



## **Authority Members**

Mark Allen  
Ian Coats  
Lexie Newhouse  
Nimesh Patel  
Mary Jo Groeneveld  
Doug Edwards  
Leslie Patton

**Kennesaw Downtown Development Authority  
Meeting Agenda  
March 20, 2026 7:30 AM  
Council Chambers  
(2529 J.O. Stephenson Avenue, Kennesaw, GA 30144)**

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- 1. Call to Order / Roll Call**
- 2. Approval of the Meeting Minutes**
  - A. Draft meeting minutes — 2.13.26
- 3. Financial Report**
  - A. KDDA Financial Report as of 2.28.26
- 4. Old Business**
- 5. New Business**
  - A. Approval of Water and Sewer Easements for The Lacy
  - B. Review and approval of Bond Resolution and Bond Documents for Lacy Phase II Project
  - C. Acceptance of Conflict of Interest Letter - Mark Allen
  - D. Approval of Inducement Resolution — Lazy Guy Distillery Project
- 6. Main Street Program Updates**
- 7. Public Comments**
- 8. Board Comments**
- 9. Economic Development Director Comments**
- 10. Executive Session**
  - A. Pursuant to the provisions of O.C.G.A. 50-14-3, the KDDA could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney as provided under O.C.G.A. 50-14-2(1); and/or personnel matters as provided under O.C.G.A. 50-14-3 (4)

and/or real estate matters as provided under O.C.G.A 50-14-3(6).

## **11. Adjourn**

- A. NOTICE: Any person who desires to appeal any decision from this meeting will need a record of the proceedings, and for the purpose may need to insure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based. The Agenda is designed to make more efficient use of the KDDA's time. It is not designed to curtail discussion or input. If you need special accommodations to attend or participate in our meetings, please contact City Hall at least 24 hours in advance of the specific meeting you are planning to attend.

**MINUTES OF KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY MEETING  
CITY OF KENNESAW  
Council Chambers  
(2529 J.O. Stephenson Avenue, Kennesaw, GA 30144)  
February 13, 2026  
7:30 AM**

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Present                      Chair Mark Allen  
                                    Vice Chair Ian Coats  
                                    Treasurer Leslie Patton  
                                    Secretary Mary Jo Groeneveld  
                                    Lexie Newhouse  
                                    Doug Edwards

**1. Call to Order / Roll Call**

The meeting was called to order at 7:31 am by Chair Mark Allen.

KDDA members present: Mark Allen, Mary Jo Groeneveld, Doug Edwards, Ian Coats, Lexie Newhouse, Leslie Patton

KDDA members absent: Nimesh Patel

Staff members present: Miranda Taylor, Luke Howe

**2. Approval of the Meeting Minutes**

A. Draft meeting minutes — 01.09.26

The board reviewed meeting minutes from the January 9, 2026 meeting. Ian Coats made a motion to approve the minutes as presented. Lexie Newhouse seconded the motion and the motion passed unanimously.

**3. Financial Report**

A. KDDA Financial Report as of 1.31.26

Leslie Patton presented the financial report with an ending cash balance of \$122,776.50. Lexie Newhouse made a motion to approve the financial report as presented. Leslie Patton seconded the motion. The motion passed unanimously.

**4. Old Business**

A. Request for bond closing extension for Lacy Phase 2

Highpoint representatives presented an update on the Lacy Phase 2 development, including the approved site plan and updated renderings. They anticipate closing on the property in early April; they're currently working on permit documents in order to be shovel-ready at closing. The April closing date necessitates the request for the extension to bond closing documents, as the original inducement required bond closing to occur in March. Fred Bentley reviewed the First Amendment to Letter of Intent and Inducement Agreement with the board and discussed the bond validation process. Ian Coats made a motion to approve the agreement and authorize the Chair and Secretary to sign the documents as required. Lexie Newhouse seconded the motion. The motion

was approved unanimously.

## **5. New Business**

### **A. KSU Student Project: Integrated Marketing and Communications Plan**

Anthony Martinez, KSU marketing professor, presented the project overview to the board for a student capstone project as outlined in the agenda packet. The goal is to give students a chance to get "practical practice" with marketing for a real-world client. Students are juniors and seniors and will be divided into groups so that they will present 3–4 plans to the KDDA on how to strengthen and increase daily visitation in downtown. Anthony will follow up with additional information as the students begin their research and work on the project, and will provide dates for presentation of the final projects. There is no ask of the board today; this item was for discussion/presentation only.

### **B. Consideration for scheduling a Special Called KDDA meeting in March 2026**

Due to a previously submitted Conflict of Interest letter, Chair Mark Allen left the dais for this item and Vice-Chair Ian Coats presided over the meeting. Fred Bentley, Jr. explained the protocol for advertising a conflict of interest letter for items directly impacting current board members, and advised the board that they will have an agenda item for consideration at the March 2026 meeting that requires legal advertisement for a conflict of interest. In order to meet the legal ad requirements, the board will need to meet on March 20, rather than the regularly scheduled meeting date of March 13. Fred suggested the board consider moving all business from the regularly scheduled March 13 meeting to a Special Called Meeting to be held on March 20, 2026. Vice-Chair Ian Coats called for a motion. Leslie Patton made a motion that the board schedule a Special Called Meeting on March 20, 2026 at 7:30 am and move all regular business to the Special Called Meeting agenda (thereby canceling the March 13 meeting). Lexie Newhouse seconded the motion. The motion passed with a vote of 5-0 (Allen was not present for the vote on this item).

Following the vote on this item, Chair Mark Allen returned to the dais and Vice-Chair Ian Coats turned the gavel back over to the Chair.

### **C. Review proposal for marketing/promotional items for Farmers Market**

Miranda Taylor presented information on the updated logo for the Farmers Market and a request for funding to provide marketing and promotional materials, as outlined in the agenda report. Miranda reminded the board that in previous years they have paid for a portable restroom for the market, which will not be required this year as the market will be located at Depot Park (and there are permanent public restroom facilities in Depot Park). The funding request for this item is not more than the board has spent on the portable restroom in prior years. Lexie Newhouse clarified that the event banners would specify "Depot Park" rather than just "Downtown Kennesaw" as shown on the mock-up, and suggested tying the tote bag giveaway to a short survey on downtown amenities (through a QR code or other easily accessible method). Lexie Newhouse made a motion to approve the funding request as presented. Ian Coats seconded the motion. The motion passed with a vote of 6-0.

## **6. Main Street Program Updates**

### **A. Update on annual assessment and accreditation**

Miranda Taylor updated the board on the status of our annual assessment for Main Street. Georgia Main Street staff plans to recommend us for full accreditation as a Classic Main Street program based on our most recent annual assessment. Miranda will have to do a virtual presentation for Georgia Main Street staff, and the board is invited to attend and participate. Miranda will share details for the presentation when it is scheduled. No action required on this agenda item.

### **B. Event Reminder: Mardi Gras pop-up celebration on Tuesday, Feb 17, 5:30-7:30 pm in the Main Street Plaza**

Staff reminded the board of the upcoming Mardi Gras celebration on Tuesday, February 17 in the Main Street Plaza. No action is required on this item; the item is for informational purposes only.

## **7. Public Comments**

Robert Trim updated the board on The Station at South Main. His group held an investors meeting on Feb 12, and reviewed confirmation of 3 tenants for the development. They are still working on commitments for 2 more spaces. They will have public announcements soon and will be starting on the first 2 parcels in the coming months.

Tracey Viars commented on the proposed KSU project, and stated that it would be beneficial to ask the students to do their final presentations at a KDDA meeting to give them additional real world experience in presenting to a client in a board meeting setting. Tracey also reminded the board that KDMA is gearing up for another season of First Friday and they appreciate the continued support of the KDDA in presenting these events. In addition, several KDMA members have planned a pub crawl in April, and she's excited to see the businesses working together to attract people to downtown.

## **8. Board Comments**

Mark Allen stated that he is working on some additional information for the business road map that was discussed at the last meeting and will continue to work on this resource.

Lexie Newhouse had proposed an idea of a "test run" review with Cobb Fire for businesses to see if they could get feedback prior to an official review of plans for the CO/Business License. Cobb Fire will not do an in-person/non-punitive review, but they will offer a free scheduled consultation for those with pending business license applications. The board discussed how to get this information to the businesses and how to ensure that Tanyel Aviles is receiving all new license applications so that she can let people know that this resource exists.

Ian Coats offered congratulations to Lexie Newhouse on her recent wedding!

## **9. Economic Development Director Comments**

Luke Howe updated the board on the following projects:

- Kennesaw Square - incentive proposal has been sent to the developer for review; they plan to start on the project later this year.
- 2881 N. Main - staff is meeting with prospective users who have submitted LOIs.
- Reformation — preliminary plans have been circulated; the goal is to wrap up plan review by the end of the quarter. The board asked to place an Old Business item on the next agenda to get an update on the status of the Reformation block.
- The Lacy — they are making progress on the in-line commercial spaces.

## 10. Executive Session

- A. Pursuant to the provisions of O.C.G.A. 50-14-3, the KDDA could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney as provided under O.C.G.A. 50-14-2(1); and/or personnel matters as provided under O.C.G.A. 50-14-3 (4) and/or real estate matters as provided under O.C.G.A 50-14-3(6).

## 11. Adjourn

With no further business, the chair called for a motion to adjourn. Lexie Newhouse made a motion to adjourn; seconded by Leslie Patton. The motion passed unanimously. The meeting adjourned at 8:19 am.

- A. NOTICE: Any person who desires to appeal any decision from this meeting will need a record of the proceedings, and for the purpose may need to insure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based. The Agenda is designed to make more efficient use of the KDDA's time. It is not designed to curtail discussion or input. If you need special accommodations to attend or participate in our meetings, please contact City Hall at least 24 hours in advance of the specific meeting you are planning to attend.

[MIN\_SIGNATURES]

Kennesaw Downtown Development Authority  
Operating Cash Activity  
For the Month Ended February 28, 2026

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Beginning Cash	122,776.50
Cash Receipts:	
L&B Brands	801.86
Main Street Burger Inc	2,431.58
Correct Cash Transfer	250.00
Interest Earned	210.08
Total Cash Receipts	<u>3,693.52</u>
Cash Disbursements:	
Bentley, Bentley, & Bentley	49.12
Republic Services of GA	1,603.73
Republic Services of GA	787.87
Kathryn Collier	742.63
Kathryn Collier	742.63
Total Cash Disbursements	<u>3,925.98</u>
Ending Cash	<u><u>\$ 122,544.04</u></u>





Account	Name	Balance
<b>Fund: 760 - KDDA FUND</b>		
<b>Assets</b>		
<a href="#">760-0000-11-111200-00000</a>	OPERATING ACCOUNT	122,544.04
<a href="#">760-0000-11-112100-00000</a>	KDDA FACADE	3,767.05
<a href="#">760-0000-11-311100-00000</a>	DUE FROM/TO GENERAL FUND	1,050.00
	<b>Total Assets:</b>	<b>127,361.09</b>
		<b><u>127,361.09</u></b>
<b>Liability</b>		
<a href="#">760-0000-12-260000-00000</a>	DEPOSITS PAYABLE	3,000.00
	<b>Total Liability:</b>	<b>3,000.00</b>
<b>Equity</b>		
<a href="#">760-0000-13-521400-00000</a>	F/B - UNRESTRICTED	113,842.12
	<b>Total Beginning Equity:</b>	<b>113,842.12</b>
Total Revenue		18,855.05
Total Expense		8,336.08
<b>Revenues Over/Under Expenses</b>		<b>10,518.97</b>
	<b>Total Equity and Current Surplus (Deficit):</b>	<b>124,361.09</b>
	<b>Total Liabilities, Equity and Current Surplus (Deficit):</b>	<b><u>127,361.09</u></b>



City of Kennesaw

# Income Statement Account Summary

For Fiscal: 2025-2026 Period Ending: 02/28/2026

	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
<b>Fund: 760 - KDDA FUND</b>					
<b>Revenue</b>					
<a href="#">760-0000-34-756500-00000</a> FARMERS MARKET	2,000.00	2,000.00	0.00	0.00	2,000.00
<a href="#">760-0000-34-756600-00000</a> DOWNTOWN MERCH SHOP	1,500.00	1,500.00	0.00	0.00	1,500.00
<a href="#">760-0000-34-758000-00000</a> HOLIDAY MARKET	2,500.00	2,500.00	0.00	1,960.00	540.00
<a href="#">760-0000-34-758500-00000</a> BEER FESTIVAL REVENUE	2,500.00	2,500.00	0.00	0.00	2,500.00
<a href="#">760-0000-36-100000-00000</a> INTEREST REVENUES	1,200.00	1,200.00	216.57	1,132.97	67.03
<a href="#">760-0000-38-100700-00000</a> RENTS&ROYALTIES(BURGERFI) 2844 S. MAIN	28,932.00	28,932.00	2,431.58	12,091.06	16,840.94
<a href="#">760-0000-38-900000-00000</a> OTHER (MISCELLANEOUS REV)	9,145.00	9,145.00	801.86	3,671.02	5,473.98
<a href="#">760-0000-39-400000-00000</a> USE OF PY RESERVES	9,619.00	9,619.00	0.00	0.00	9,619.00
<b>Revenue Total:</b>	<b>57,396.00</b>	<b>57,396.00</b>	<b>3,450.01</b>	<b>18,855.05</b>	<b>38,540.95</b>
<b>Expense</b>					
<a href="#">760-7550-52-121000-00000</a> LEGAL SERVICES	15,000.00	15,000.00	49.12	237.62	14,762.38
<a href="#">760-7550-52-125000-00000</a> OTHER PROFESSIONAL SERV	10,620.00	10,620.00	787.87	3,642.68	6,977.32
<a href="#">760-7550-52-127000-00000</a> DESIGN & GRAPHIC DESIGN	250.00	250.00	0.00	0.00	250.00
<a href="#">760-7550-52-231000-00000</a> RENTAL OF LAND & BUILDNG	8,916.00	8,916.00	742.63	4,455.78	4,460.22
<a href="#">760-7550-52-325000-00000</a> POSTAGE	100.00	100.00	0.00	0.00	100.00
<a href="#">760-7550-52-330000-00000</a> ADVERTISING	500.00	500.00	0.00	0.00	500.00
<a href="#">760-7550-52-350000-00000</a> TRAVEL	500.00	500.00	0.00	0.00	500.00
<a href="#">760-7550-52-363000-00000</a> MEETING EXPENSES	100.00	100.00	0.00	0.00	100.00
<a href="#">760-7550-52-371000-00000</a> PROFESSIONAL DEVELOPMENT	600.00	600.00	0.00	0.00	600.00
<a href="#">760-7550-52-395000-00000</a> MILEAGE REIMBURSEMENT	250.00	250.00	0.00	0.00	250.00
<a href="#">760-7550-52-550000-00000</a> DEVELOPMENT AUTH EXPENSES	15,000.00	15,000.00	0.00	0.00	15,000.00
<a href="#">760-7550-52-615000-00000</a> FARMERS MARKET	1,560.00	1,560.00	0.00	0.00	1,560.00
<a href="#">760-7550-52-615500-00000</a> HOLIDAY MARKET	2,500.00	2,500.00	0.00	0.00	2,500.00
<a href="#">760-7550-52-616600-00000</a> DOWNTOWN MERCH SHOP	1,500.00	1,500.00	0.00	0.00	1,500.00
<b>Expense Total:</b>	<b>57,396.00</b>	<b>57,396.00</b>	<b>1,579.62</b>	<b>8,336.08</b>	<b>49,059.92</b>
<b>Fund: 760 - KDDA FUND Surplus (Deficit):</b>	<b>0.00</b>	<b>0.00</b>	<b>1,870.39</b>	<b>10,518.97</b>	
<b>Total Surplus (Deficit):</b>	<b>0.00</b>	<b>0.00</b>	<b>1,870.39</b>	<b>10,518.97</b>	

