b> | <b>\$ 17,505,019</b>   |
| <b>General Development Costs</b>          |      |       |                      |                      |                        |
| Accounting Fees                           |      |       | \$ 25,000            | \$ 25,000            | \$ 25,000              |
| Appraisal                                 |      |       | \$ 10,300            | \$ 10,300            | \$ 10,300              |
| Architect's Fee - Landscape               |      |       | \$ 30,000            | \$ 30,000            | \$ 30,000              |
| Architect's Fee - Site/Building Design    |      |       | \$ 225,000           | \$ 225,000           | \$ 225,000             |
| Building Permits                          |      |       | \$ 125,000           | \$ 125,000           | \$ 125,000             |
| Builders' Risk Insurance                  |      |       | \$ 75,000            | \$ 75,000            | \$ 75,000              |
| Engineering Fees/ Traffic Impact Analysis |      |       | \$ 200,000           | \$ 200,000           | \$ 200,000             |
| Environmental Report                      |      |       | \$ 7,500             | \$ 7,500             | \$ 7,500               |
| FHFC Administrative Fee                   |      |       | \$ 130,625           | \$ 130,625           | \$ 130,625             |
| FHFC Application Fee                      |      |       | \$ 3,000             | \$ 3,000             | \$ 3,000               |
| FHFC Credit Underwriting Fee              |      |       | \$ 25,000            | \$ 25,000            | \$ 25,000              |
| FHFC Compliance Fee (HC)                  |      |       | \$ 208,251           | \$ 208,251           | \$ 208,251             |
| Impact Fees                               |      |       | \$ 357,915           | \$ 357,915           | \$ 357,915             |
| Lender Inspection Fees / Const Admin      |      |       | \$ 30,000            | \$ 30,000            | \$ 30,000              |
| Green Building Certification              |      |       | \$ 25,000            | \$ 25,000            | \$ 25,000              |
| Legal Fees - Organizational costs         |      |       | \$ 500,000           | \$ 500,000           | \$ 500,000             |
| Market Study                              |      |       | \$ 10,000            | \$ 10,000            | \$ 10,000              |
| Marketing and Advertising                 |      |       | \$ 120,000           | \$ 120,000           | \$ 120,000             |
| Property Taxes                            |      |       | \$ 20,000            | \$ 20,000            | \$ 20,000              |
| Soil Test                                 |      |       | \$ 10,000            | \$ 10,000            | \$ 10,000              |
| Survey                                    |      |       | \$ 30,000            | \$ 30,000            | \$ 30,000              |
| Closing Costs, Title & Recording Fees     |      |       | \$ 100,000           | \$ 100,000           | \$ 100,000             |
| Utility Connection                        |      |       | \$ 403,312           | \$ 403,312           | \$ 403,312             |
| Soft Cost Contingency                     |      |       | \$ 96,627            | \$ 96,627            | \$ 96,627              |
| Insurance                                 |      |       | \$ 50,000            | \$ 50,000            | \$ 50,000              |
| Personal Property                         |      |       | \$ 500,000           | \$ 500,000           | \$ 500,000             |
| <b>TOTAL GENERAL DEVELOPMENT COSTS</b>    |      |       | <b>\$ 3,317,531</b>  | <b>\$ 3,317,531</b>  | <b>\$ 3,317,531</b>    |
| <b>Financial Costs</b>                    |      |       |                      |                      |                        |
| Construction Loan Origination Fee         |      |       | \$ 117,750           | \$ 117,750           | \$ 117,750             |
| Construction Loan Closing Costs           |      |       | \$ 50,000            | \$ 50,000            | \$ 50,000              |
| Construction Loan Interest                |      |       | \$ 620,314           | \$ 620,314           | \$ 620,314             |
| Permanent Loan Application Fee            |      |       | \$ 7,500             | \$ 7,500             | \$ 7,500               |
| Permanent Loan Origination Fee            |      |       | \$ 10,000            | \$ 10,000            | \$ 10,000              |
| Permanent Loan Closing Costs              |      |       | \$ 50,000            | \$ 50,000            | \$ 50,000              |
| SAIL Commitment Fee                       |      |       | \$ 51,311            | \$ 51,311            | \$ 51,311              |
| Other: SAIL and NHTF Closing Costs        |      |       | \$ 50,000            | \$ 50,000            | \$ 50,000              |
| <b>TOTAL FINANCIAL COSTS</b>              |      |       | <b>\$ 956,874</b>    | <b>\$ 956,874</b>    | <b>\$ 956,874</b>      |
| <b>Contingency Reserves (Hard Cost)</b>   |      |       | <b>\$ 875,251</b>    | <b>\$ 875,251</b>    | <b>\$ 875,251</b>      |
| <b>Developer's Fee</b>                    |      |       | <b>\$ 4,757,482</b>  | <b>\$ 4,757,482</b>  | <b>\$ 4,757,482</b>    |
| Operating Deficit Reserves                |      |       | \$ 349,384           | \$ 349,384           | \$ 349,384             |
| NHTF Reserves                             |      |       | \$ -                 | \$ -                 | \$ -                   |
| <b>Total Land Cost</b>                    |      |       | <b>\$ 2,000,000</b>  | <b>\$ 2,000,000</b>  | <b>\$ 2,000,000</b>    |
| <b>TOTAL USES OF FUNDS</b>                |      |       | <b>\$ 29,761,540</b> | <b>\$ 29,761,540</b> | <b>\$ 29,761,540</b>   |

# Attachment F



December 4, 2020

Jonathan L. Wolf  
Durham Place, Ltd.  
c/o Wendover Housing  
1105 Kensington Park Dr., Suite 200  
Altamonte Springs, FL 32714

Subject: **Letter of interest to provide first mortgage construction to permanent financing for 102 family units of affordable housing in Orange County, FL.**

Dear Jonathan:

Neighborhood Lending Partners of Florida, Inc. ("Lender") is pleased to offer a Letter of Interest to provide first mortgage construction to permanent financing for Durham Place that will consist of 102-unit family affordable housing development serving the homeless population to be located on the intersection of Lake Jessamine Drive and Hall Lane, Orlando, Orange County, Florida.

This is a term sheet but not a binding commitment letter. The statements and conditions stated herein, however, are reflective of the current rates and terms issued by Neighborhood Lending Partners of Florida, Inc. or its affiliates based on the parameters of the proposed project.

**BORROWER:** Durham Place, Ltd.

**PROJECT:** Durham Place

**LOAN AMOUNT:** A maximum construction to permanent loan of \$1,000,000 or an amount not to exceed 80% of the as-completed and stabilized rent-restricted appraised value.

**GUARANTEE:** Environmental Indemnity Guarantee will be required for the life of the loan. A Key Principals Rider will be required. The Guarantor(s)' financial condition must be acceptable to Lender in all respects.



**COLLATERAL:** The Loan will be secured by:

- 1) A first mortgage on the Property.
- 2) A first lien assignment of all leases, rents, and other income or profits of the Property.
- 3) A UCC filing on all the Borrower's tangible and intangible personal property located upon or in any way related to the Property, including all furniture, fixtures, appliances, and equipment owned by Borrower.
- 4) Such other collateral assignments as shall be deemed reasonable or necessary by Lender's counsel.

**KEY PRINCIPALS:** To be determined at the time of underwriting.

**CONSTRUCTION INTEREST RATE:** The construction loan interest rate on the NLP portion of the construction loan will match the floating rate of the lead construction lender.