Income Statement

For Fiscal: 2025-2026 Period Ending: 02/28/2026

**Group Summary**

Account Type	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
<b>Fund: 760 - KDDA FUND</b>					
Revenue	57,396.00	57,396.00	3,450.01	18,855.05	38,540.95
Expense	57,396.00	57,396.00	1,579.62	8,336.08	49,059.92
<b>Fund: 760 - KDDA FUND Surplus (Deficit):</b>	<b>0.00</b>	<b>0.00</b>	<b>1,870.39</b>	<b>10,518.97</b>	<b>-10,518.97</b>
<b>Total Surplus (Deficit):</b>	<b>0.00</b>	<b>0.00</b>	<b>1,870.39</b>	<b>10,518.97</b>	

**Fund Summary**

Fund	Original Total Budget	Current Total Budget	MTD Activity	YTD Activity	Budget Remaining
760 - KDDA FUND	0.00	0.00	1,870.39	10,518.97	-10,518.97
<b>Total Surplus (Deficit):</b>	<b>0.00</b>	<b>0.00</b>	<b>1,870.39</b>	<b>10,518.97</b>	



## Item Report

**TO:** The Kennesaw Downtown Development Authority  
**FROM:**  
**DATE:** March 20, 2026  
**TITLE:** Approval of Water and Sewer Easements for The Lacy

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**Summary:**

The Lacy Phase II development needs both a water easement and a sewer easement from Phase I, which the KDDA currently holds title to. Attached are the two easements, which have been prepared using the Cobb County form for water/sewer easements. These two easements are necessary to get the Phase II LDP fully approved, which is a condition for the construction loan closing.

**Recommendation:**

**Fiscal Impact:**

**Attachments:**

1. COBB FORM - Sewer Easement (from Phase I)(.2)
2. COBB FORM - Water Easement (from Phase I)(.2)

After Recording Return To:  
Cobb County Water System  
660 South Cobb Drive  
Marietta, Georgia 30060  
Attn: Angela Robinson

Tax Parcels: 20016700020; 20016701150; 20016700140

(For Recording Information Only)

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## GRANT OF SANITARY SEWER EASEMENT

STATE OF GEORGIA  
COUNTY OF COBB

**THIS GRANT OF SANITARY SEWER EASEMENT** (hereinafter referred to as the “Easement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2026, by and between **KENNESAW DEVELOPMENT OWNER, LLC**, a Delaware limited liability company (“MF Grantor”), **STATION AT SOUTH MAIN, LLC**, a Georgia limited liability company (“Retail Grantor”, and together with MF Grantor, hereinafter referred to as “Grantor(s)”) and **OLD SOUTH VILLAGE LLC**, a Georgia limited liability company (hereinafter referred to as “Grantee”), and **COBB COUNTY**, a political subdivision of the State of Georgia (hereinafter referred to as “Intended Final Grantee”) (to include their respective heirs, beneficiaries, legal representatives, employees, contractors, agents, tenants and sub-tenants, successors, and assigns, where the context hereof requires or permits).

### W I T N E S S E T H

**WHEREAS, KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY**, a public body corporate and politic created and existing under the laws of the State of Georgia (the “KDDA”) is the owner of that certain real property located in Land Lots 167 and 168 of the 20<sup>th</sup> Land District, 2<sup>nd</sup> Section, Cobb County, Georgia and being commonly known as 2652 S Main St, Kennesaw, GA 30144, according to the present system of numbering houses/businesses in Cobb County, Georgia, being more particularly described on Exhibit A-1 attached hereto (the “MF Property”). The KDDA has joined and consented to this Easement. MF Grantor is the lessee of the MF Property pursuant to that certain Rental Agreement by and between the MF Grantor and the KDDA dated as of July 21, 2022, as evidenced by Short Form Rental Agreement dated as of July 21, 2022 and recorded in Deed Book 16077, Page 5447, Cobb County, Georgia records (the “MF Bond Lease”).

**WHEREAS**, Retail Grantor is the owner of that certain real property located in Land Lots 167 and 168 of the 20<sup>th</sup> Land District, 2<sup>nd</sup> Section, Cobb County, Georgia and being commonly known as 2640 S Main St, Kennesaw, GA 30144, according to the present system of numbering houses/businesses in Cobb County, Georgia, being more particularly described on Exhibit A-2 attached hereto (the “Retail Property”, and together with the MF Property, the “Property”).

**WHEREAS**, Grantee is the owner of that certain real property located in Land Lot 167 of the 20<sup>th</sup> Land

District, 2<sup>nd</sup> Section, Cobb County, Georgia and commonly known as 2681 S Main St, Kennesaw, GA 30144, according to the present system of numbering houses/businesses in Cobb County, Georgia, being more particularly described on **Exhibit B** attached hereto (the “Grantee Property”).

**WHEREAS**, Grantee is desirous of obtaining from Grantor(s) certain temporary and permanent easements over, across, and under a portion of Grantor’s(s’) Property as described herein and depicted in the drawing attached hereto and made a part hereof by reference as **Exhibit “A”** for constructing the sanitary sewer line and facilities for Kennesaw II (“Project”).

**WHEREAS**, Intended Final Grantee is desirous of obtaining a permanent easement over, across and under a portion of the Property for the construction, use, maintenance, repair and/or replacement of such sanitary sewer line and facilities.

**NOW, THEREFORE**, in consideration of the foregoing recitals, the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor(s) does hereby grant, bargain, sell and convey unto Grantee and Intended Final Grantee, easements over, upon, through, under, and across Grantor’s(s’) Property as follows:

1. **TEMPORARY CONSTRUCTION EASEMENT**: A non-exclusive temporary construction easement (“Temporary Easement”) with the full right of use for all purposes in connection with construction of the sewer line and facilities for the Project, said Temporary Easement being 7,770.96 square feet square feet, more or less, as further depicted in **Exhibit C** (“Temporary Easement Area”). The right to use the Temporary Easement shall terminate upon the final completion and acceptance of the Project by Intended Final Grantee.
2. **PERMANENT EASEMENT**: A nonexclusive permanent easement (“Permanent Easement”) for purposes of constructing, using, maintaining, repairing, inspecting, and reconstructing sanitary sewer lines and facilities as may be required from time to time, together with the full right of access to and egress from the Permanent Easement. Said Permanent Easement being twenty (20) feet in width (7,770.96 square feet, more or less), as further depicted in **Exhibit C** (“Permanent Easement Area”). The center line of said Permanent Easement shall be the center line of the sanitary sewer line hereinafter installed. Upon final completion and acceptance of the Project by Intended Final Grantee, the Permanent Easement shall become a publicly dedicated easement for all purposes without any further action required of the parties hereto. Grantee’s right to use the Permanent Easement shall terminate upon its dedication and acceptance by Intended Final Grantee.
3. **EASEMENT TERMS**:
  - a. Grantee shall have the right to clear the Temporary and Permanent Easement Areas.
  - b. Intended Final Grantee shall have the right, but not the obligation, to keep the Permanent Easement Area clear at all times, and to remove all brush, trees, structures, and other obstructions.
  - c. Grantor(s) shall have the right to use the easement areas, provided such use shall in no manner obstruct, interfere with, or be inconsistent with the use thereof by Grantee or Intended Final Grantee, as provided herein and in the Official Code of Cobb County. Grantor(s) agrees to keep the Permanent Easement Area clear of all buildings, structures, and other obstructions and acknowledges that any landscaping placed within the Permanent Easement Area shall be at Grantor’s(s’) own risk.
  - d. Grantee shall install the sanitary sewer lines and facilities to Cobb County standards and at no cost or expense to Grantor(s). Grantee shall restore the easement areas to approximately the

same grade as existed before construction and shall seed and straw all disturbed areas, with the exception that disturbed sodded areas shall be replaced with sod.

**TO HAVE AND HOLD** said Easement unto said Grantee and Intended Final Grantee and their successors and assigns, upon the terms and for the periods set forth above.

Subject to the KDDA's interest therein, Grantor(s) hereby covenants with Grantee and Intended Final Grantee that it is lawfully seized and possessed of the real property previously described herein and that he has good and lawful right to convey it, or any part thereof, and that he will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.

**[Signatures on following pages.]**

**Cobb County Water System**

Approval \_\_\_\_\_

Date \_\_\_\_\_

Stipulations \_\_\_\_\_

**IN WITNESS WHEREOF**, Grantor(s) and Grantee have hereunto set their hands and seals the day and year above first written.

Sworn to and subscribed before me

**MF GRANTOR:**

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**KENNESAW DEVELOPMENT OWNER, LLC,**  
a Delaware limited liability company

\_\_\_\_\_  
Witness Signature

By: \_\_\_\_\_

\_\_\_\_\_  
Witness Printed Name

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires \_\_\_\_/\_\_\_\_/\_\_\_\_

(SEAL)

[Signatures Continue on Following Page]

Sworn to and subscribed before me

This \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Printed Name

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires \_\_\_\_/\_\_\_\_/\_\_\_\_

(SEAL)

**RETAIL GRANTOR:**

**STATION AT SOUTH MAIN, LLC,**  
a Georgia limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Signatures Continue on Following Page]

Sworn to and subscribed before me

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Printed Name

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires \_\_\_\_/\_\_\_\_/\_\_\_\_

(SEAL)

**GRANTEE:**

**OLD SOUTH VILLAGE LLC,**  
a Georgia limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Signatures Continue on Following Page]

[Lender Consent]

**LENDER CONSENT**

CITIZENS BANK, N.A., as administrative agent for the Lenders (defined in the Deed to Secure Debt), as Grantee under that certain Deed to Secure Debt, Assignment, and Security Agreement recorded August 3, 2022 in Deed Book 16077, Page 3501 in the real property records of Cobb County, Georgia (as may be amended and assigned from time to time, the "Deed to Secure Debt"), for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby consents to the recording of the foregoing Grant of Sanitary Sewer Easement (the "Easement"), for the express purpose of agreeing not to disturb the rights of the parties to the Easement in the event of any future foreclosure of the Deed to Secure Debt, and agrees that Lenders' exercise or pursuit of any other remedies under the Deed to Secure Debt shall be subject to the rights of the parties to the Easement (and their successors and assigns), and shall not operate to terminate or impair the provisions of the Easement.

The foregoing consent is not intended in any manner to subordinate the lien of the Deed to Secure Debt to any monetary obligations that may arise under the Easement. This Lender Consent shall be binding on Lenders and their successors and assigns with respect to the Deed to Secure Debt.

IN WITNESS WHEREOF, Citizens Bank, N.A., as administrative agent for the Lenders, has executed this Lender Consent, or has caused it to be executed on its behalf by its duly authorized representatives, to be effective as of the effective date of the Easement.

Signed sealed and delivered in the presence of:

**CITIZENS BANK, N.A.,**  
as Administrative Agent and a Lender

\_\_\_\_\_  
Unofficial Witness

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

[SEAL]

[Signatures Continue on Following Page]

### **KDDA JOINDER AND CONSENT**

The undersigned (the “KDDA”), as fee owner of the real property described in Exhibit A-1 attached hereto (the “MF Property”), hereby consents to this Grant of Sanitary Sewer Easement (this “Easement”) and hereby consents to the rights granted herein by KENNESAW DEVELOPMENT OWNER, LLC, a Delaware limited liability company (along with its successors or assigns, the “MF Lessee”), under that certain Rental Agreement by and between the MF Lessee (as “Tenant” thereunder) and the KDDA (as “Landlord” thereunder), dated as of July 21, 2022, as evidenced by Short Form Rental Agreement dated as of July 21, 2022 and recorded in Deed Book 16077, Page 5447, Cobb County, Georgia records, as affected by that certain Collateral Assignment of Bond, Rental Agreement, Option, and Other Bond Documents dated as of November 24, 2025 and recorded in Deed Book 16325, Page 6040, aforesaid records (as amended and modified from time to time, the “MF Lease”). The KDDA acknowledges and agrees that this Easement shall be deemed a Permitted Encumbrance (as defined in the MF Lease) for all purposes under the MF Lease, and that this Easement shall, upon its recording in the Cobb County records, encumber the KDDA’s fee interest in the MF Property, as well as any leasehold interest of the MF Lessee in such real property. The KDDA has agreed to join and consent to this Easement in accordance with Section 10.08 of the MF Lease. Notwithstanding anything to the contrary contained herein, nothing in this Easement shall be deemed to increase the liability or restrict or subordinate the Unassigned Rights (as defined in the MF Lease) of the KDDA.

The undersigned, having an interest in the real property described in Exhibit A-2 attached hereto (the “Retail Property”), hereby consents to this Easement and hereby consents to the rights granted herein by STATION AT SOUTH MAIN, LLC, a Georgia limited liability company (along with its successors or assigns, the “Retail Lessee”), under that certain Rental Agreement by and between the Retail Lessee (as “Tenant” thereunder) and the KDDA (as “Landlord” thereunder), dated as of July 21, 2022, as evidenced by Short Form Rental Agreement recorded in Deed Book 16077, Page 5451, aforesaid records, and as affected by Assignment and Assumption Agreement dated as of May 17, 2024 and recorded in Deed Book 16207, Page 6176, aforesaid records (as amended and modified from time to time, the “Retail Lease”). The KDDA acknowledges and agrees that this Easement shall be deemed a Permitted Encumbrance (as defined in the Retail Lease) for all purposes under the Retail Lease, and that this Easement shall, upon its recording in the Cobb County records, encumber the KDDA’s leasehold and other interests in the Retail Property (including any future fee interest of the KDDA in the Retail Property) and any leasehold interest of the Retail Lessee in such real property. The KDDA has agreed to join and consent to this Easement in accordance with Section 10.08 of the Retail Lease. Notwithstanding anything to the contrary contained herein, nothing in this Easement shall be deemed to increase the liability or restrict or subordinate the Unassigned Rights (as defined in the Retail Lease) of the KDDA.

[Signature Page Follows]

IN WITNESS WHEREOF, this Joinder and Consent has been signed, sealed and delivered by the KDDA this \_\_\_\_ day of \_\_\_\_\_, 2026.

Signed sealed and delivered in the presence of:

**KDDA:**

\_\_\_\_\_  
Unofficial Witness

Print Name: \_\_\_\_\_

**KENNESAW DOWNTOWN  
DEVELOPMENT AUTHORITY**

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Chairman

[SEAL]

[KDDA Joinder and Consent]

Error! Unknown document property name.

**EXHIBIT A-1**

**MF Property**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 167 AND 168 OF THE 20TH LAND DISTRICT, 2ND SECTION, CITY OF KENNESAW, COBB COUNTY, GEORGIA, BEING KNOWN AS MULTIFAMILY TRACT ON THE SUBDIVISION PLAT OF 2652 SOUTH MAIN STREET, DATED MAY 2, 2022 AND RECORDED ON JULY 20, 2022, IN PLAT BOOK 281, PAGE 227, COBB COUNTY, GEORGIA RECORDS.

SAID TRACT OR PARCEL OF LAND CONTAINS APPROXIMATELY 12.97 ACRES.

**EXHIBIT A-2**

**Retail Property**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 167 AND 168 OF THE 20TH LAND DISTRICT, 2ND SECTION, CITY OF KENNESAW, COBB COUNTY, GEORGIA, BEING KNOWN AS RETAIL TRACT ON THE SUBDIVISION PLAT OF 2652 SOUTH MAIN STREET, DATED MAY 2, 2022, AND RECORDED ON JULY 20, 2022, IN PLAT BOOK 281, PAGE 227, COBB COUNTY, GEORGIA RECORDS.

SAID TRACT OR PARCEL OF LAND CONTAINS APPROXIMATELY 1.741 ACRES.

**Exhibit A**

Error! Unknown document property name.

**EXHIBIT B**

**Grantee Property**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT NO. 167, OF THE 20<sup>TH</sup> DISTRICT, 2ND SECTION, OF COBB COUNTY, GEORGIA, IN THE CITY OF KENNESAW, BEING PROPERTY OF ELIZABETH C. GROGAN, AS PER PLAT RECORDED IN PLAT BOOK 47, PAGE 168, COBB COUNTY, GEORGIA RECORDS, WHICH PLAT IS HEREBY ADOPTED AND MADE A PART HEREOF BY REFERENCE THERETO FOR AMORE COMPLETE DESCRIPTION OF SAID PROPERTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST SIDE OF OLD U.S. HIGHWAY 41 A DISTANCE OF 431.4 FEET NORTH AS MEASURED ALONG THE WEST SIDE OF OLD U.S. HIGHWAY 41 FROM THE INTERSECTION OF THE WEST SIDE OF OLD U. S. HIGHWAY 41 AND THE CENTERLINE OF A RAILWAY SPUR TRACK; RUNNING THENCE NORTHERLY ALONG THE WESTERLY SIDE OF OLD U. S. HIGHWAY 41 AND FOLLOWING THE CURVATURE THEREOF 375.76 FEET TO AN IRON PIN AT THE SOUTHEAST CORNER OF PROPERTY OF B. D. HOOD; THENCE SOUTH 73 DEGREES 19 MINUTES 29 SECONDS WEST 471.34 FEET TO AN IRON PIN ON THE NORTHEASTERLY RIGHT-OF-WAY OF W & A RAILROAD; THENCE SOUTH 16 DEGREES 37 MINUTES 40 SECONDS EAST 318.10 FEET TO AN IRON PIN; THENCE NORTH 80 DEGREES 9 MINUTES 38 SECONDS EAST ALONG THE NORTH LINE OF PROPERTY OF E. R. WILBUR 395.35 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF OLD U.S. HIGHWAY 41 BEING THE POINT OF BEGINNING.

ALSO BEING DESCRIBED AS:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 167 OF THE 20TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE CENTERLINE OF A RAILWAY SPUR TRACK AND THE WESTERLY RIGHT-OF-WAY OF SOUTH MAIN STREET ALSO KNOWN AS OLD HIGHWAY 41 (60 FOOT R/W); THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 431.40 FEET TO A #5 REBAR SET AT THE NORTHEASTERLY CORNER OF THE LANDS OF RICHARDS-GILSTRAP HOLDINGS, LLC (DEED BOOK 14746, PAGE 95), SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY ALONG THE NORTHERLY BOUNDARY OF THE LANDS OF RICHARDS-GILSTRAP HOLDINGS, LLC, SOUTH 81 DEGREES 24 MINUTES 04 SECONDS WEST, 391.54 FEET TO A #4 REBAR FOUND ON THE EASTERLY RIGHT-OF-WAY OF THE WESTERN AND ATLANTIC RAILROAD (66 FOOT R/W); THENCE ALONG SAID EASTERLY RIGHT-OF-WAY NORTH 16 DEGREES 49 MINUTES 30 SECONDS WEST, 318.10 FEET TO A #5 REBAR SET AT THE SOUTHWESTERLY CORNER OF THE LANDS OF FRED H. CHALKER; THENCE ALONG THE SOUTHERLY BOUNDARY OF FRED H. CHALKER NORTH 74 DEGREES 21 MINUTES 22 SECONDS EAST, 244.66 FEET TO A #4 REBAR FOUND AT THE SOUTHWESTERLY CORNER OF THE LANDS OF MISUNI C. EDWARDS AND DOUG L. EDWARDS (DEED BOOK 14380, PAGE 4165); THENCE ALONG THE SOUTHERLY BOUNDARY OF THE LANDS OF MISUNI C. EDWARDS AND DOUG L. EDWARDS NORTH 74 DEGREES 32 MINUTES 07 SECONDS EAST, 226.68 FEET TO A #4 REBAR FOUND ON THE WESTERLY RIGHT-OF-WAY OF SOUTH MAIN STREET (60 FOOT R/W); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY THE FOLLOWING COURSES AND DISTANCES: ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 244.36 FEET, SAID CURVE HAVING A RADIUS OF 690.76 FEET AND BEING SUBTENDED BY A CHORD OF 243.09 FEET, AT SOUTH

Exhibit B

Error! Unknown document property name.

07 DEGREES 24 MINUTES 58 SECONDS EAST, TO A POINT; SOUTH 02 DEGREES 43 MINUTES 06 SECONDS WEST, 131.45 FEET TO A #5 REBAR SET, SAID POINT BEING THE TRUE POINT OF BEGINNING;

SAID TRACT OR PARCEL OF LAND CONTAINS APPROXIMATELY 3.499 ACRES.

Exhibit B

Error! Unknown document property name.

**EXHIBIT C**

**EASEMENT AREA**

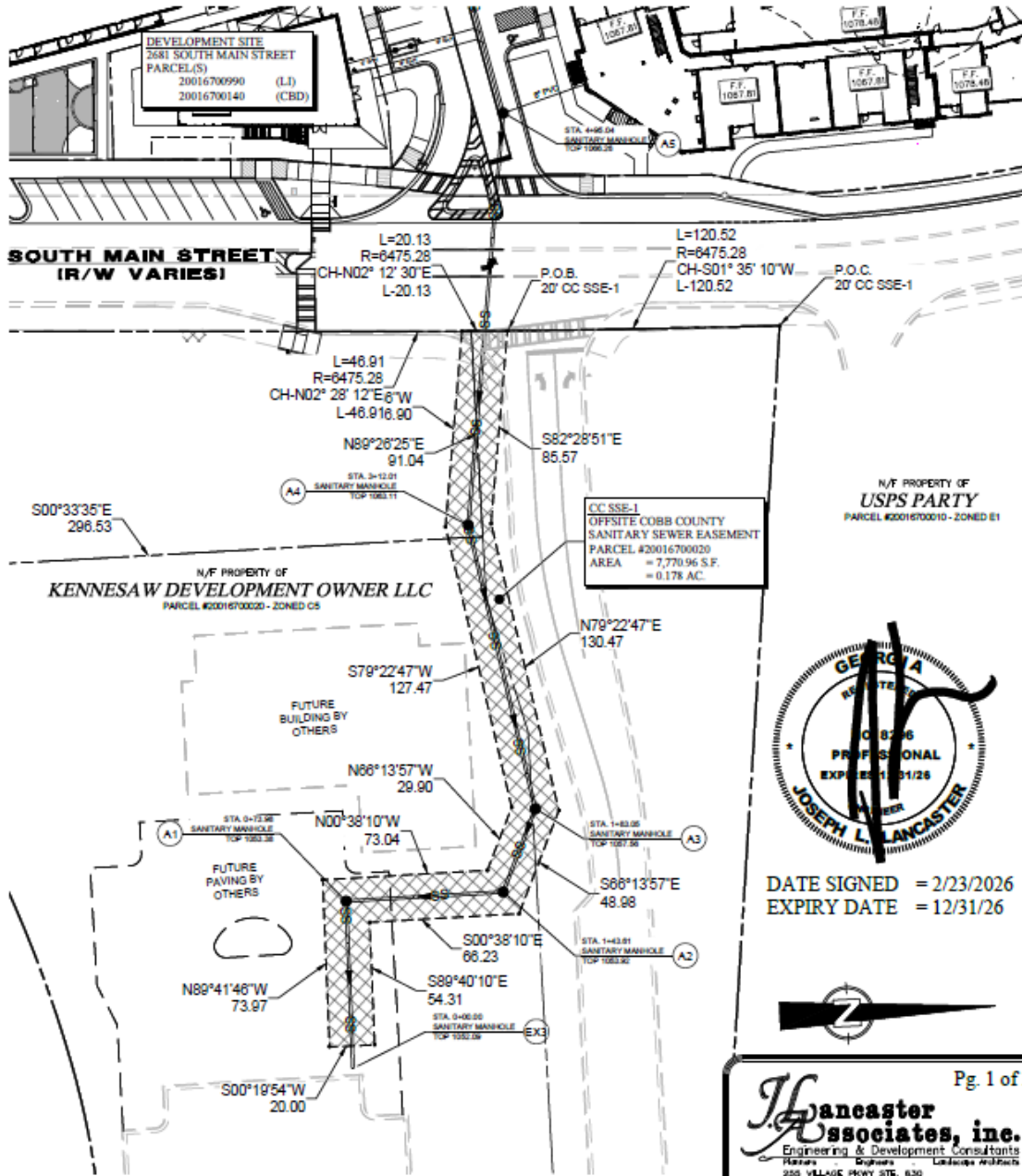
**OFFSITE SEWER EASEMENT (CC SSE-1)**

2681 SOUTH MAIN STREET, KENNESAW, GA 30144

LAND LOT 167, 20th DISTRICT, COBB COUNTY

PARCEL(S) #20016700990 & #20016700140

SCALE: 1"=60'



DATE SIGNED = 2/23/2026  
EXPIRY DATE = 12/31/26



Pg. 1 of 2

**J. Lancaster Associates, inc.**  
Engineering & Development Consultants  
Planners - Engineers - Landscape Architects  
255 VILLAGE PKWY STE. 630  
MARIETTA, GA 30067 (770) 905-2421

Legal description:

All that tract or parcel of land lying and being in Land Lot 167 of the 20th District, City of Kennesaw, Cobb County, Georgia, and being more particularly described as follows:

Commencing at the Northwest property corner of Parcel #20016700020 on the Easterly right-of-way line of South Main Street; Thence leaving said point of commencement along the Easterly right-of-way line of South Main Street along a curve to the right having a radius of 6,475.28 feet and whose long chord bears South 01 degrees 35 minutes 10 seconds West for a distance of 120.52 feet to a point on the Easterly right-of-way line of South Main Street; said point being the TRUE POINT OF BEGINNING.