**PERMANENT INTEREST RATE:** Borrower may request a commitment to fix the interest rate on a specific date in advance of the Closing Date. If the Borrower chooses this option, the permanent loan interest rate will be fixed at the 10-year Treasury plus 325 basis points with a floor of 4.25%. To secure this rate, Borrower will pay Lender a forward rate lock deposit equal to two percent (2%) of the Maximum Loan Amount that will be refundable at conversion. This and other standard delivery assurance requirements will apply.

In addition to the Forward Rate Lock Deposit Fee, Lender shall require a refundable delivery assurance fee in an amount equal to two percent (2%) of the Maximum Loan Amount. The two percent (2%) Delivery Assurance Fee may be payable by Borrower in cash or by delivery to the Lender of a non-recourse, non-interest-bearing note in the amount of the Delivery Assurance Fee.

**TERM:** The construction loan term will be up to a maximum of 24 months.  
The permanent loan term will be for 16 years.

**CONSTRUCTION EXTENSION OPTION:** One, conditional, six-month maturity extension fee equal to 0.50% of the outstanding balance on the construction loan.

**REPAYMENT:** Borrower will make monthly payments of interest only on the construction loan and principal and interest on the permanent loan. The amortization for the permanent loan will be a maximum of 30 years.

**LOAN CONVERSION:** The Property must meet the following requirements prior to the closing of the permanent loan.

- 1) A minimum occupancy rate of 90% with 75% of the required leased units occupied with lease terms of at least one year and occupancy for a minimum of 90 days.
- 2) The Property's Net Operating Income must provide a minimum Debt Service Coverage Ratio of 1.15X for three months on a stabilized proforma basis, based upon a stabilized occupancy rate not to exceed 93% (subject to NLP loan committee approval) and utilizing the required amortizing debt service of the loan in form and substance acceptable to Lender.

**LOAN FEES:** The Borrower will pay the following Loan fees:

|                                           |          |
|-------------------------------------------|----------|
| 1. Application fee                        | \$7,500  |
| 2. Permanent Loan Origination Fee (1.00%) | \$10,000 |
| 3. Permanent Loan Origination Fee (1.00%) | \$10,000 |
| 4. Loan Processing Fee                    | \$3,000  |
| Total Fees                                | \$30,500 |

Borrower will be required to pay a \$7,500 loan application fee prior to Lender preparing a loan approval package. The permanent loan origination fee, and the loan processing fee will be paid at the time of the construction closing.

**PREPAYMENT:** During the Term of the Loan and upon giving Lender sixty (60) days prior written notice, Borrower may prepay the entire unpaid principal balance of the Note (no partial prepayments are permitted) on the business day before a scheduled monthly payment date by paying, in addition to the entire unpaid principal balance, accrued interest and any other sums due to Lender at the time of prepayment. A prepayment premium ("Prepayment Premium") equal to the following shall apply:

Fannie Mae Yield Maintenance Formula during a 10-year Yield Maintenance Period (or 1% of the outstanding balance, whichever is greater). If the prepayment is made after the expiration of the Yield

Maintenance Period, there shall be 1% of the outstanding balance prepayment premium.

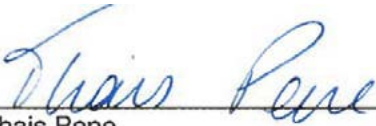
**OTHER:** Other requirements deemed necessary by NLP Loan Committee or Member Banks as part of full underwriting, including but not limited to review of final budget, appraisal, sources and uses of funds, survey, and environmental report.

Thank you for the opportunity to consider your project for financing. We look very forward to working with you.

Sincerely,

Neighborhood Lending Partners of Florida, Inc.

By:

  
\_\_\_\_\_  
Thais Pepe  
Vice President, Senior Lender

ACCEPTED AND AGREED TO THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020

BORROWER'S SIGNATURE BLOCK

Durham Place, Ltd., a Florida Limited Partnership

By: Durham Place GP, LLC

\_\_\_\_\_  
Jonathan L. Wolf, Manager Member

# Attachment G



745 Boylston Street, Suite 203  
 Boston, MA 02116

617.892.6071  
 CREALLC.COM

December 1, 2020

Mr. Jonathan Wolf  
 Wendover Housing Partners, LLC  
 1105 Kensington Park Drive, Suite 200  
 Altamonte Springs, FL 32714

**Re: Durham Place (the "Project")**

Dear Mr. Wolf:

This letter of intent (this "Letter of Intent") summarizes the principal business terms under which a CREA, LLC ("CREA") entity (sometimes referred to herein as the "Limited Partner") will acquire an interest in Durham Place, Ltd. (the "Partnership") that will develop and operate the Project. The terms and conditions of the Limited Partner's investment in the Project are subject to the execution of a mutually agreed upon limited partnership agreement (the "Partnership Agreement") and CREA's Capital Committee approval. Capitalized terms not otherwise defined herein will have the meanings set forth in the Partnership Agreement.

**1) Project Information and Assumptions**

The Limited Partner's willingness to acquire an interest in the Partnership is based upon the following information and assumptions. CREA reserves the right to update and adjust this Letter of Intent to reflect any changes in the following information and assumptions discovered during the due diligence and underwriting review.

- a) The Project, located in Orlando, unincorporated Orange County FL, will have 102 units for rent targeted towards family and homeless households. Within the Project, 102 units will be occupied in compliance with the Federal low-income housing tax credit ("LIHTC") requirements of Section 42 of the Internal Revenue Code (the "Code").

b) Participants

|                                        |                                                        |
|----------------------------------------|--------------------------------------------------------|
| Managing General Partner<br>(0.0049%): | Durham Place GP, LLC                                   |
| Co-General Partner (0.0051%):          | Step Up in Durham Place, LLC                           |
| Limited Partner (99.989%):             | CREA Durham Place, LLC                                 |
| Special Limited Partner (0.001%)       | CREA SLP, LLC                                          |
| Co-Developers:                         | Durham Place Developer, LLC and Step Up Developer, LLC |
| General Contractor:                    | TBD                                                    |
| Property Manager:                      | Wendover Management, LLC                               |

Guarantors:

Jonathan L. Wolf and Durham Place GP, LLC

c) Project Timeframe

|                               |         |
|-------------------------------|---------|
| Closing Date:                 | 5/1/21  |
| Construction Completion Date: | 8/1/22  |
| Qualified Occupancy Date:     | 10/1/23 |
| Stabilized Operations Date:   | 10/1/23 |

d) Tax Credit Delivery and Pricing

The terms and conditions set forth in this Letter of Intent are based upon a financial model initially submitted by the Developer to CREA. CREA understands and agrees that such model is a good faith estimate, and that actual results may differ. Prior to closing, CREA will underwrite the assumptions contained in the financial model and prepare a final financial model which, if acceptable to the Managing General Partner, will be attached to the fully executed Partnership Agreement (the "Financial Forecasts").

Federal Low Income Housing Tax Credits (the "Tax Credits") are expected to be generated by the Partnership and allocated to the partners.