From the Point of Beginning, Thence, South 82 degrees 28 minutes 51 seconds East for a distance of 85.57 feet to a point; Thence, North 79 degrees 22 minutes 47 seconds East for a distance of 130.47 feet to a point; Thence, South 66 degrees 13 minutes 57 seconds East for a distance of 48.98 feet to a point; Thence, South 00 degrees 38 minutes 10 seconds East for a distance of 66.23 feet to a point; Thence, South 89 degrees 40 minutes 10 seconds East for a distance of 54.31 feet to a point; Thence, South 00 degrees 19 minutes 54 seconds West for a distance of 20.00 feet to a point; Thence, North 89 degrees 41 minutes 46 seconds West for a distance of 73.97 feet to a point; Thence, North 00 degrees 38 minutes 10 seconds West for a distance of 73.04 feet to a point; Thence, North 66 degrees 13 minutes 57 seconds West for a distance of 29.90 feet to a point; Thence, South 79 degrees 22 minutes 47 seconds West for a distance of 127.47 feet to a point; Thence, North 82 degrees 30 minutes 36 seconds West for a distance of 86.90 feet to the Easterly right-of-way line of South Main Street; Thence along the Easterly right-of-way line of South Main Street along a curve turning to the left having a radius of 6475.28 feet, and whose long chord bears North 02 degrees 12 minutes 30 seconds East for a distance of 20.13 feet to the POINT OF BEGINNING. Said point being the TRUE POINT OF BEGINNING.

Said tract of land contains 0.178 Acres (7,770.96 sf).

**After Recording Return To:**  
Cobb County Water System  
660 South Cobb Drive  
Marietta, Georgia 30060  
Attn: Angela Robinson

Tax Parcels: 20016700020; 20016701150; 20016700140

(For Recording Information Only)

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## GRANT OF WATER EASEMENT

**STATE OF GEORGIA  
COUNTY OF COBB**

**THIS GRANT OF WATER EASEMENT** (hereinafter referred to as the “Easement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2026, by and between **KENNESAW DEVELOPMENT OWNER, LLC**, a Delaware limited liability company (“MF Grantor”), **STATION AT SOUTH MAIN, LLC**, a Georgia limited liability company (“Retail Grantor”, and together with MF Grantor, hereinafter collectively referred to as “Grantor”) and **OLD SOUTH VILLAGE LLC**, a Georgia limited liability company (hereinafter referred to as “Grantee”) and **COBB COUNTY**, a political subdivision of the State of Georgia (hereinafter referred to as “Intended Final Grantee”) (to include their respective heirs, beneficiaries, legal representatives, employees, contractors, agents, tenants and sub-tenants, successors, and assigns, where the context hereof requires or permits).

### WITNESSETH

WHEREAS, **KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY**, a public body corporate and politic created and existing under the laws of the State of Georgia (the “KDDA”) is the owner of that certain real property located in Land Lots 167 and 168 of the 20<sup>th</sup> Land District, 2<sup>nd</sup> Section, Cobb County, Georgia and being commonly known as 2652 S Main St, Kennesaw, GA 30144, according to the present system of numbering houses/businesses in Cobb County, Georgia, being more particularly described on **Exhibit A-1** attached hereto (the “MF Property”). The KDDA has joined and consented to this Easement. MF Grantor is the lessee of the MF Property pursuant to that certain Rental Agreement by and between the MF Grantor and the KDDA dated as of July 21, 2022, as evidenced by Short Form Rental Agreement dated as of July 21, 2022 and recorded in Deed Book 16077, Page 5447, Cobb County, Georgia records (the “MF Bond Lease”).

WHEREAS, Retail Grantor is the owner of that certain real property located in Land Lots 167 and 168 of the 20<sup>th</sup> Land District, 2<sup>nd</sup> Section, Cobb County, Georgia and being commonly known as 2640 S Main St, Kennesaw, GA 30144, according to the present system of numbering houses/businesses in Cobb County, Georgia, being more particularly described on **Exhibit A-2** attached hereto (the “Retail Property”, and together with the MF Property, the “Property”).

WHEREAS, Grantee is the owner of that certain real property located in Land Lot 167 of the 20<sup>th</sup> Land District, 2<sup>nd</sup> Section, Cobb County, Georgia and commonly known as 2681 S Main St, Kennesaw, GA

30144, according to the present system of numbering houses/businesses in Cobb County, Georgia, being more particularly described on **Exhibit B** attached hereto (the “Grantee Property”).

**WHEREAS**, Grantee is desirous of obtaining from Grantor certain temporary and permanent easements over, across, and under a portion of Grantor’s Property as described herein and depicted in the drawing attached hereto and made a part hereof by reference as **Exhibit C** for constructing the water line and facilities for Kennesaw II (“Project”).

**WHEREAS**, Intended Final Grantee is desirous of obtaining a permanent easement over, across and under a portion of the Property for the construction, use, maintenance, repair and/or replacement of such water line and facilities.

**NOW, THEREFORE**, in consideration of the foregoing recitals, the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell and convey unto Grantee and Intended Final Grantee, easements over, upon, through, under, and across Grantor’s Property as follows:

1. **TEMPORARY CONSTRUCTION EASEMENT**: A non-exclusive temporary construction easement (“Temporary Easement”) with the full right of use for all purposes in connection with construction of the water line and facilities for the Project, said Temporary Easement being 45.82 square feet, more or less, as further depicted in **Exhibit C** (“Temporary Easement Area”). The right to use the Temporary Easement shall terminate upon the final completion and acceptance of the Project by Intended Final Grantee.
2. **PERMANENT EASEMENT**: A nonexclusive permanent easement (“Permanent Easement”) for purposes of constructing, using, maintaining, repairing, inspecting, and reconstructing water lines and facilities as may be required from time to time, together with the full right of access to and egress from the Permanent Easement. Said Permanent Easement being ten (10) feet in width (45.82 square feet square feet, more or less), as further depicted in **Exhibit C** (“Permanent Easement Area”). The center line of said Permanent Easement shall be the center line of the water line hereinafter installed. Upon final completion and acceptance of the Project by Intended Final Grantee, the Permanent Easement shall become a publicly dedicated easement for all purposes without any further action required of the parties hereto. Grantee’s right to use the Permanent Easement shall terminate upon its dedication and acceptance by Intended Final Grantee.
3. **EASEMENT TERMS**:
  - a. Grantee shall have the right to clear the Temporary and Permanent Easement Areas.
  - b. Intended Final Grantee shall have the right, but not the obligation, to keep the Permanent Easement Area clear at all times, and to remove all brush, trees, structures, and other obstructions.
  - c. Grantor shall have the right to use the easement areas, provided such use shall in no manner obstruct, interfere with, or be inconsistent with the use thereof by Grantee or Intended Final Grantee, as provided herein and in the Official Code of Cobb County. Grantor agrees to keep the Permanent Easement Area clear of all buildings, structures, and other obstructions and acknowledges that any landscaping placed within the Permanent Easement Area shall be at Grantor’s own risk.
  - d. Grantee shall install the water lines and facilities to Cobb County standards and at no cost or expense to Grantor. Grantee shall restore the easement areas to approximately the same grade as existed before construction and shall seed and straw all disturbed areas, with the exception that disturbed sodded areas shall be replaced with sod.

**TO HAVE AND HOLD** said Easement unto said Grantee and Intended Final Grantee and their successors and assigns, upon the terms and for the periods set forth above.

Subject to the KDDA's interest therein, Grantor hereby covenants with Grantee and Intended Final Grantee that it is lawfully seized and possessed of the real property previously described herein and that he has good and lawful right to convey it, or any part thereof, and that he will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.

**[Signatures on following pages.]**

**Cobb County Water System**

Approval \_\_\_\_\_

Date \_\_\_\_\_

Stipulations \_\_\_\_\_

**IN WITNESS WHEREOF**, Grantor and Grantee have hereunto set their hands and seals the day and year above first written.

Sworn to and subscribed before me this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Printed Name

\_\_\_\_\_  
NOTARY PUBLIC

(SEAL)

**MF GRANTOR:**

**KENNESAW DEVELOPMENT OWNER, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Signatures Continue on Following Page]

Sworn to and subscribed before me this \_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Printed Name

\_\_\_\_\_  
NOTARY PUBLIC

(SEAL)

**RETAIL GRANTOR:**

**STATION AT SOUTH MAIN, LLC,**  
a Georgia limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Signatures Continue on Following Page]

Sworn to and subscribed before me this \_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Printed Name

\_\_\_\_\_  
NOTARY PUBLIC

(SEAL)

**GRANTEE:**

**OLD SOUTH VILLAGE LLC,**  
a Georgia limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signatures Continue on Following Page]

**LENDER CONSENT**

CITIZENS BANK, N.A., as administrative agent for the Lenders (defined in the Deed to Secure Debt), as Grantee under that certain Deed to Secure Debt, Assignment, and Security Agreement recorded August 3, 2022 in Deed Book 16077, Page 3501 in the real property records of Cobb County, Georgia (as may be amended and assigned from time to time, the “Deed to Secure Debt”), for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby consents to the recording of the foregoing Grant of Water Easement (the “Easement”), for the express purpose of agreeing not to disturb the rights of the parties to the Easement in the event of any future foreclosure of the Deed to Secure Debt, and agrees that Lenders’ exercise or pursuit of any other remedies under the Deed to Secure Debt shall be subject to the rights of the parties to the Easement (and their successors and assigns), and shall not operate to terminate or impair the provisions of the Easement.

The foregoing consent is not intended in any manner to subordinate the lien of the Deed to Secure Debt to any monetary obligations that may arise under the Easement. This Lender Consent shall be binding on Lenders and their successors and assigns with respect to the Deed to Secure Debt.

IN WITNESS WHEREOF, Citizens Bank, N.A., as administrative agent for the Lenders, has executed this Lender Consent, or has caused it to be executed on its behalf by its duly authorized representatives, to be effective as of the effective date of the Easement.

Signed sealed and delivered in the presence of:

**CITIZENS BANK, N.A.,**  
as Administrative Agent and a Lender

\_\_\_\_\_  
Unofficial Witness

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

[SEAL]

[Signatures Continue on Following Page]

[Lender Consent]

### **KDDA JOINDER AND CONSENT**

The undersigned (the “KDDA”), as fee owner of the real property described in Exhibit A-1 attached hereto (the “MF Property”), hereby consents to this Grant of Water Easement (this “Easement”) and hereby consents to the rights granted herein by KENNESAW DEVELOPMENT OWNER, LLC, a Delaware limited liability company (along with its successors or assigns, the “MF Lessee”), under that certain Rental Agreement by and between the MF Lessee (as “Tenant” thereunder) and the KDDA (as “Landlord” thereunder), dated as of July 21, 2022, as evidenced by Short Form Rental Agreement dated as of July 21, 2022 and recorded in Deed Book 16077, Page 5447, Cobb County, Georgia records, as affected by that certain Collateral Assignment of Bond, Rental Agreement, Option, and Other Bond Documents dated as of November 24, 2025 and recorded in Deed Book 16325, Page 6040, aforesaid records (as amended and modified from time to time, the “MF Lease”). The KDDA acknowledges and agrees that this Easement shall be deemed a Permitted Encumbrance (as defined in the MF Lease) for all purposes under the MF Lease, and that this Easement shall, upon its recording in the Cobb County records, encumber the KDDA’s fee interest in the MF Property, as well as any leasehold interest of the MF Lessee in such real property. The KDDA has agreed to join and consent to this Easement in accordance with Section 10.08 of the MF Lease. Notwithstanding anything to the contrary contained herein, nothing in this Easement shall be deemed to increase the liability or restrict or subordinate the Unassigned Rights (as defined in the MF Lease) of the KDDA.

The undersigned, having an interest in the real property described in Exhibit A-2 attached hereto (the “Retail Property”), hereby consents to this Easement and hereby consents to the rights granted herein by STATION AT SOUTH MAIN, LLC, a Georgia limited liability company (along with its successors or assigns, the “Retail Lessee”), under that certain Rental Agreement by and between the Retail Lessee (as “Tenant” thereunder) and the KDDA (as “Landlord” thereunder), dated as of July 21, 2022, as evidenced by Short Form Rental Agreement recorded in Deed Book 16077, Page 5451, aforesaid records, and as affected by Assignment and Assumption Agreement dated as of May 17, 2024 and recorded in Deed Book 16207, Page 6176, aforesaid records (as amended and modified from time to time, the “Retail Lease”). The KDDA acknowledges and agrees that this Easement shall be deemed a Permitted Encumbrance (as defined in the Retail Lease) for all purposes under the Retail Lease, and that this Easement shall, upon its recording in the Cobb County records, encumber the KDDA’s leasehold and other interests in the Retail Property (including any future fee interest of the KDDA in the Retail Property) and any leasehold interest of the Retail Lessee in such real property. The KDDA has agreed to join and consent to this Easement in accordance with Section 10.08 of the Retail Lease. Notwithstanding anything to the contrary contained herein, nothing in this Easement shall be deemed to increase the liability or restrict or subordinate the Unassigned Rights (as defined in the Retail Lease) of the KDDA.

[Signature Page Follows]

IN WITNESS WHEREOF, this Joinder and Consent has been signed, sealed and delivered by the KDDA  
this \_\_\_\_ day of \_\_\_\_\_, 2026.

Signed sealed and delivered in the presence of:

**KDDA:**

\_\_\_\_\_  
Unofficial Witness

Print Name: \_\_\_\_\_

**KENNESAW DOWNTOWN  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Chairman

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

[SEAL]

**EXHIBIT A-1**

**MF Property**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 167 AND 168 OF THE 20TH LAND DISTRICT, 2ND SECTION, CITY OF KENNESAW, COBB COUNTY, GEORGIA, BEING KNOWN AS MULTIFAMILY TRACT ON THE SUBDIVISION PLAT OF 2652 SOUTH MAIN STREET, DATED MAY 2, 2022 AND RECORDED ON JULY 20, 2022, IN PLAT BOOK 281, PAGE 227, COBB COUNTY, GEORGIA RECORDS.

SAID TRACT OR PARCEL OF LAND CONTAINS APPROXIMATELY 12.97 ACRES.

**EXHIBIT A-2**

**Retail Property**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 167 AND 168 OF THE 20TH LAND DISTRICT, 2ND SECTION, CITY OF KENNESAW, COBB COUNTY, GEORGIA, BEING KNOWN AS RETAIL TRACT ON THE SUBDIVISION PLAT OF 2652 SOUTH MAIN STREET, DATED MAY 2, 2022, AND RECORDED ON JULY 20, 2022, IN PLAT BOOK 281, PAGE 227, COBB COUNTY, GEORGIA RECORDS.

SAID TRACT OR PARCEL OF LAND CONTAINS APPROXIMATELY 1.741 ACRES.

**EXHIBIT B**

**Grantee Property**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT NO. 167, OF THE 20<sup>TH</sup> DISTRICT, 2ND SECTION, OF COBB COUNTY, GEORGIA, IN THE CITY OF KENNESAW, BEING PROPERTY OF ELIZABETH C. GROGAN, AS PER PLAT RECORDED IN PLAT BOOK 47, PAGE 168, COBB COUNTY, GEORGIA RECORDS, WHICH PLAT IS HEREBY ADOPTED AND MADE A PART HEREOF BY REFERENCE THERETO FOR AMORE COMPLETE DESCRIPTION OF SAID PROPERTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST SIDE OF OLD U.S. HIGHWAY 41 A DISTANCE OF 431.4 FEET NORTH AS MEASURED ALONG THE WEST SIDE OF OLD U.S. HIGHWAY 41 FROM THE INTERSECTION OF THE WEST SIDE OF OLD U. S. HIGHWAY 41 AND THE CENTERLINE OF A RAILWAY SPUR TRACK; RUNNING THENCE NORTHERLY ALONG THE WESTERLY SIDE OF OLD U. S. HIGHWAY 41 AND FOLLOWING THE CURVATURE THEREOF 375.76 FEET TO AN IRON PIN AT THE SOUTHEAST CORNER OF PROPERTY OF B. D. HOOD; THENCE SOUTH 73 DEGREES 19 MINUTES 29 SECONDS WEST 471.34 FEET TO AN IRON PIN ON THE NORTHEASTERLY RIGHT-OF-WAY OF W & A RAILROAD; THENCE SOUTH 16 DEGREES 37 MINUTES 40 SECONDS EAST 318.10 FEET TO AN IRON PIN; THENCE NORTH 80 DEGREES 9 MINUTES 38 SECONDS EAST ALONG THE NORTH LINE OF PROPERTY OF E. R. WILBUR 395.35 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF OLD U.S. HIGHWAY 41 BEING THE POINT OF BEGINNING.

ALSO BEING DESCRIBED AS:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 167 OF THE 20TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE CENTERLINE OF A RAILWAY SPUR TRACK AND THE WESTERLY RIGHT-OF-WAY OF SOUTH MAIN STREET ALSO KNOWN AS OLD HIGHWAY 41 (60 FOOT R/W); THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY, 431.40 FEET TO A #5 REBAR SET AT THE NORTHEASTERLY CORNER OF THE LANDS OF RICHARDS-GILSTRAP HOLDINGS, LLC (DEED BOOK 14746, PAGE 95), SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY ALONG THE NORTHERLY BOUNDARY OF THE LANDS OF RICHARDS-GILSTRAP HOLDINGS, LLC, SOUTH 81 DEGREES 24 MINUTES 04 SECONDS WEST, 391.54 FEET TO A #4 REBAR FOUND ON THE EASTERLY RIGHT-OF-WAY OF THE WESTERN AND ATLANTIC RAILROAD (66 FOOT R/W); THENCE ALONG SAID EASTERLY RIGHT-OF-WAY NORTH 16 DEGREES 49 MINUTES 30 SECONDS WEST, 318.10 FEET TO A #5 REBAR SET AT THE SOUTHWESTERLY CORNER OF THE LANDS OF FRED H. CHALKER; THENCE ALONG THE SOUTHERLY BOUNDARY OF FRED H. CHALKER NORTH 74 DEGREES 21 MINUTES 22 SECONDS EAST, 244.66 FEET TO A #4 REBAR FOUND AT THE SOUTHWESTERLY CORNER OF THE LANDS OF MISUNI C. EDWARDS AND DOUG L. EDWARDS (DEED BOOK 14380, PAGE 4165); THENCE ALONG THE SOUTHERLY BOUNDARY OF THE LANDS OF MISUNI C. EDWARDS AND DOUG L. EDWARDS NORTH 74 DEGREES 32 MINUTES 07 SECONDS EAST, 226.68 FEET TO A #4 REBAR FOUND ON THE WESTERLY RIGHT-OF-WAY OF SOUTH MAIN STREET (60 FOOT R/W); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY THE FOLLOWING COURSES AND DISTANCES: ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 244.36 FEET, SAID CURVE HAVING A RADIUS OF 690.76 FEET AND BEING SUBTENDED BY A CHORD OF 243.09 FEET, AT SOUTH 07 DEGREES 24 MINUTES 58 SECONDS EAST, TO A POINT; SOUTH 02 DEGREES 43 MINUTES

06 SECONDS WEST, 131.45 FEET TO A #5 REBAR SET, SAID POINT BEING THE TRUE POINT OF BEGINNING;

SAID TRACT OR PARCEL OF LAND CONTAINS APPROXIMATELY 3.499 ACRES.

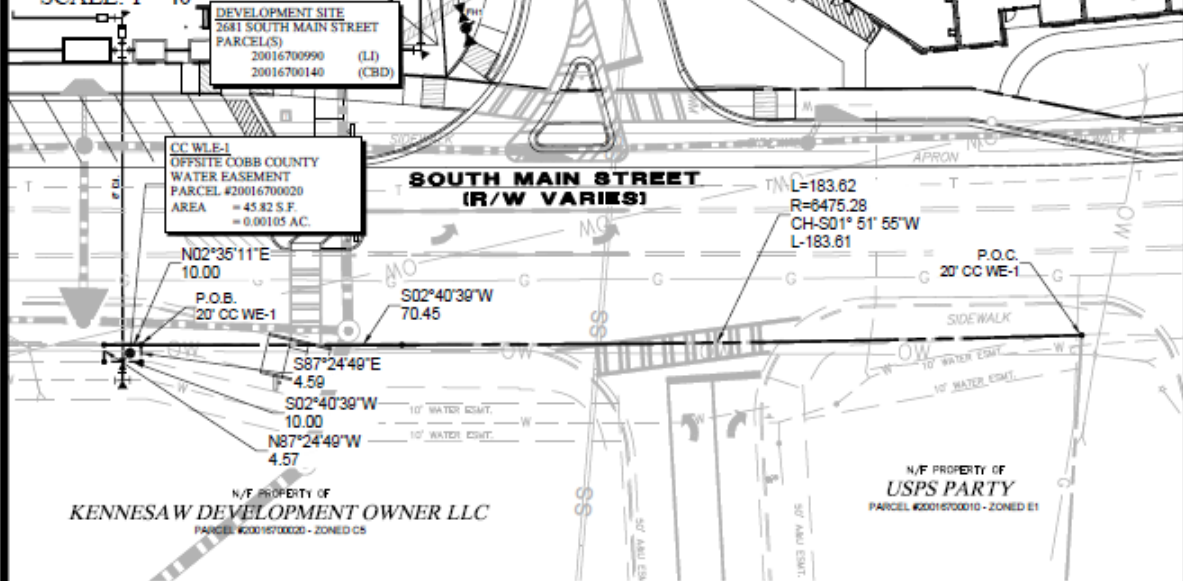
**EXHIBIT C**

**EASEMENT AREA**

**OFFSITE WATER EASEMENT (CC WLE-1)**

2681 SOUTH MAIN STREET, KENNESAW, GA 30144  
LAND LOT 167, 20th DISTRICT, COBB COUNTY  
PARCEL(S) #20016700990 & #20016700140

SCALE: 1"=40'



**Legal Description for Cobb County Offsite Water Easement - 1**

All that tract or parcel of land lying and being in Land Lot 167 of the 20th District, City of Kennesaw, Cobb County, Georgia, and being more particularly described as follows:

Commencing at the Northwest property corner of Parcel #20016700020 on the Easterly right-of-way line of South Main Street; Thence leaving said point of commencement along the Easterly right-of-way line of South Main Street along a curve to the right having a radius of 8,475.28 feet and whose long chord bears South 01 degrees 51 minutes 55 seconds West for a distance of 183.61 feet to a point on the Easterly right-of-way line of South Main Street; Thence, South 02 degrees 40 minutes 39 seconds West for a distance of 70.45 feet to a point on the Easterly right-of-way line of South Main Street;

Said point being the TRUE POINT OF BEGINNING.

From the Point of Beginning, Thence, South 87 degrees 24 minutes 29 seconds East for a distance of 4.59 feet to a point; Thence, South 02 degrees 40 minutes 39 seconds West for a distance of 10.00 feet to a point; Thence, North 87 degrees 24 minutes 49 seconds West for a distance of 4.57 feet to a point on the Easterly right-of-way line of South Main Street; Thence along the Easterly right-of-way line of South Main Street North 02 degrees 35 minutes 11 seconds East for a distance of 10.00 feet to the POINT OF BEGINNING.

Said point being the TRUE POINT OF BEGINNING

Said tract of land contains 0.00105 Acres (45.82 sf).



DATE SIGNED = 2/23/2026  
EXPIRY DATE = 12/31/26

Pg. 1 of 1  
**J Lancaster**  
**Associates, inc.**  
Engineering & Development Consultants  
Surveying · Grading · Landscape Architecture  
225 VILLAGE PENNY STE. 630  
MARIETTA, GA 30067 (770) 955-2421

Legal description:

All that tract or parcel of land lying and being in Land Lot 167 of the 20th District, City of Kennesaw, Cobb County, Georgia, and being more particularly described as follows:

Commencing at the Northwest property corner of Parcel #20016700020 on the Easterly right-of-way line of South Main Street; Thence leaving said point of commencement along the Easterly right-of-way line of South Main Street along a curve to the right having a radius of 6,475.28 feet and whose long chord bears South 01 degrees 51 minutes 55 seconds West for a distance of 183.61 feet to a point on the Easterly right-of-way line of South Main Street; Thence, South 02 degrees 40 minutes 39 seconds West for a distance of 70.45 feet to a point on the Easterly right-of-way line of South Main Street;

Said point being the TRUE POINT OF BEGINNING.

From the Point of Beginning, Thence, South 87 degrees 24 minutes 29 seconds East for a distance of 4.59 feet to a point; Thence, South 02 degrees 40 minutes 39 seconds West for a distance of 10.00 feet to a point; Thence, North 87 degrees 24 minutes 49 seconds West for a distance of 4.57 feet to a point on the Easterly right-of-way line of South Main Street; Thence along the Easterly right-of-way line of South Main Street North 02 degrees 35 minutes 11 seconds East for a distance of 10.00 feet to the POINT OF BEGINNING. Said point being the TRUE POINT OF BEGINNING

Said tract of land contains 0.00105 Acres (45.82 sf).



## Item Report

**TO:** The Kennesaw Downtown Development Authority  
**FROM:**  
**DATE:** March 20, 2026  
**TITLE:** Review and approval of Bond Resolution and Bond Documents for Lacy Phase II Project

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**Summary:**

**Recommendation:**

**Fiscal Impact:**

**Attachments:**

1. Bond Resolution (Multifamily) - 2026 - Kennesaw DDA (Lacy Phase II Incentives) - 4915-0464-3476 1
2. Bond (Multifamily) - 2026 - Kennesaw DDA (Lacy Phase II Incentives) - 4908-5964-3028 1
3. Validation Papers (Multifamily) - 2026 - Kennesaw DDA (Lacy Phase II Incentives) - 4915-2810-8948 1
4. Loan and Security Agreement (Multifamily) - 2026 - Kennesaw DDA (Lacy Phase II Incentives) - 4909-2983-3108 1
5. Purchase, Sale, Financing, and Option Agreement (Multifamily) - 2026 - Kennesaw DDA (Lacy Phase II Incentives) - 4935-8915-2404 1
6. Rental Agreement (Multifamily) - 2026 - Kennesaw DDA (Lacy Phase II Incentives) - 4937-9447-8484 1

**SERIES 2026 BOND RESOLUTION**

A RESOLUTION OF THE KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY AUTHORIZING, INTER ALIA, THE ISSUANCE OF ITS ECONOMIC DEVELOPMENT REVENUE BOND (KENNESAW II MULTIFAMILY OWNER, LLC PROJECT), SERIES 2026, IN A PRINCIPAL AMOUNT OF UP TO \$ \_\_\_\_\_

Adopted March 20, 2026

Exhibit “A” - Form of Purchase, Sale, Financing, and Option Agreement

Exhibit “B” - Form of Loan and Security Agreement

Exhibit “C” - Form of Rental Agreement

## SERIES 2026 BOND RESOLUTION

**WHEREAS**, the Kennesaw Downtown Development Authority (the “Authority”) is a public body corporate and politic duly created and validly existing under and pursuant to an act entitled “Downtown Development Authorities Law,” codified as Chapter 42 of Title 36 of the Official Code of Georgia Annotated, as amended (the “Act”); and

**WHEREAS**, the governing body of the City of Kennesaw, Georgia has, by proper resolution, declared that there is a need for the Authority to function in the City of Kennesaw, Georgia, as required by the terms of the Act, the Authority has been duly created and activated pursuant to the terms of the Act, and its directors have been appointed as provided therein and are currently acting in that capacity; and

**WHEREAS**, the Act authorizes the Authority to issue revenue bonds and use the proceeds thereof for the purpose of paying all or any part of the cost of any “project,” which includes the acquisition, construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements located or to be located within the downtown development area designated by the governing body of the City of Kennesaw, Georgia, and the acquisition, installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, all for the essential public purpose of the development of trade, commerce, industry, and employment opportunities in the Authority’s authorized area of operation, which project may be for any industrial, commercial, business, office, parking, public, or other use, provided that a majority of the members of the Authority determines, by a duly adopted resolution, that the project and such use thereof would further the public purpose of the Act; and