"Projected Tax Credits" means Tax Credits from the Agency in an amount equal to:

|                    |                      |
|--------------------|----------------------|
| \$298,782 (13%)    | in 2022              |
| \$2,085,657 (88%)  | in 2023              |
| \$2,374,739 (100%) | in 2024 through 2031 |
| \$2,075,956 (87%)  | in 2032              |
| \$289,082 (12%)    | in 2033              |

The Financial Forecasts will reflect equity amounts calculated as follows:

**LIHTC Equity**

|                                     |                     |
|-------------------------------------|---------------------|
| 2020 Federal LIHTC Reservation:     | \$23,750,000        |
| Limited Partner Interest:           | 99.989%             |
| Credit Price:                       | \$0.915             |
| <hr/>                               |                     |
| Total Federal Equity:               | \$21,728,860        |
| <b>TOTAL LIMITED PARTNER EQUITY</b> | <b>\$21,728,860</b> |

CREA SLP, LLC Equity:

\$100

The Total Limited Partner Equity assumes an applicable percentage of 9% for the Tax Credits.

e) Upward Adjusters:

- 1) Upward Timing Adjuster. If, in 2022 or 2023, more than 100% of the Projected Tax Credits (\$298,782 and \$2,085,657, respectively) can be claimed (as determined by the Accountants and acceptable to the SLP) by the Limited Partner, then the Limited Partner will make a Capital Contribution (the "Timing Increase") in an amount equal to \$0.50 for each \$1.00 that the Actual Tax Credits for such years are more than the Projected Tax Credits for such years. The Limited Partner shall pay the amount of such Timing Increase at the time of the final Installment.

Notwithstanding the foregoing, in no event will additional Capital Contributions paid pursuant to this Section 1(e) exceed \$250,000 of the total Limited Partner Capital Contributions.

**2) Limited Partner's Capital Contribution**

- a) Based upon the Financial Forecasts, the Limited Partner will make its capital contributions ("Capital Contributions") to the Partnership in installments (each, an "Installment"), pursuant to the terms and conditions of the Partnership Agreement. Each Installment is subject to the Limited Partner's receipt of: (i) a satisfactory AIA form (during construction), (ii) a current date down endorsement or title update, (iii) satisfactory evidence that the Project is In Balance, (iv) evidence that the conditions of all prior Installments have been satisfied, and (v) the Managing General Partner's certification that the representations and warranties contained in the Partnership Agreement are true and correct in all material respects as of the date of the Installment. Each Installment will be made within ten (10) business days of the receipt and satisfaction in all material respects of all items listed below. Installments will be made as follows:
  - 1) \$3,259,329 (15%), (the "First Installment"), will be funded upon the later to occur of the execution of the Partnership Agreement and satisfaction of the following conditions, as determined by the SLP:
    - a) the Limited Partner's admission to the Partnership;
    - b) receipt by the SLP of due diligence documentation customary to closing the partnership agreement;
    - c) evidence of concurrent closing of all Project sources and funding of those sources as required pursuant to the Financial Forecasts;
    - d) receipt of a fixed rate commitment for the Permanent Loan(s);
    - e) receipt of any necessary building permits or approved will-issue letter; and
    - f) confirmation that all subsidy contracts will be in place prior to the funding of the First Installment and have a term extending at least one year beyond the end of the Compliance Period; and
  - 2) \$2,119,872 (9.76%), (the "Second Installment"), will be funded upon the later to occur of 10/1/22 and satisfaction of the following conditions, as determined by the SLP:
    - a) 99% lien-free completion of construction of the Project as certified by the architect (up to \$200,000 of liens may be bonded over)
  - 3) \$1,139,457 (5.24%), (the "Third Installment"), will be funded upon the later to occur of 10/1/22 and satisfaction of the following conditions, as determined by the SLP:
    - a) Lien-free (up to \$200,000 of liens may be bonded over) Construction Completion of the Project sufficient for all residential rental units to be "placed in service" within the meaning of Section 42 of the Code;

- b) the issuance of all required temporary certificates of occupancy permitting immediate occupancy of all residential rental units;
  - c) architect's substantial completion certification that the Project is substantially completed in accordance with the Plans and Specifications;
  - d) receipt by the SLP of satisfactory evidence that all environmental requirements have been met (if applicable);
  - e) execution of a property management agreement if not required at closing.
  - f) receipt by the SLP of the draft Cost Certification prepared by the Managing General Partner;
- 4) \$11,950,873 (55.0%), (the "Fourth Installment"), will be funded upon the later to occur of 10/1/23 and satisfaction of the following conditions, as determined by the Limited Partner:
- a) Achievement of Qualified Occupancy of the LIHTC units by qualified tenants; and
  - b) receipt and approval of the Limited Partner's third-party review of all of the first year's tenant files for compliance with the Code and State requirements in accordance with Section 8(c) hereof;
- 5) \$2,172,886 (10.0%), (the "Fifth Installment"), will be funded upon the later to occur of 10/1/23 and satisfaction of the following conditions, as determined by the SLP:
- a) the achievement of Stabilized Operations (as defined below);
  - b) the issuance of all required permanent certificates of occupancy permitting immediate occupancy of all residential rental units;
  - c) receipt and approval of the Limited Partner's third-party review of all of the first year's tenant files for compliance with the Code and State requirements in accordance with Section 8(c) hereof;
  - d) receipt of the accountant's final Cost Certification and evidence that the "10% Test" has been met;
  - e) payment in full of the Construction Loan and closing and funding of the Permanent Loans (which may occur simultaneously with the payment of this Fifth Installment); and
  - f) receipt of the final as-built ALTA survey of the Project;
- "Stabilized Operations" means a 90 consecutive day period following Construction Completion upon which: (i) the Project has achieved Qualified Occupancy, (ii) the Project has achieved physical occupancy of at least 90%, (iii) closing and funding of the Permanent Loan has occurred, and (iv) the Project has satisfied the Debt Coverage Ratio requirement in Section 3.
- 6) \$1,086,443 (5.0%), (the "Sixth Installment"), will be funded upon the later to occur of 1/1/24 and satisfaction of the following conditions, as determined by the SLP:
- a) the IRS Form 8609 for all buildings;
  - b) receipt of the approved and recorded Extended Use Agreement;
  - c) an executed copy of the Deferred Developer Fee Note; and
  - d) a copy of the filed 168(h) election (if applicable).

Notwithstanding the foregoing, \$586,443 of this Sixth Installment may be released with receipt by the SLP of satisfactory evidence that the cost certification to permit the issuance of IRS Forms 8609 and all other relevant documents have been made accurately and timely submitted to FHFC and conditions (b)-(d) of this installment have been satisfied. And the balance of the Sixth Installment released upon receipt of the IRS Form 8609 for all buildings.

- b) All equity Installments during the construction period (including the Construction Completion installment) will be funded on a monthly draw basis. Concurrently with the date a construction draw request is made to a lender, or when



an Installment is requested during the construction period, the Managing General Partner will furnish to the SLP a copy of any documents submitted to a lender as part of a construction draw.

- c) **Limited Partner Default** - Upon failure by the Limited Partner to make any payment of its Capital Contributions when due in accordance with the terms and conditions hereof, and the continuation of such default beyond a thirty (30) day notice and cure period and the determination of an arbitrator against the Limited Partner (in accordance with the procedure set forth below) in favor of the General Partner and Partnership as a result of such default, the General Partner shall have the right to remove the Limited Partner. Any controversy, claim or other dispute involving the payment of Capital Contributions of the Limited Partner arising out of this Agreement that cannot be resolved between the Partners shall be decided by arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrator shall be final and binding on all parties, and judgment may be entered thereon in any court having jurisdiction thereof. The losing party shall bear all costs of arbitration. The arbitration shall be held in the State of Florida.