**WHEREAS**, the Act also authorizes the Authority (1) to construct, erect, assemble, purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend, improve, install, sell, equip, expand, add to, operate, or manage projects; (2) to make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the Authority or to further the public purpose for which the Authority is created, including, but not limited to, contracts for construction of projects, leases of projects, contracts for sale of projects, and contracts with respect to the use of projects; (3) to acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and personal property of every kind and character, or any interest therein, in furtherance of the public purpose of the Authority; (4) to borrow money to further or carry out its public purpose and to execute revenue bonds, trust agreements, agreements for the sale of its revenue bonds, loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, and such other agreements or instruments as may be necessary or desirable, in the judgment of the Authority, to evidence and to provide security for such borrowing; and (5) to use any real property, personal property, or fixtures or any interest therein or to rent or lease such property to or from others or make contracts with respect to the use thereof, or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant options for any such property in any manner as it deems to the best advantage of the Authority and the public purpose thereof; and

**WHEREAS**, the Act also authorizes the Authority, as security for repayment of its revenue bonds, to pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any property of the

Authority (including, but not limited to, real property, fixtures, personal property, and revenues or other funds) and to execute any trust agreement, agreement for the sale of the Authority’s revenue bonds, loan agreement, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other agreement or instrument as may be necessary or desirable, in the judgment of the Authority, to secure any such revenue bonds, which instruments or agreements may provide for foreclosure or forced sale of any property of the Authority upon default in any obligation of the Authority, either in payment of principal, premium, if any, or interest or in the performance of any term or condition contained in any such agreement or instrument; and

**WHEREAS**, Kennesaw II Multifamily Owner, LLC (in such capacity the “Seller”), a Delaware limited liability company, has acquired an approximately 7.5 acre site, located in the City of Kennesaw, Georgia at 2765 South Main Street (the “Site”), on which the Seller proposes to construct mixed use facilities containing approximately 300 multifamily housing units and not less than 2,500 square feet of commercial space and related surface and structured parking (the “Improvements”), and proposes to install related fixtures, furnishings, equipment, and other personal property (the “Equipment”), which the Seller proposes to sell to the Authority after the completion of the construction and installation of the Improvements and the Equipment on the Site, pursuant to the terms of a Purchase, Sale, Financing, and Option Agreement, to be dated the date of its execution and delivery (the “Purchase Agreement”), between the Seller, as seller, and the Authority, as purchaser; and

**WHEREAS**, the Seller proposes to obtain loans (“Construction Loans”) to finance or refinance the costs of the acquisition, construction, and installation of the Site, the Improvements, and the Equipment (collectively the “Facilities”); and

**WHEREAS**, the purchase price to be paid by the Authority to the Seller pursuant to the Purchase Agreement will equal 250% of the cost to the Seller of the Facilities and will be paid in multiple installments: (1) an initial installment equal to the total purchase price minus the principal and interest scheduled to be paid on the Construction Loans after the date of purchase of the Facilities by the Authority (the “Initial Purchase Price”), to be payable on or shortly after the completion of the construction and installation of the Improvements and the Equipment (the “Completion Date”), and (2) subsequent installments equal to the principal and interest scheduled to be paid on the Construction Loans after the date of purchase of the Facilities by the Authority (the “Deferred Purchase Price”), to be payable on the due dates of such principal of and interest on the Construction Loans or, if the Seller elects to prepay the Construction Loans in whole or in part prior to maturity, on the date of prepayment of the Construction Loans; and

**WHEREAS**, the Authority proposes to obtain funds to purchase the Facilities from the Seller by (1) issuing and selling to the Seller its Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026 (the “Series 2026 Bond”), in the original principal amount up to \$ \_\_\_\_\_, in part to finance the Initial Purchase Price, pursuant to the terms of a Loan and Security Agreement, to be dated the date of its execution and delivery (the “Seller Loan Agreement”), between the Seller, as lender, and the Authority, as borrower, and (2) obtaining loans from lenders selected by the Seller, in part to finance the Deferred Purchase Price, the repayment of which will be evidenced by revenue bonds to be issued by the Authority in the future (“Future Bonds”); and

**WHEREAS**, pursuant to the terms of the Purchase Agreement, the Authority proposes to grant to the Seller an option to purchase the Facilities in whole, after the expiration or sooner termination of the term of the hereinafter defined Rental Agreement, for a purchase price that will be sufficient to enable the Authority to pay, retire, and prepay the Series 2026 Bond and the Future Bonds; and

**WHEREAS**, the Authority proposes to rent the Facilities to Kennesaw II Multifamily Owner, LLC (in such capacity the “Tenant”), a Delaware limited liability company, for a term commencing on the Completion Date and ending on December 1 of the 15th calendar year following the calendar year of the Completion Date, and for rental payments sufficient in time and amount to enable the Authority to pay principal of and interest on the Series 2026 Bond and to pay Deferred Purchase Price, when the same become due and payable, pursuant to the terms of a Rental Agreement, to be dated the date of its execution and delivery (the “Rental Agreement”), between the Authority, as landlord, and the Tenant, as tenant; and

**WHEREAS**, pursuant to the terms of the Seller Loan Agreement and to accomplish the refunding of the Future Bonds, the Seller proposes to make advances to the Authority sufficient in time and amount to enable the Authority to repay the Future Bonds and to pay interest on the Future Bonds; and

**WHEREAS**, the Authority will secure its obligations under the Series 2026 Bond by assigning and pledging to the Seller, and granting a first priority security interest in, all of its right, title, and interest in and to the Rental Agreement, except for Unassigned Rights (as defined in the Rental Agreement), and the Purchase Agreement, pursuant to the Seller Loan Agreement; and

**WHEREAS**, the Authority hereby finds and determines that the Facilities are a “project” within the meaning of the Act and that the financing of the Facilities will further the purposes and policies of the Act; and

**WHEREAS**, the Board of Directors of the Authority has determined that accomplishing the foregoing is in the best interests of the Authority, and the Board of Directors of the Authority has found and does hereby declare that such undertaking is for a lawful, valid, and necessary public purpose, which will develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities; will promote the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City of Kennesaw, Georgia; and will revitalize and redevelop the central business district of the City of Kennesaw, Georgia, all to the public benefit and good; and

**WHEREAS**, the Authority further finds and determines that (i) the adoption of this Bond Resolution and the subsequent issuance of the Series 2026 Bond to finance the Facilities does not constitute a “business loan” or confer any other “public benefit” within the meaning of O.C.G.A. § 50-36-1(a)(3) and (ii) none of the Tenant, the Seller, or any other participant in the transaction involving the Series 2026 Bond or the Facilities or their respective counsel constitute an “applicant” within the meaning of O.C.G.A. § 50-36-1(a)(2) in connection with the issuance of the Series 2026 Bond; therefore, such persons are not subject to verification of lawful presence in the United States pursuant to O.C.G.A. § 50-36-1(b) in connection with the issuance of the Series 2026 Bond; and

**WHEREAS**, the Authority desires to elect to waive the requirements of O.C.G.A. § 36-82-100, requiring a performance audit or performance review to be conducted with respect to the expenditure of Series 2026 Bond proceeds, and in connection therewith, to include language, in bold face type, in the Notice to the Public regarding the validation hearing for the Series 2026 Bond stating that no performance audit or performance review will be conducted with respect to the Series 2026 Bond; and

**WHEREAS**, copies of the forms of the following documents relating to the transactions described above have been submitted to the Authority, are now on file with the Authority, and are attached as exhibits:

Exhibit “A” - Purchase, Sale, Financing, and Option Agreement, to be dated the date of its execution and delivery, between the Seller and the Authority;

Exhibit “B” - Loan and Security Agreement, to be dated the date of its execution and delivery, between the Seller and the Authority; and

Exhibit “C” - Rental Agreement, to be dated the date of its execution and delivery, between the Authority and the Tenant;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY AS FOLLOWS:**

1. In order to further the public purposes of the Act, the Authority is hereby authorized to issue the Series 2026 Bond (1) in order to finance the Initial Purchase Price and (2) in order to fund the principal of, premium, if any, and interest on the Future Bonds when due, and all such assistance previously provided is hereby ratified and approved. It is hereby found, ascertained, determined, and declared that the Facilities constitute a “project,” within the meaning of that term as defined in the Act, and that the financing of the Facilities is for a public purpose and is necessary to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities; to promote the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City of Kennesaw, Georgia; and to revitalize and redevelop the central business district of the City of Kennesaw, Georgia, all to the public benefit and good.

2. For the purposes of (1) financing the Initial Purchase Price and (2) funding the principal of, premium, if any, and interest on the Future Bonds when due, the issuance of up to \$ \_\_\_\_\_ in original principal amount of a revenue bond of the Authority to be known as “Kennesaw Downtown Development Authority Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026” is hereby approved and authorized pursuant to the provisions of the Act.

3. The Series 2026 Bond shall be issued in the original principal amount of up to \$ \_\_\_\_\_, shall be dated the date of issuance and delivery, and shall be issuable as a fully registered bond without coupons. The unpaid principal balance of the Series 2026 Bond shall bear interest at a rate per annum equal to eighteen percent (18%), calculated on the basis of a 360-day year and actual days elapsed. Accrued interest on the Series 2026 Bond shall compound annually on each December 1 until the maturity date of the Series 2026 Bond. The compounded amount (which

consists of the principal balance of and accrued interest on the Series 2026 Bond) of the Series 2026 Bond shall be due and payable on December 1, 2046. The Series 2026 Bond shall be substantially in the form set forth in the Seller Loan Agreement and shall be subject to prepayment and shall have such other terms and provisions as are provided in the Seller Loan Agreement.

4. It is found, ascertained, determined, and declared that the “Bond Rent” to be paid to the Authority pursuant to the Rental Agreement has been calculated to be sufficient to enable the Authority to pay the compounded amount of the Series 2026 Bond as the same becomes due and payable, and all of such payments and all other revenues arising out of or in connection with the collateral pertaining to the Series 2026 Bond are hereby pledged for that purpose and in addition for such other purposes as are more fully set forth and provided for in the Seller Loan Agreement. The Series 2026 Bond shall be secured as provided in the Seller Loan Agreement.

5. The Series 2026 Bond shall never constitute an indebtedness or general obligation of the State of Georgia, the City of Kennesaw, Georgia, or any other political subdivision of the State of Georgia, within the meaning of any constitutional provision or statutory limitation whatsoever, nor a pledge of the faith and credit or taxing power of any of the foregoing, nor shall any of the foregoing be subject to any pecuniary liability thereon. The Authority has no taxing power. The Series 2026 Bond shall not be payable from nor a charge upon any funds other than the revenues pledged to the payment thereof and shall be a limited or special obligation of the Authority payable solely from the funds provided therefor in the Seller Loan Agreement. No owner of the Series 2026 Bond shall ever have the right to compel the exercise of the taxing power of the State of Georgia, the City of Kennesaw, Georgia, or any other political subdivision of the State of Georgia to pay the principal of the Series 2026 Bond or the interest or any premium thereon, or to enforce payment thereof against any property of the foregoing, nor shall the Series 2026 Bond constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the foregoing. Neither the directors of the Authority nor any person executing the Series 2026 Bond shall be liable personally on the Series 2026 Bond by reason of the issuance thereof.

6. The provisions for insurance, use, operation, and maintenance of the Facilities shall be as provided in the Rental Agreement. The provisions for financing and refinancing of the Facilities shall be as provided in the Seller Loan Agreement and the Purchase Agreement.

7. The forms, terms, and conditions and the execution, delivery, and performance of the Purchase Agreement, the Seller Loan Agreement, and the Rental Agreement, attached hereto as Exhibits A, B, and C, respectively, are hereby ratified, approved, and authorized. The Purchase Agreement, the Seller Loan Agreement, and the Rental Agreement (collectively the “Authority Contracts”) shall be in substantially the forms submitted to the Board of Directors of the Authority with such changes, corrections, deletions, insertions, variations, additions, or omissions as may be approved by the Chairman or Vice Chairman of the Authority, whose approval thereof shall be conclusively evidenced by the execution of each such instrument.

8. The Chairman or Vice Chairman of the Authority is hereby authorized and directed to execute on behalf of the Authority the Authority Contracts, and the Secretary or Assistant Secretary of the Authority is hereby authorized and directed to affix thereto and attest the seal of the Authority, upon proper execution and delivery by the other parties thereto, provided, that in no event shall any such attestation or affixation of the seal of the Authority be required as a prerequisite to the

effectiveness thereof, and the Chairman or Vice Chairman and Secretary or Assistant Secretary are authorized and directed to deliver the Authority Contracts on behalf of the Authority to the other parties thereto and to execute and deliver all such other contracts, instruments, documents, affidavits, or certificates and to do and perform all such things and acts as each shall deem necessary or appropriate in furtherance of the issuance of the Series 2026 Bond, the investment of the proceeds of the Series 2026 Bond, and the carrying out of the transactions authorized by this Bond Resolution or contemplated by the instruments and documents referred to in this Bond Resolution. The Series 2026 Bond shall be executed on behalf of the Authority by its Chairman or Vice Chairman by his or her manual signature, and the official seal of the Authority shall be impressed thereon and attested by the manual signature of the Secretary or Assistant Secretary of the Authority.

9. The attorneys for the Authority, Bentley Bentley & Bentley, are hereby authorized and instructed to commence validation proceedings in accordance with the requirements of Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, as amended, and to take all actions necessary to obtain an order of the Superior Court of Cobb County, Georgia validating and confirming the Series 2026 Bond and the security therefor. The Chairman or Vice Chairman and Secretary or Assistant Secretary of the Authority are hereby authorized and directed to execute any pleadings in connection therewith.

10. This Bond Resolution and the Authority Contracts, as approved by this Bond Resolution, all of which are hereby incorporated in this Bond Resolution by this reference thereto, shall be placed on file at the office of the Authority and made available for public inspection by any interested party immediately following the passage and approval of this Bond Resolution.