### 3) Project Financing

#### a) Interim Financing:

- 1) \$15,400,000 construction loan from a bank identified by CREA (the "Construction Loan"). The terms and conditions of the Construction Loan and all documentation evidencing the Construction Loan will be subject to the approval of CREA's Capital Committee in their sole and absolute discretion.

Terms and conditions of this Letter of Intent are subject to a lender identified by CREA providing the Construction Loan.

#### b) Permanent Financing:

- 1) \$1,221,441 permanent loan from a bank to be determined (the "Permanent Loan"). The Permanent Loan will have a fixed interest rate locked at closing not to exceed 4.25%, a term of 18 years, an amortization of 30 years, and will be a Partnership non-recourse loan. The Permanent Loan will create a debt coverage ratio of not less than 1.15:1.00 at conversion and not less than a projected 1.10:1.00 during the Compliance Period (the "Debt Coverage Ratio"). The terms and conditions of the Permanent Loan and all documentation evidencing the Permanent Loan will be subject to the approval of CREA's Capital Committee in their sole and reasonable discretion.

#### c) Cash Flow Loans:

- 1) \$756,000 Loan from NHTF which will be a residual receipt, Partnership non-recourse loan with an interest rate currently projected at 0% and a term extending at least one year beyond the end of the Compliance Period. The terms and conditions of this loan and all documentation in connection therewith will be subject to the approval of the CREA's Capital Committee in their sole and reasonable discretion.
- 2) \$4,771,550 Loan from SAIL which will be a residual receipt, Partnership non-recourse loan with an interest rate currently projected at 1% and a term extending at least one year beyond the end of the Compliance Period. The terms and conditions of this loan and all documentation in connection therewith will be subject to the approval of the CREA's Capital Committee in their sole and reasonable discretion.
- 3) \$359,500 Loan from ELI which will be a residual receipt, Partnership non-recourse loan with an interest rate currently projected at 0% and a term extending at least one year beyond the end of the Compliance Period. The terms and conditions of this loan and all documentation in connection therewith will be subject to the approval of the CREA's Capital Committee in their sole and reasonable discretion.

All loan financing will be structured so that it will be characterized as “true debt” for tax purposes.

**4) Developer Fee – Total - \$4,557,828**

In the event that there is a gap between permanent sources and uses, a portion of the Developer Fee will be pledged as a permanent source in the form of Deferred Developer Fee (“DDF”). The DDF is currently estimated at \$0 and will accrue interest at 1%. Payments made on the DDF, if applicable, shall be applied first to principal. The remaining portion of the Developer Fee (\$4,557,828), will be paid as follows:

|                                             |                      |
|---------------------------------------------|----------------------|
| From the proceeds of the First Installment: | \$1,139,457 (25.0%)  |
| From the proceeds of the Third Installment: | \$1,139,457 (25.0%)  |
| From the proceeds of the Fifth Installment: | \$1,192,471 (26.2%)  |
| From the proceeds of the Sixth Installment: | \$1,086,443 (23.8%)* |

\*\$586,443 of this amount may be paid as described in Section (2)(a)(6) of this Letter of Intent.

**5) Cash Flow Distributions**

- a) Subject to any required approvals, Cash Flow generated prior to achievement of Stabilized Operations shall be paid to the Managing General Partner as an Incentive Leasing Fee; thereafter, Cash Flow will be distributed in the following order and priority:
- 1) To pay any current and accrued but unpaid Asset Management Fee;
  - 2) To repay any unpaid loans made by the Limited Partner or the SLP;
  - 3) To the Limited Partner for any Tax Credit adjusters;
  - 4) To pay any DDF (then any accrued interest, and then as a return of capital to the Managing General Partner to the extent of any Managing General Partner Capital Contribution);
  - 5) To the Operating Reserve Account until such time as such account is equal to the Operating Reserve amount, and then to the Replacement Reserve Account until such time as such account is equal to the required balance;
  - 6) To the payment of any Cash Flow Loans;
  - 7) To the payment of any Managing General Partner loan(s);
  - 8) To the payment of Deferred Property Management Fees (if applicable);
  - 9) To the Managing General Partner to repay any guaranty obligation treated as a loan;
  - 10) Of the balance, 10.00% to the Limited Partner; and
  - 11) The balance to the Managing General Partner as an Incentive Management Fee (but not in excess of 12% of the gross revenues of the Partnership, less any related party fees) and, thereafter, as a distribution to the Managing General Partner.
- b) Net Cash from Sale and Refinance will be distributed in the following order and priority:
- 1) To repay any unpaid loans made by the Limited Partner or the SLP;

- 2) To the Limited Partner for any Tax Credit adjusters;
- 3) Payment to the Limited Partner to cover the Limited Partner's Exit Tax liability, if any;
- 4) To pay any current and accrued but unpaid Asset Management Fee;
- 5) To pay any DDF plus any accrued interest;
- 6) To fund reserves for contingent or unforeseen liabilities or obligations of the Partnership to the extent deemed reasonable by the Limited Partner;
- 7) To pay Deferred Property Management Fees;
- 8) To the payment of any debts and liabilities (including any unpaid fees) owed to the partners or Affiliates by the Partnership for Partnership obligations; provided, however, that the foregoing debts and liabilities owed to the partners and their Affiliates will be paid or repaid, as applicable, in the following order of priority, if and to the extent applicable; (i) unpaid Managing General Partner loan(s) and (ii) unpaid Operating Deficit Loans;
- 9) In the event of a sale of the Project, to pay the Managing General Partner a 6% sales administration fee on the gross sales price, provided that such fee, combined with any brokerage fees paid to any other Person, would not exceed the brokerage fee customarily paid for transactions in the market in which the Project is located; and
- 10) After making the payments specified above, the balance of Net Cash from Sale and Refinance, if any, will be distributed 90.00% to the Managing General Partner and 10.00% to the Limited Partner.

#### 6) Guaranties

- a) The Guarantors will maintain aggregate liquidity of at least \$1,000,000 and net worth of at least \$5,000,000. The representations, warranties and obligations of the Guarantors will be further detailed in the Partnership Agreement and Guaranty Agreement and include, but are not limited to:
  - 1) Recapture of Tax Credits throughout their respective Compliance Periods;
  - 2) The Managing General Partner and the Guarantors, pursuant to the Guaranty Agreement, jointly and severally, absolutely and unconditionally guarantee Construction Completion on or before the completion date designated in the Construction Contract and the payment of all Operating Deficits attributable to owning and operating the Partnership and the Project through the Stabilized Operations Date plus the initial funding of any other reserves required herein or in the Financial Forecasts (collectively referred to herein as "Development Costs") which may be paid through the additional deferral of the Cash Development Fee Amount, provided the Special Limited Partner reasonably determines that the Financial Forecasts demonstrate such deferral of Cash Development Fee Amount can be paid in full from Cash Flow prior to maturity. The obligations of the Managing General Partner under the foregoing sentence include, without limitation, providing all funds required for the Partnership to achieve Construction Completion of the Project (to the extent not then available under *Section 4.1* hereof or from the Project Loans or Capital Contributions), including, without limitation, cash equity, and to pay any unanticipated or additional development, construction costs, on and off-site escrows, taxes (including any state transfer taxes in connection with the admission of the Limited Partner and the Special Limited Partner to the Partnership), insurance premiums, and interest. Such costs may also include a ratable portion of the annual amount of seasonal and/or periodic expenses, including but not limited to utilities, maintenance expenses and real estate taxes, which might reasonably be expected to be incurred on an unequal basis during a full annual period of operation and any other costs of the Partnership to develop the Project. The repayment of any borrowings arranged by the Managing General Partner to fund its obligations under this *Section 5.4(h)* shall be the sole obligation of the Managing General Partner. Any payments made by the Managing General Partner under this *Section 5.4(h)* shall be treated as a non-interest bearing loan to the Partnership repayable in accordance with *Section 4.1* and *Section 4.2* herein or a Capital Contribution to the Partnership from the Managing General Partner, as determined in the reasonable discretion of the Special Limited Partner.

[SOME SECTION REFERENCES ARE DIRECTLY FROM THE WARLEY PARK LPA, WHICH WILL BE THE BASIS OF THE DURHAM PLACE LPA]

3) **Tax Credit Adjusters:** The payment of any shortfall in Tax Credits resulting from:

- a) **Permanent Reduction in Credit:** If an event occurs which affects the delivery of the aggregate Tax Credits then the Limited Partner's capital contribution will be reduced by an amount equal to the product of (i) the Permanent Credit Shortfall (as defined herein) and (ii) the price paid for the Tax Credit. The "Permanent Credit Shortfall" will mean the amount by which the Actual Tax Credits are or will be less than the Projected Tax Credits over the Credit Period.
- b) **Downward Timing Adjuster:** If the Actual Tax Credits are less than Projected Tax Credits in the first year of the Credit Period then the Limited Partner's capital contribution will be reduced by an amount equal to the difference of (i) the Deferred Credit Amount (as defined herein) and (ii) the present value of the Deferred Credit Amount. The "Deferred Credit Amount" will mean the amount of credits that are due in the current year but delayed to a subsequent year. The present value of the Deferred Credit Amount shall be calculated using a per annum discount rate of 7.21%. Such amounts not able to be offset will be immediately due and owing (without any right of reimbursement or Capital Contribution credit) from the Guarantors to the Limited Partner.
- c) **Tax Credit Shortfall:** If, for any Fiscal Year, for any reason whatsoever, but only if such Credit Shortfall has not previously been addressed pursuant to Sections 5.10(a) and (b), (1) the Actual Tax Credits are less than the Projected Tax Credits (as adjusted in any revised Financial Forecast prepared pursuant to Sections 5.10(a) or (b)) for such Fiscal Year, or (2) a Limited Partner is required to recapture (resulting from other than a transfer of part or all of the Limited Partner's Partnership Interest) all or any part of the Tax Credits, claimed by it in any prior Fiscal Year of the Partnership ("Credit Shortfall"), then the Managing General Partner and Guarantors (pursuant to the Guaranty Agreement) shall be obligated, subject to the limitations expressed herein, to pay to the Limited Partner the amount ("Credit Reduction Payment") equal to the sum of: (I) \$1.00 multiplied by the Credit Shortfall; (II) the amount of any interest and/or penalties paid or payable by the Limited Partner as a result of any Recapture Event affecting the foregoing calculation of the Tax Credits recaptured in such Fiscal Year; and (III) 8% of the amounts in clauses (I) and (II) per annum commencing on the date the Credit Shortfall occurs and continuing until the payment of the amount of such Credit Reduction Payment in full. The Managing General Partner shall immediately make a Capital Contribution to the Partnership in the amount necessary for the Partnership to pay the Credit Reduction Payment, followed by an immediate distribution of such amount by the Partnership to the Limited Partner; provided, however, that if the Special Limited Partner reasonably determines that such Managing General Partner Capital Contribution could result in a reallocation of Tax Credits, then the Credit Reduction Payment will be paid by the Managing General Partner directly to the Limited Partner as a guaranty payment and calculated on an After Tax Basis, and the Managing General Partner shall not receive any Capital Account credit for such repayment. If a Credit Shortfall arises solely due to a Change in Tax Law or Non-Liability Event that the Partnership, despite its best but commercially reasonable efforts to comply or cure, is unable to comply with or cure, then any such Credit Reduction Payment shall be paid solely as provided in Section 4.1 and Section 4.2 Notwithstanding the foregoing or any other provision of this Partnership Agreement to the contrary, and subject to the provisions of the Project Loan Documents, if the Project is destroyed by fire or other casualty, the Project shall be promptly restored and rebuilt within the time period permitted under Section 42 of the Code provided that, the Project need not be rebuilt if the Limited Partner is repaid its total Capital Contribution together with a return, on an After-Tax Basis, of 9% per annum on such sum commencing on the date(s) the Limited Partner paid its Capital Contribution installments and ending on the date of final repayment.

[SOME SECTION REFERENCES ARE DIRECTLY FROM THE WARLEY PARK LPA, WHICH WILL BE THE BASIS OF THE DURHAM PLACE LPA]

- d) Any reduction resulting from an event described in paragraphs (a), (b), or (c) directly above will be satisfied by decreasing the amount of the Limited Partner's Capital Contribution installment next due, and, if necessary, further installments (reducing the earliest ones first) by the amount of such adjustment. Any amount not able to be offset will be immediately due and owing (without any right of reimbursement or Capital Contribution credit) from the Guarantors to the Limited Partner.
  - e) Notwithstanding anything to the contrary in Section 6 of this LOI, any Tax Credit Shortfall or recapture of Tax Credits attributable to a Non-Liability Event (as defined below) shall be solely paid out Partnership Cash Flow or Net Cash from Sale and Refinance as described herein, and the Guarantors shall have no liability for the same. "Non-Liability Event" shall mean (a) a casualty loss that, despite the Managing General Partner promptly rebuilding and restoring the Project pursuant to the requirements of the Code, the Treasury Regulations and IRS guidance, results in the Partnership receiving less than the full amount of Projected Tax Credits, (b) a condemnation, (c) a transfer of the Limited Partner's Partnership Interests, (d) foreclosure after the Stabilized Operations Date, which foreclosure was not the result of a the negligent action or inaction of the Managing General Partner in violation of the Project Documents; provided, however, that the foregoing shall only be considered a "Non-Liability Event" if (x) there are no other uncured Managing General Partner defaults under this Partnership Agreement, and (y) any of the foregoing did not arise out of, or relate to, the negligence, fraud, misrepresentation or misconduct of the Managing General Partner.
- 4) **Operating Deficit Guaranty:** The payment of any Operating Deficits up to an aggregate amount of \$350,300 through non-interest bearing loans ("Operating Deficit Loans") during the 3-year period following the achievement of Stabilized Operations (the "Operating Deficit Guaranty Period"); provided, however, that the Operating Deficit Guaranty Period will not expire prior to verification that: (a) the Operating Reserve balance is equal to, or greater than, the initial Operating Reserve amount, (b) the Project has achieved a Debt Coverage Ratio of at least 1.15:1.00 for the 6-month period preceding the expiration of the Operating Deficit Guaranty Period, and (c) any and all subsidy contracts are in good standing. Notwithstanding the foregoing, the Managing General Partner's obligation to fund Operating Deficit Loans will be unlimited (in amount, duration, and otherwise) and such obligation will not be affected by any limitation applicable to the other Guarantors. The Operating Reserve may be used to satisfy Operating Deficits in advance of a guaranty payment under this Operating Deficit Guaranty. Operating Deficit Losses will be allocated to the Managing General Partner if the Managing General Partner funds those losses;
- 5) **Permanent Loan Shortfall:** The obligations of the Borrower to fund any Permanent Loan shortfall.
- 6) **Repurchase:** The Repurchase Obligations described below.
- 7) The funding of the Operating Reserve.