11. No representation, statement, covenant, stipulation, obligation, or agreement herein contained, or contained in the Series 2026 Bond, the Authority Contracts, or any certificate or other instrument to be executed in connection with the issuance of the Series 2026 Bond, shall be deemed to be a representation, statement, covenant, stipulation, obligation, or agreement of any director, officer, employee, or agent of the Authority in his or her individual capacity, and none of the foregoing persons nor any of the officers of the Authority executing the Series 2026 Bond, the Authority Contracts, or any certificate or other instrument to be executed in connection with the issuance of the Series 2026 Bond shall be liable personally thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

12. Except as otherwise expressly provided herein or in the Series 2026 Bond or the Authority Contracts, nothing in this Bond Resolution or in the Series 2026 Bond or the Authority Contracts, express or implied, is intended or shall be construed to confer upon any person, firm, corporation, or other organization, other than the Authority, the Seller, the Tenant, and the owner from time to time of the Series 2026 Bond, any right, remedy, or claim, legal or equitable, under and by reason of this Bond Resolution or any provision hereof, or of the Series 2026 Bond or the Authority Contracts, all provisions hereof and thereof being intended to be and being for the sole and exclusive benefit of the Authority, the Seller, the Tenant, and the owner from time to time of the Series 2026 Bond.

13. All acts, conditions, and things relating to the passage of this Bond Resolution; to the issuance, sale, and delivery of the Series 2026 Bond; and to the execution and delivery of the Authority Contracts, required by the Constitution or other laws of the State of Georgia to happen,

exist, and be performed precedent to the passage hereof, have happened, exist, and have been performed as so required, with the exception of the validation proceedings referred to in paragraph 9 above.

14. The directors of the Authority and its officers, attorneys, engineers, or other agents or employees are hereby authorized to do all acts and things required of them by this Bond Resolution, the Series 2026 Bond, and the Authority Contracts and to do all acts and things that are desirable and consistent with the requirements hereof or of the Series 2026 Bond and the Authority Contracts, for the full, punctual, and complete performance of all the terms, covenants, and agreements contained herein or in the Series 2026 Bond and the Authority Contracts.

15. The Authority covenants and agrees that this Bond Resolution shall constitute a contract between the Authority and the registered owner from time to time of the Series 2026 Bond and that all covenants and agreements set forth herein and in the Series 2026 Bond and the Authority Contracts to be performed by the Authority shall be for the benefit and security of the registered owner from time to time of the Series 2026 Bond.

16. The Authority hereby waives the requirements of O.C.G.A. § 36-82-100, requiring a performance audit or performance review to be conducted with respect to the expenditure of the proceeds of the Series 2026 Bond, and hereby directs that the Notice to the Public regarding the validation hearing for the Series 2026 Bond contain language, in bold face type, giving notice that no such performance audit or performance review will be conducted with respect to the Series 2026 Bond.

17. All motions, orders, ordinances, bylaws, resolutions, and parts thereof in conflict herewith are hereby repealed to the extent only of such conflict. This repealer shall not be construed as reviving any motion, order, ordinance, bylaw, resolution, or part thereof.

18. This Bond Resolution shall become effective immediately, and if any section, paragraph, clause, or provision hereof shall for any reason be held invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining provisions hereof.

19. This Bond Resolution constitutes a contract with the registered owner of the Series 2026 Bond binding the Authority, and therefore it is proper and appropriate for the Chairman of the Authority to execute the same on behalf of the Authority and for the Secretary of the Authority to attest the same.

**PASSED, ADOPTED, SIGNED, APPROVED, and EFFECTIVE** this 20th day of March 2026.

**KENNESAW DOWNTOWN  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Chairman

(SEAL)

Attest:

\_\_\_\_\_  
Secretary

**SECRETARY’S CERTIFICATE**

I, **BRITT DOSS**, the duly appointed, qualified, and acting Secretary of the Kennesaw Downtown Development Authority (the “Authority”), **DO HEREBY CERTIFY** that the foregoing pages of typewritten matter pertaining to the revenue bond designated “Kennesaw Downtown Development Authority Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026” constitute a true and correct copy of the Series 2026 Bond Resolution adopted on March 20, 2026 by the Board of Directors of the Authority in a meeting duly called and assembled, after due and reasonable notice was given in accordance with the procedures of the Authority and with applicable provisions of law, which was open to the public and at which a quorum was present and acting throughout, and that the original of such Bond Resolution appears of public record in the Minute Book of the Authority, which is in my custody and control.

I further certify that such Bond Resolution has not been rescinded, repealed, or modified.

Given under my signature and the seal of the Authority, this 20th day of March 2026.

\_\_\_\_\_  
Secretary, Kennesaw Downtown Development  
Authority

(SEAL)

THIS BOND IS SUBJECT TO AN INVESTMENT LETTER AGREEMENT AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO THE TERMS OF SUCH INVESTMENT LETTER AGREEMENT.

**ECONOMIC DEVELOPMENT REVENUE BOND  
(KENNESAW II MULTIFAMILY OWNER, LLC PROJECT), SERIES 2026**

\$ \_\_\_\_\_

**FOR VALUE RECEIVED**, the Kennesaw Downtown Development Authority (hereinafter referred to as the **“Borrower”**) promises to pay, but only from the source as hereinafter provided, to the order of Kennesaw II Multifamily Owner, LLC (hereinafter referred to as the **“Lender”**) at the Lender’s office located in Atlanta, Georgia, or at such other place as the holder hereof may designate, the principal sum of \$ \_\_\_\_\_, or so much thereof as shall have been advanced hereagainst and shall be outstanding, together with interest on so much of the principal balance of this Bond as may be outstanding and unpaid from time to time, calculated at the rate or rates per annum indicated below.

The unpaid principal balance of this Bond shall bear interest at a rate per annum equal to eighteen percent (18%), calculated on the basis of a 360-day year and actual days elapsed.

Accrued interest on this Bond shall compound annually on each December 1 until the maturity date of this Bond. The compounded amount (which consists of the principal balance of and accrued interest on this Bond) of this Bond shall be due and payable on December 1, 2046.

The Borrower may prepay the compounded amount of this Bond in whole or in part at any time without premium or penalty.

The Borrower shall prepay the compounded amount of this Bond in whole without premium or penalty on December 1 of the 15th calendar year following the calendar year of the Commencement Date (as defined in the Rental Agreement, dated this date, between the Borrower, as landlord, and the Lender, as tenant), if such date occurs before the maturity date of this Bond.

This Bond constitutes the Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026 issued under and pursuant to and is entitled to the benefits and subject to the conditions of a Loan and Security Agreement, dated this date (the **“Loan Agreement”**), between the Borrower and the Lender, to which Loan Agreement reference is hereby made for a description of the circumstances under which principal shall be advanced under this Bond.

The obligation of the Borrower to make the payments required to be made under this Bond and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a limited obligation of the Borrower, payable solely from funds pledged by the Loan Agreement, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, counterclaim, or recoupment, except for payment, it may otherwise have against the Lender.

THIS BOND SHALL NEVER CONSTITUTE AN INDEBTEDNESS, DEBT, OR GENERAL OBLIGATION OF THE STATE OF GEORGIA, THE CITY OF KENNESAW, GEORGIA, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE OF GEORGIA, WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION OR STATUTORY DEBT LIMITATION WHATSOEVER, NOR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF ANY OF THE FOREGOING, NOR SHALL ANY OF THE FOREGOING BE SUBJECT TO ANY PECUNIARY LIABILITY HEREON. THE BORROWER HAS NO TAXING POWER. THIS BOND SHALL NOT BE PAYABLE FROM NOR A CHARGE UPON ANY FUNDS OTHER THAN THE FUNDS PLEDGED BY THE LOAN AGREEMENT AND SHALL BE A LIMITED OR SPECIAL OBLIGATION OF THE BORROWER PAYABLE SOLELY FROM SUCH FUNDS PLEDGED BY THE LOAN AGREEMENT. NO OWNER OF THIS BOND SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE STATE OF GEORGIA, THE CITY OF KENNESAW, GEORGIA, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE OF GEORGIA TO PAY THE PRINCIPAL OF THIS BOND OR THE INTEREST OR ANY PREMIUM HEREON, OR TO ENFORCE PAYMENT HEREOF AGAINST ANY PROPERTY OF THE FOREGOING, NOR SHALL THIS BOND CONSTITUTE A CHARGE, LIEN, OR ENCUMBRANCE, LEGAL OR EQUITABLE, UPON ANY PROPERTY OF THE FOREGOING. NEITHER THE DIRECTORS OF THE BORROWER NOR ANY PERSON EXECUTING THIS BOND SHALL BE LIABLE PERSONALLY ON THIS BOND BY REASON OF THE ISSUANCE HEREOF.

In case this Bond is collected by or through an attorney-at-law, all costs of such collection incurred by the Lender, including reasonable attorney's fees actually incurred, shall be paid by the Borrower.

Time is of the essence of this Bond. Demand, presentment, notice, notice of demand, notice for payment, protest, and notice of dishonor are hereby waived by each and every maker, guarantor, surety, and other person or entity primarily or secondarily liable on this Bond. The Lender shall not be deemed to waive any of its rights under this Bond unless such waiver be in writing and signed by the Lender. No delay or omission by the Lender in exercising any of its rights under this Bond shall operate as a waiver of such rights, and a waiver in writing on one occasion shall not be construed as a consent to or a waiver of any right or remedy on any future occasion.

This Bond shall be governed by and construed and enforced in accordance with the laws of the State of Georgia (without giving effect to its conflicts of law rules). Whenever possible, each provision of this Bond shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Bond shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Bond.

Words importing the singular number hereunder shall include the plural number and vice versa, and any pronoun used herein shall be deemed to cover all genders. The word "Lender" as used herein shall include transferees, successors, and assigns of the Lender, and all rights of the Lender hereunder shall inure to the benefit of its transferees, successors, and assigns. All obligations of the Borrower hereunder shall bind the Borrower's successors and assigns.

Subordination.

(a) *Agreement to Subordinate.* The Borrower agrees, and the Lender by accepting this Bond agrees, that the indebtedness evidenced hereby is subordinated in right of payment, to the extent and in the manner provided below, to the prior payment in full of all Future Bonds (as defined in the Loan Agreement) issued by the Borrower from time to time (the “**Senior Bonds**”), and that this subordination is for the benefit of the holders of the Senior Bonds.

(b) *Liquidation; Dissolution; Bankruptcy.* Upon any distribution to creditors of the Borrower in a liquidation or dissolution of the Borrower or in a bankruptcy, reorganization, insolvency, receivership, or similar proceeding relating to the Borrower or its property:

(i) the holders of the Senior Bonds shall be entitled to receive payment in full of the principal and interest (including interest accruing after the commencement of any such proceeding, to the extent permitted by law) and any other obligations owed pursuant to the instruments governing the Senior Bonds before the Lender shall be entitled to receive any payment of principal of or interest on this Bond; and

(ii) until the Senior Bonds are paid in full, any distribution to which the Lender would be entitled but for these subordination provisions shall be made to the holders of the Senior Bonds, except that the Lender may receive securities that are subordinated to the Senior Bonds to at least the same extent as this Bond.

For purposes of these subordination provisions, a distribution may consist of cash, securities, or other property, by set-off or otherwise.

(c) *Default on the Senior Bonds.* Upon the maturity of the Senior Bonds by lapse of time, acceleration, or otherwise, the Senior Bonds shall first be paid in full, or such payment duly provided for in cash or in a manner satisfactory to the holders of the Senior Bonds, before any payment is made by the Borrower or any person acting on behalf of the Borrower on account of the principal of or interest on this Bond.

The Borrower may not pay principal of or interest on this Bond and may not acquire this Bond for cash or property (other than with securities of the Borrower that are subordinated to the Senior Bonds to at least the same extent as this Bond) if:

(i) a default on the Senior Bonds has occurred and is continuing (after expiration of any applicable cure and grace periods) that permits the holders of the Senior Bonds to accelerate their maturity, and

(ii) the default is the subject of judicial proceedings or the Borrower receives a notice of the default or a notice that the Senior Bonds have been accelerated from the holders of the Senior Bonds or such holders’ representatives.

The Borrower shall resume payments on this Bond and may acquire this Bond when:

(i) the default is cured or waived, or

(ii) 180 days pass after the notice referred to in clause (ii) above is given if the default is not the subject of judicial proceedings or the Senior Bonds have not been accelerated,

if these subordination provisions otherwise permit the payment or acquisition at that time. Notwithstanding anything herein to the contrary, interest shall continue to accrue on the unpaid principal amount owed hereunder during any period of nonpayment pursuant to these subordination provisions.

(d) *When Distribution Must Be Paid Over.* In the event the Borrower shall make any payment to the Lender on account of the principal or interest on this Bond at a time when such payment is prohibited by paragraph (b) or (c) above, such payment shall be held by the Lender, in trust for the benefit of, and shall be paid forthwith over and delivered to, the holders of the Senior Bonds or their representatives (if any), for application to the payment of all of the Senior Bonds remaining unpaid to the extent necessary to pay all of the Senior Bonds in full in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of the Senior Bonds.

(e) *Notice of the Borrower.* The Borrower shall notify the Lender of any facts known to the Borrower that would cause a payment of principal of or interest on this Bond to violate these subordination provisions. Such notice shall be given by the Borrower within ten (10) days of the Borrower becoming aware of such facts but failure to give such notice shall not affect the subordination of this Bond to the Senior Bonds provided in these subordination provisions.

**SIGNED, SEALED, AND DELIVERED** by the undersigned Borrower on the \_\_\_ day of April 2026.

**KENNESAW DOWNTOWN  
DEVELOPMENT AUTHORITY**

(SEAL)

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary

**VALIDATION CERTIFICATE**

**STATE OF GEORGIA**

**COUNTY OF COBB**

The undersigned Clerk of the Superior Court of Cobb County, State of Georgia, does hereby certify that the within bond and the security therefor was validated and confirmed by judgment of the Superior Court of Cobb County in Civil Action File No. 2026-1-CV-\_\_\_\_\_, rendered on the \_\_\_\_\_ day of April 2026, that no intervention or objection was filed opposing the validation of the within bond and the security therefor, and that no appeal of such judgment of validation has been taken.

**IN WITNESS WHEREOF**, the undersigned has hereunto executed this certificate by her manual signature and has impressed hereon the official seal of the Superior Court of Cobb County.