All of the representations, warranties and obligations included in the Partnership Agreement and Guaranty Agreement, including without limitation, the environmental indemnity of the Managing General Partner will be guaranteed, jointly and severally, by the Guarantors.

## 7) Repurchase Obligations

Notwithstanding anything contained herein to the contrary, in the event that (1) Construction Completion and placement in service of all buildings is not achieved on or before the earlier of (A) six months following Construction Completion, or (B) the date required under the Code or other governing authority, (2) the Partnership does not achieve Qualified Occupancy within six (6) months of the Qualified Occupancy Date, (3) prior to conversion, any acceleration of a Project Loan and the commencement of any action to foreclose any mortgage covering the Project or the exercise by any lender to the Project of any power of sale or similar remedy affecting the Project, which is not dismissed or stayed within 60 days thereof, prior to achievement of Stabilized Operations, (4) the Partnership's basis in the Project for federal income tax purposes, as finally determined by the Accountants or pursuant to an audit by the Service, as of 12 months from the date of the Carryover Allocation, or such earlier date as required by the State Housing Finance Agency or longer subject to cure rights under the Code, was not 10% of the Partnership's reasonably expected basis in the Project, as required pursuant to Section 42(h)(1)(E) of the Code, (5) unless waived by the Special Limited Partner, the failure to achieve

conversion of the Construction Loan to the Permanent Loan and closing of the Permanent Loan by the time required by the Permanent Lender's commitment, or the termination of the commitment for the Permanent Loan prior to closing and full funding of the Permanent Loan unless a reasonable substitute Permanent Loan commitment is obtained 30 days after such termination, (6) at any time prior to Construction Completion, the Project will not be eligible for at least 70% of the Projected Tax Credits in any given year, (7) the Partnership does not receive the fully executed IRS Form(s) 8609 by the end of the first full tax year in compliance with the requirements of the Code and the State Housing Finance Agency, or (8) the Managing General Partner fails to meet the conditions of the First Installment within 30 days of the date of this Partnership Agreement, then, in any such event, upon the written request of the Limited Partner (an "Election Notice"), the Managing General Partner shall purchase, as applicable, the Limited Partner's and Special Limited Partner's, interests in the Partnership for an amount equal to the sum of all Capital Contributions actually made to the Partnership by the Limited Partner and Special Limited Partner with interest at the rate of 10% per annum calculated from the date of such Capital Contributions, plus all expenses incurred by the Limited Partner and Special Limited Partner in connection with such repurchase, less the amount of any tax benefit (including, without limitation, any Tax Credits and tax losses received by any Limited Partners, but net of any tax costs, including but not limited to Tax Credit recapture and any Tax Credits claimed by the Limited Partner that may remain subject to potential recapture) and distribution (net of any tax costs) previously received or incurred by the Limited Partner. The Managing General Partner shall pay such amount within 30 days after such written request. Upon receipt of this amount, as applicable, the Limited Partner's and Special Limited Partner's interest as a Partner in the Partnership shall terminate, the Limited Partner and Special Limited Partner shall transfer their respective interests in the Partnership to the Managing General Partner or its designee, and the Managing General Partner shall indemnify and hold harmless the Limited Partner and Special Limited Partner from and against any losses, damages and liabilities to which the Partners (as a result of its participation hereunder) may be subject.

[SOME SECTION REFERENCES ARE DIRECTLY FROM THE WARLEY PARK LPA, WHICH WILL BE THE BASIS OF THE DURHAM PLACE LPA]

**8) CREA Fees**

- a) The Partnership will pay an annual Asset Management Fee of \$5,000, increasing by 3.00% per annum (the "AMF"), which AMF will be earned by the Asset Manager beginning on the date of the Partnership Agreement (with a pro-rata share of such fee earned for any partial calendar year). The first year's AMF will be paid at closing and the amount payable for the second year's AMF will be adjusted pro-rata. The AMF is payable pursuant to Section 5 and will accrue without interest until there is sufficient cash available to pay any current and accrued AMF.
- b) The Partnership will pay CREA a due diligence reimbursement of \$50,000 from the proceeds of the First Installment.

**9) Other Matters**

- a) The Management Fee will not exceed the maximum amount permitted by the Agency. The Management Fee is currently estimated at 5% of gross collected rents. The Management Fee may be subject to change pending the final underwriting by CREA. If the Management Agent is an affiliate of the Managing General Partner, Developer or any Guarantor, the Management Agent will be required to defer and accrue, without interest, its Management Fee if the Project is not maintaining payment of any Operating Deficits (the "Deferred Property Management Fee"). Any Deferred Property Management Fee will be paid pursuant to Section 5. The Managing General Partner will be required to remove the Management Agent upon the request of the SLP.
- b) The Partnership will establish the Operating Reserve in the amount of six months' underwritten Operating Expenses and must pay debt service. The Operating Reserve is currently estimated at \$349,400 which amount remains subject to final underwriting. The Operating Reserve will be funded in accordance with the Financial Forecasts. The

Operating Reserve will be held in the Operating Reserve Account at a bank selected by the Limited Partner, which account will require the prior written Consent of the Limited Partner for withdrawals (which shall not be unreasonably withheld). The Operating Reserve will be used to fund Operating Deficits and will be replenished pursuant to Section 5. The Operating Reserve will be released in accordance with Section 5 at the end of the Compliance Period.

- c) The Partnership will establish and maintain an annual Replacement Reserve equal to the greater of: (1) the amount required by the Lender; and (2) \$300 per unit per annum subject to final underwriting and escalating at not more than 3.00% per annum. On the sixth and eleventh anniversary of the completion of construction of the Project, the Limited Partner will have the right to require a physical needs assessment of the Project pursuant to which the amount reserved on a monthly basis may be increased or decreased.
- d) Distributions of cash and allocations of income gain or loss will be in accordance with tax law.
- e) The Developer utilizes the Cash Basis of accounting. The Managing General Partner utilizes the Accrual Basis of accounting.
- f) The Project will incorporate the following estimated MACRS depreciation schedule for federal income tax purposes beginning at the time the building is Placed in Service.

|                                                     |              |
|-----------------------------------------------------|--------------|
| Placed in Service Year                              | 2022         |
| Personal Property (5-year, 200% Declining Balance): | \$1,216,821  |
| Site Work (15-year, 150% Declining Balance):        | \$3,163,736  |
| Real Property (30-year, Straight Line):             | \$19,955,872 |

Prior to closing, the foregoing depreciation assumptions shall be substantiated by a Partnership engaged Cost Segregation Study ("CSS") acceptable to CREA (preliminary CSS is acceptable for closing).

- g) The Partnership will obtain insurance coverage, at the expense of the Partnership, satisfactory to the SLP.
- h) The Partnership will obtain an ALTA owner's title insurance policy, at the expense of the Partnership, in an amount equal to the total Development Costs.
- i) The Managing General Partner will arrange for a fixed or guaranteed maximum price construction contract and establish a construction contingency in an amount not less than 5% of the construction contract. Approval of the construction contract and contingency amounts are subject to CREA's reasonable discretion following its review of the construction documents. The General Contractor will provide the Partnership (in form satisfactory to the Limited Partner) a payment and performance bond in the amount of the construction contract or letter of credit in the amount of 15.00% of the construction contract. CREA, may, in its sole discretion, engage a construction consultant (i) to review plans and specifications and (ii) evaluate the construction progress by providing monthly reports to the Partnership.
- j) The Managing General Partner hereby represents that the fees paid to the Managing General Partner, Developer and General Contractor and/or any affiliates will have been disclosed in the LIHTC Application and will be within the limits set forth in the applicable Qualified Allocation Plan.
- k) **Cost Savings.** Cost Savings will be determined at the time of the final Cost Certification and will be applied in the following order: (i) a reduction in the DDF, (ii) a reduction in the Permanent Loan amount, (iii) to capital improvements, and (iv) the balance, if any, will be distributed as Cash Flow.
- l) **Put Option.** In any calendar year after the expiration of the Credit Period, both the Limited Partner and the SLP will have the exercisable right and option, but not obligation, to require the Managing General Partner to purchase their respective Partnership Interest at a price equal to \$100. The terms and conditions of the Put Option will be more fully described in the Partnership Agreement.
- m) **General Partner Option.** Upon expiration of the Compliance Period and provided that the Limited Partner has failed to exercise the Put Option, the Managing General Partner will have the option (commencing on the day following the

end of the Compliance Period and exercisable within one year) to acquire the interest of the Limited Partner and Special Limited Partner for an amount equal to the greater of (i) the fair market value of the interest or (ii) the sum of outstanding debt, tax credit adjusters and exit taxes.

- n) **Real Property Trade or Business.** The Managing General Partner agrees that unless directed otherwise in writing by the Special Limited Partner, the Partnership shall make the election under Code Section 163(j)(7)(B) as provided in the Act to be an "Electing Real Property Trade or Business" (as such term is defined in the Code). In addition, unless directed otherwise in writing by the Special Limited Partner, the Partnership will not make an election under Section 168(k) of the Code to opt-out of any bonus depreciation otherwise allowable with respect to its site work and personal property improvements.

#### 10) Miscellaneous

- a) The Limited Partner's willingness to make the investment described in this proposal is subject to:
- 1) a satisfactory site visit;
  - 2) the accuracy and verifiability of the information provided to the Limited Partner by the Developer and Managing General Partner;
  - 3) no adverse change in the information provided to CREA or a change in tax law;
  - 4) the satisfactory completion and approval of the financial information and due diligence documentation for the Project;
  - 5) the mutual agreement by and between the Limited Partner and Managing General Partner on the terms of the closing documents; and
  - 6) the approval of the CREA's Capital Committee.
- b) The Developer and the Managing General Partner hereby certify that there are no other executed equity proposals with respect to the Project. Should any signed proposals or agreements exist, the Developer and Managing General Partner will fully indemnify, defend and hold harmless the Partnership, the Limited Partner (and its affiliates) and CREA (and its affiliates) from any lawsuits or damages that may result from the termination of said proposals or agreements.
- c) The signatories will not solicit or entertain other offers by other parties to acquire an interest in the Partnership during the term of this Agreement. This Letter of Intent is delivered with the understanding that neither it nor its substance will be disclosed to any third party except those who are in a confidential relationship with you or as required by law.
- d) This proposal must be executed by the parties and received by CREA within fourteen (14) business days of the date of this Letter of Intent or this proposal is subject to renegotiation.
- e) The term of this Letter of Intent will be for a period of 120 days, with execution of the Partnership Agreement and closing of construction financing occurring prior to expiration of such period. Any delay in closing may result in an adjustment in the Limited Partner's contribution amount, terms and conditions as are set forth herein. If due diligence activities or negotiation of the Partnership and ancillary documents extend beyond such date, the parties will continue to negotiate the same in good faith, but will not be bound hereunder.
- f) While this Letter of Intent does contain a general understanding of the business terms between you and CREA, it does not contain all of the business terms that will be set forth in the Partnership Agreement. Therefore, CREA's obligations under this proposal are subject to the terms of the mutually acceptable Partnership Agreement.
- g) The Durham Place LPA will be blacklined against the final draft of the Warley Park LPA previously executed by the partner.



Durham Place  
Orlando, FL  
December 1, 2020  
Page 13 of 15

*[Signature Pages Follow]*

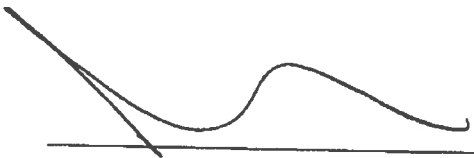
Durham Place  
Orlando, FL  
December 1, 2020  
Page 14 of 15

If the above is acceptable, please return one (1) original or electronic copy of your signature to the undersigned. Upon receipt, CREA will begin processing the Partnership Agreement and related documents in accordance with the terms and conditions contained in this proposal.

Thank you for your consideration and we sincerely appreciate the opportunity to work with you.

Very truly yours,

CREA, LLC

By: 

Michael Murray  
Senior Vice President

Durham Place  
Orlando, FL  
December 1, 2020  
Page 15 of 15

By executing this Letter of Intent and in consideration of CREA entering into this proposal, you agree on your own behalf and on behalf of your partners, affiliates, officers, directors and employees, and on behalf of any other partners or joint venturers who are or will be involved in the development of the Project, that CREA may undertake credit, background and similar checks on you, your principals and your affiliated companies.

The foregoing is hereby agreed to and confirmed:

**MANAGING GENERAL PARTNER**

Durham Place, Ltd., a Florida limited partnership

Durham Place GP, LLC, a Florida limited liability company as its Co-General Partner

By: \_\_\_\_\_ Date: 12-01-2020  
Name: Jonathan L. Wolf  
Title: Manager

**GUARANTOR**

By: \_\_\_\_\_ Date: 12-01-2020  
Name: Jonathan L. Wolf  
Title: Manager

# Attachment H



 PROPERTY BOUNDARY



AERIAL PHOTO SOURCE: UNIVERSITY OF FLORIDA DIGITAL COLLECTIONS



**UNIVERSAL**  
ENGINEERING SCIENCES

PHASE I ESA  
DURHAM PLACE  
LAKE JESSAMINE DRIVE & HALL DRIVE  
ORLANDO, ORANGE COUNTY, FLORIDA

AERIAL PHOTOGRAPH (1954)

|                     |                               |                    |                  |
|---------------------|-------------------------------|--------------------|------------------|
| DRAWN BY: A.M.      | DATE: 08-4-2020               | CHECKED BY: M.G.   | DATE: 08-10-2020 |
| SCALE: NOT TO SCALE | PROJECT NO: 0140.2000281.0000 | REPORT NO: 1791304 | PAGE NO: F-1     |



 PROPERTY BOUNDARY

AERIAL PHOTO SOURCE: FLORIDA DEPARTMENT OF TRANSPORTATION



**UNIVERSAL**  
ENGINEERING SCIENCES

PHASE I ESA  
DURHAM PLACE  
LAKE JESSAMINE DRIVE & HALL DRIVE  
ORLANDO, ORANGE COUNTY, FLORIDA

AERIAL PHOTOGRAPH (1969)

|                     |                               |                    |                  |
|---------------------|-------------------------------|--------------------|------------------|
| DRAWN BY: A.M.      | DATE: 08-4-2020               | CHECKED BY: M.G.   | DATE: 08-10-2020 |
| SCALE: NOT TO SCALE | PROJECT NO: 0140.2000281.0000 | REPORT NO: 1791304 | PAGE NO: F-2     |





 PROPERTY BOUNDARY

AERIAL PHOTO SOURCE: FLORIDA DEPARTMENT OF TRANSPORTATION



**UNIVERSAL**  
ENGINEERING SCIENCES

PHASE I ESA  
DURHAM PLACE  
LAKE JESSAMINE DRIVE & HALL DRIVE  
ORLANDO, ORANGE COUNTY, FLORIDA

AERIAL PHOTOGRAPH (1973)

|                     |                               |                    |                  |
|---------------------|-------------------------------|--------------------|------------------|
| DRAWN BY: A.M.      | DATE: 08-4-2020               | CHECKED BY: M.G.   | DATE: 08-10-2020 |
| SCALE: NOT TO SCALE | PROJECT NO: 0140.2000281.0000 | REPORT NO: 1791304 | PAGE NO: F-3     |



 PROPERTY BOUNDARY



AERIAL PHOTO SOURCE: FLORIDA DEPARTMENT OF TRANSPORTATION



**UNIVERSAL**  
ENGINEERING SCIENCES

PHASE I ESA  
DURHAM PLACE  
LAKE JESSAMINE DRIVE & HALL DRIVE  
ORLANDO, ORANGE COUNTY, FLORIDA

AERIAL PHOTOGRAPH (1978)

|                     |                               |                    |                  |
|---------------------|-------------------------------|--------------------|------------------|
| DRAWN BY: A.M.      | DATE: 08-4-2020               | CHECKED BY: M.G.   | DATE: 08-10-2020 |
| SCALE: NOT TO SCALE | PROJECT NO: 0140.2000281.0000 | REPORT NO: 1791304 | PAGE NO: F-4     |





 PROPERTY BOUNDARY

AERIAL PHOTO SOURCE: FLORIDA DEPARTMENT OF TRANSPORTATION



**UNIVERSAL**  
ENGINEERING SCIENCES

PHASE I ESA  
DURHAM PLACE  
LAKE JESSAMINE DRIVE & HALL DRIVE  
ORLANDO, ORANGE COUNTY, FLORIDA

AERIAL PHOTOGRAPH (1984)

|                     |                               |                    |                  |
|---------------------|-------------------------------|--------------------|------------------|
| DRAWN BY: A.M.      | DATE: 08-4-2020               | CHECKED BY: M.G.   | DATE: 08-10-2020 |
| SCALE: NOT TO SCALE | PROJECT NO: 0140.2000281.0000 | REPORT NO: 1791304 | PAGE NO: F-5     |



 PROPERTY BOUNDARY

AERIAL PHOTO SOURCE: FLORIDA DEPARTMENT OF TRANSPORTATION



**UNIVERSAL**  
ENGINEERING SCIENCES

PHASE I ESA  
DURHAM PLACE  
LAKE JESSAMINE DRIVE & HALL DRIVE  
ORLANDO, ORANGE COUNTY, FLORIDA

AERIAL PHOTOGRAPH (1990)

|                     |                               |                    |                  |
|---------------------|-------------------------------|--------------------|------------------|
| DRAWN BY: A.M.      | DATE: 08-4-2020               | CHECKED BY: M.G.   | DATE: 08-10-2020 |
| SCALE: NOT TO SCALE | PROJECT NO: 0140.2000281.0000 | REPORT NO: 1791304 | PAGE NO: F-6     |

# Attachment I



# UNIVERSAL ENGINEERING SCIENCES

Consultants In: Geotechnical Engineering • Environmental Sciences  
Geophysical Services • Construction Materials Testing • Threshold Inspection  
Building Inspection • Plan Review • Building Code Administration

## LOCATIONS:

- Atlanta
- Daytona Beach
- Fort Myers
- Fort Pierce
- Gainesville
- Jacksonville
- Miami
- Ocala
- Orlando (Headquarters)
- Palm Coast
- Panama City
- Pensacola
- Rockledge
- Sarasota
- Tampa
- Tifton
- West Palm Beach

August 10, 2020

Durham Place, LTD  
1105 Kensington Park Drive, Suite 200  
Altamonte Springs, FL 32714

Attention: Jennie Lagmay  
[jlagmay@wendovergroup.com](mailto:jlagmay@wendovergroup.com)

**Reference: Phase I Environmental Site Assessment**  
Durham Place  
NWC of Lake Jessamine Drive & Hall Drive  
Orlando, Orange County, Florida  
UES Project No. 0140.2000281.0000  
UES Report No. 1791304

Dear Ms. Lagmay:

Universal Engineering Sciences (UES) has completed a Phase I Environmental Site Assessment (ESA) Report in compliance with the American Society for Testing and Materials (ASTM) Standard E1527-13 for the above-referenced site (the "subject property"). The purpose of this assessment was to identify recognized environmental conditions (RECs) in association with the subject property as defined in ASTM E1527-13.

Based on the conclusions of the Phase I ESA, no recognized environmental conditions were identified in connection with the subject property and no further evaluation is warranted at this time.

## **BUSINESS ENVIRONMENTAL RISKS**

A business environmental risk (BER) can have a material environmental or environmentally driven impact on the business associated with the current or planned use of a parcel of commercial real estate, not necessarily limited to those environmental issues required to be investigated in the Phase I ESA. The following BER was identified in connection with the subject property:

- The subject property was historically developed for agricultural use with a citrus grove in the northeast region. Citrus grove operations include the use of agricultural compounds. Proper storage, handling and application of approved compounds do not constitute a recognized environmental condition. Improper or long term application of agricultural compounds has been shown, at times, to leave these compounds in the soil above the recommended exposure levels established by the Florida Department of Environmental Protection (FDEP). While the FDEP does not require the cleanup of agriculturally applied compounds, the presence of these compounds in excess of the exposure concentrations may present future liability on the redeveloped property. Although not a recognized environmental condition, it may be prudent to complete soil sampling to determine if agricultural compounds are present in concentrations that exceed the State of Florida cleanup criteria prior to any future redevelopment.





## **NON-SCOPE CONSIDERATIONS**

The subject property consists of undeveloped land which has the potential to contain wetlands and/or habitats utilized or inhabited by listed species. Listed species and wetlands are protected under various local, state, and federal regulations. A protected species assessment, and in some cases a wetlands assessment, should be performed to confirm if listed species and/or wetlands could adversely affect the future development of the subject property. UES can provide these services upon request.

## **OWNER INTERVIEW**

UES was unable to interview the current property owner prior to report completion; which is unlikely to significantly affect the findings. However, UES recommends the current property owner complete the Owner Questionnaire provided in this report prior to any real estate transaction. If any environmental concerns are identified, please contact UES for further evaluation.

## **CONTINUING OBLIGATIONS**

The User of this report is required to ensure that continuing obligations are followed after purchase or acquisition of the subject property. Any land use restrictions in effect at the subject property must be maintained. The User should ensure that all parties at the subject property are following best management practices and taking "reasonable steps" with respect to preventing and limiting exposure to any hazardous substance releases on the subject property. In the event of a future release on the subject property, the property owner or responsible party should report it to the appropriate regulatory agency. Full cooperation must be provided to any parties authorized to conduct assessments or responses to the subject property.

Please note that an environmental liens or activity and use limitations search was not performed for the subject property. In accordance with ASTM E1527-13, it is the responsibility of the User of this report to confirm that there are no environmental liens or activity and use limitations filed for the subject property. In the event that any are identified, please contact UES immediately for further evaluation.

Universal Engineering Sciences appreciates this opportunity to provide environmental services to you and we look forward to future endeavors. Please contact the undersigned if you have any questions regarding this report.

Respectfully submitted,

**UNIVERSAL ENGINEERING SCIENCES**



Autumn Mercer  
Environmental Project Manager  
[amercer@universalengineering.com](mailto:amercer@universalengineering.com)