\_\_\_\_\_  
Clerk, Superior Court of Cobb County

(COURT SEAL)

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

<b>STATE OF GEORGIA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CIVIL ACTION</b>
<b>vs.</b>	)	<b>FILE NO. 26-1-CV-_____</b>
	)	
<b>KENNESAW DOWNTOWN</b>	)	
<b>DEVELOPMENT AUTHORITY and</b>	)	
<b>KENNESAW II MULTIFAMILY</b>	)	<b>BOND VALIDATION</b>
<b>OWNER, LLC,</b>	)	
	)	
<b>Defendants.</b>	)	

**PETITION AND COMPLAINT**

The **STATE OF GEORGIA**, by and through the District Attorney of the Cobb Judicial Circuit, files this Petition and Complaint against the **KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY** (the “Authority”) and **KENNESAW II MULTIFAMILY OWNER, LLC** (the “Company”), as defendants, and respectfully shows:

**1.**

Exclusive jurisdiction of this proceeding is vested in this Court under and by virtue of an Act of the General Assembly of the State of Georgia entitled the “Revenue Bond Law,” as amended, codified as Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated (the “Revenue Bond Law”).

**2.**

The Authority is a public body corporate and politic created pursuant to an Act of the General Assembly of the State of Georgia entitled the “Downtown Development Authorities Law,” as amended, codified as Chapter 42 of Title 36 of the Official Code of Georgia Annotated (the “Downtown Development Authorities Law”), and an activating resolution of the governing

body of the City of Kennesaw, Georgia, duly adopted by the Mayor and Council of the City of Kennesaw on July 5, 1995, a copy of which was filed with the Secretary of State of the State of Georgia. The Authority has been duly and lawfully created and its directors have been duly and lawfully appointed, and the Authority is existing and operating in compliance with law as a public body corporate and politic. The Authority has been created to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities; to promote the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City of Kennesaw, Georgia; and to revitalize and redevelop the central business district of the City of Kennesaw, Georgia. The Downtown Development Authorities Law empowers the Authority to issue its revenue bonds, under and in accordance with the procedure set forth in the Revenue Bond Law, and to use the proceeds of such revenue bonds for the purpose of paying all or part of the cost of any “project,” as defined in the Downtown Development Authorities Law, to carry out and effectuate the purposes and provisions of the Downtown Development Authorities Law. The Authority is subject to the jurisdiction of this Court.

**3.**

The Company is a limited liability company duly formed and existing under the laws of the State of Delaware and will submit to the jurisdiction of this Court.

**4.**

The Authority, in furtherance of the public purposes for which it was created, proposes to issue up to \$ \_\_\_\_\_ in original principal amount of its revenue bond designated “Kennesaw Downtown Development Authority Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026” (the “Series 2026 Bond”).

**5.**

The Series 2026 Bond is duly authorized pursuant to the Constitution of the State of Georgia and the various statutes of the State of Georgia, including specifically the Downtown Development Authorities Law, and under and by virtue of the authority of a Series 2026 Bond Resolution of the Authority (the “Bond Resolution”) duly adopted by the Authority on March 20, 2026, authorizing, among other things, the issuance and sale of the Series 2026 Bond and the execution, acceptance, and delivery of the Purchase Agreement, the Seller Loan Agreement, and the Rental Agreement hereinafter referred to. A certified copy of the Bond Resolution, together with copies of forms of the Purchase Agreement, the Seller Loan Agreement, and the Rental Agreement (collectively the “Financing Documents”) therein referred to, form a part of the Notice to the District Attorney attached hereto as Exhibit A, which Notice (with all attachments thereto) is by this reference incorporated herein and made a part hereof.

**6.**

The Series 2026 Bond shall be issued in the original principal amount of up to \$ \_\_\_\_\_, shall be dated the date of issuance and delivery, and shall be issuable as a fully registered bond without coupons. The unpaid principal balance of the Series 2026 Bond shall bear interest at a rate per annum equal to eighteen percent (18%), calculated on the basis of a 360-day year and actual days elapsed. Accrued interest on the Series 2026 Bond shall compound annually on each December 1 until the maturity date of the Series 2026 Bond. The compounded amount (which consists of the principal balance of and accrued interest on the Series 2026 Bond) of the Series 2026 Bond shall be due and payable on December 1, 2046. The Series 2026 Bond shall be substantially in the form set forth in the Seller Loan Agreement and shall be subject to prepayment and shall have such other terms and provisions as are provided in the Seller Loan Agreement.

**7.**

The Series 2026 Bond is to be issued for the purpose of financing and refinancing the costs of acquiring the hereinafter defined Facilities and financing related costs, in order to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities; to promote the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City of Kennesaw, Georgia; and to revitalize and redevelop the central business district of the City of Kennesaw, Georgia. The Facilities are more fully described below.

**8.**

The Company has acquired an approximately 7.5 acre site, located in the City of Kennesaw, Georgia at 2765 South Main Street (the “Site”), on which the Company proposes to construct mixed use facilities containing approximately 300 multifamily housing units and not less than 2,500 square feet of commercial space and related surface and structured parking (the “Improvements”), and proposes to install related fixtures, furnishings, equipment, and other personal property (the “Equipment”), which the Company proposes to sell to the Authority after the completion of the construction and installation of the Improvements and the Equipment on the Site, pursuant to the terms of a Purchase, Sale, Financing, and Option Agreement, to be dated the date of its execution and delivery (the “Purchase Agreement”), between the Company, as seller, and the Authority, as purchaser.

**9.**

The Company has obtained and proposes to obtain loans (“Construction Loans”) to finance or refinance the costs of the acquisition, construction, and installation of the Site, the Improvements, and the Equipment (collectively the “Facilities”).

**10.**

The purchase price to be paid by the Authority to the Company pursuant to the Purchase Agreement will equal 250% of the cost to the Company of the Facilities and will be paid in multiple installments: (1) an initial installment equal to the total purchase price minus the principal and interest scheduled to be paid on the Construction Loans after the date of purchase of the Facilities by the Authority (the “Initial Purchase Price”), to be payable on or shortly after the completion of the construction and installation of the Improvements and the Equipment (the “Completion Date”), and (2) subsequent installments equal to the principal and interest scheduled to be paid on the Construction Loans after the date of purchase of the Facilities by the Authority (the “Deferred Purchase Price”), to be payable on the due dates of such principal of and interest on the Construction Loans or, if the Company elects to prepay the Construction Loans in whole or in part prior to maturity, on the date of prepayment of the Construction Loans.

**11.**

The Authority proposes to obtain funds to purchase the Facilities from the Company by (1) issuing and selling to the Company the Series 2026 Bond in part to finance the Initial Purchase Price, pursuant to the terms of a Loan and Security Agreement, to be dated the date of its execution and delivery (the “Seller Loan Agreement”), between the Company, as lender, and the Authority, as borrower, and (2) obtaining loans from lenders selected by the Company, in part to finance the Deferred Purchase Price, the repayment of which will be evidenced by revenue bonds to be issued by the Authority in the future (“Future Bonds”).

**12.**

Pursuant to the terms of the Purchase Agreement, the Authority proposes to grant to the Company an option to purchase the Facilities in whole, after the expiration or sooner termination of the term of the hereinafter defined Rental Agreement, for a purchase price that will be

sufficient to enable the Authority to pay, retire, and prepay the Series 2026 Bond and the Future Bonds.

**13.**

The Authority proposes to rent the Facilities to the Company, for a term commencing on the Completion Date and ending on December 1 of the 15th calendar year following the calendar year of the Completion Date, and for rental payments sufficient in time and amount to enable the Authority to pay principal of and interest on the Series 2026 Bond and to pay Deferred Purchase Price, when the same become due and payable, pursuant to the terms of a Rental Agreement, to be dated the date of its execution and delivery (the “Rental Agreement”), between the Authority, as landlord, and the Company, as tenant.

**14.**

Pursuant to the terms of the Seller Loan Agreement and to accomplish the refunding of the Future Bonds, the Company proposes to make advances to the Authority sufficient in time and amount to enable the Authority to repay the Future Bonds and to pay interest on the Future Bonds.

**15.**

The Authority will secure its obligations under the Series 2026 Bond by assigning and pledging to the Company, and granting a first priority security interest in, all of its right, title, and interest in and to the Rental Agreement, except for Unassigned Rights (as defined in the Rental Agreement), and the Purchase Agreement, pursuant to the Seller Loan Agreement.

**16.**

The Seller Loan Agreement will constitute the security for the Series 2026 Bond and, when executed and delivered, will be a valid, binding, and legally enforceable obligation of the parties thereto in accordance with its terms.

**17.**

The Series 2026 Bond shall never constitute an indebtedness or general obligation of the State of Georgia, the City of Kennesaw, Georgia, or any other political subdivision of the State of Georgia, within the meaning of any constitutional provision or statutory limitation whatsoever, nor a pledge of the faith and credit or taxing power of any of the foregoing, nor shall any of the foregoing be subject to any pecuniary liability thereon. The Authority has no taxing power. The Series 2026 Bond shall not be payable from nor a charge upon any funds other than the revenues pledged to the payment thereof and shall be a limited or special obligation of the Authority payable solely from the funds provided therefor in the Seller Loan Agreement. No owner of the Series 2026 Bond shall ever have the right to compel the exercise of the taxing power of the State of Georgia, the City of Kennesaw, Georgia, or any other political subdivision of the State of Georgia to pay the principal of the Series 2026 Bond or the interest or any premium thereon, or to enforce payment thereof against any property of the foregoing, nor shall the Series 2026 Bond constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the foregoing.

**18.**

The Authority has agreed to set aside, allocate, convey, assign, and pledge the property subject to the operation of the granting clauses of the Seller Loan Agreement to the payment of the principal of, premium, if any, and interest on the Series 2026 Bond as the same become due and payable, and such amounts have been calculated to be sufficient for such purpose.

**19.**

The Clerk of this Superior Court is authorized to execute the validation certificate on the Series 2026 Bond as provided by law.

**20.**

The Authority desires to issue the Series 2026 Bond as aforesaid and desires that the Series 2026 Bond and the security therefor be confirmed and validated according to law, and to this end the Authority has notified the District Attorney of this judicial circuit in writing that the Bond Resolution was passed in favor of the issuance of the Series 2026 Bond and that the Authority intends to issue the Series 2026 Bond, pursuant to the Notice attached hereto as Exhibit A, which Notice was personally served on such District Attorney.

**21.**

The District Attorney of this judicial circuit, pursuant to the laws of the State of Georgia, in particular Section 9-11-52 of the Official Code of Georgia Annotated, waives, in the name of the State of Georgia, the requirement that separate findings of fact and conclusions of law be entered in this action.

**WHEREFORE**, pursuant to the laws of the State of Georgia your District Attorney, within twenty days from the date of service of the Notice attached hereto as Exhibit A, files this Petition and Complaint in the name of the State of Georgia against the Authority and the Company and prays:

1. that an order be issued requiring the defendants, by their proper officers, to appear and to show cause, if any exists, at such time and place, whether in term or at chambers, within twenty days from filing of this Petition and Complaint, as the Judge of this Court may direct, why the Series 2026 Bond and the security for the payment thereof should not be confirmed and validated, as well as to pass upon all questions of law and fact pertaining to the right to issue the Series 2026 Bond and to provide the security therefor, including, without limitation, why the provisions of Section 2.04 of

- the Rental Agreement, granting credits to the Company against the payment of “Bond Rent” due under the Rental Agreement, will not become operative;
2. that this Petition and Complaint and such order as shall be issued be served upon the defendants in the manner provided by law;
  3. that all actions of the Authority and the Company in connection with the issuance of the Series 2026 Bond and the provision of the security therefor (including the execution, delivery, and performance of the Financing Documents) be confirmed and validated in all respects;
  4. that this Court enter a judgment declaring that the defendants who are parties thereto are authorized to execute, deliver, and perform their obligations under the Financing Documents and that the Financing Documents and all of the terms and conditions contained therein will constitute valid, binding, and legally enforceable obligations of the defendants who are parties thereto; that the provisions of Section 2.04 of the Rental Agreement, granting credits to the Company against the payment of “Bond Rent” due under the Rental Agreement, will not become operative; and that the Clerk of this Superior Court is authorized to execute the validation certificate on the Series 2026 Bond as provided by law; and
  5. that this Court make such other adjudications with respect to the Series 2026 Bond and the security therefor as may be proper or necessary in connection with the matters before it.

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District Attorney,  
Cobb Judicial Circuit

**EXHIBIT A**

**GEORGIA, COBB COUNTY**

**TO THE HONORABLE DISTRICT ATTORNEY OF THE COBB JUDICIAL CIRCUIT**

**YOU ARE HEREBY NOTIFIED** that under and by virtue of the Constitution and statutes of the State of Georgia, including specifically, but without limitation, an Act of the General Assembly of the State of Georgia entitled the “Downtown Development Authorities Law,” codified as Chapter 42 of Title 36 of the Official Code of Georgia Annotated, granting to the Kennesaw Downtown Development Authority (the “Authority”) the power and authority to issue revenue bonds for the purpose of developing and promoting for the public good and general welfare trade, commerce, industry, and employment opportunities; promoting the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City of Kennesaw, Georgia; and revitalizing and redeveloping the central business district of the City of Kennesaw, Georgia, the Authority, in a meeting duly called and lawfully assembled on March 20, 2026, adopted a Series 2026 Bond Resolution (the “Bond Resolution”) authorizing the issuance of up to \$ \_\_\_\_\_ in original principal amount of a revenue bond of the Authority to be known as “Kennesaw Downtown Development Authority Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026” (the “Series 2026 Bond”), for the purpose of financing and refinancing the costs of acquiring the hereinafter defined Facilities.

Kennesaw II Multifamily Owner, LLC (the “Company”), a Delaware limited liability company, has acquired an approximately 7.5 acre site, located in the City of Kennesaw, Georgia

at 2765 South Main Street (the “Site”), on which the Company proposes to construct mixed use facilities containing approximately 300 multifamily housing units and not less than 2,500 square feet of commercial space and related surface and structured parking (the “Improvements”), and proposes to install related fixtures, furnishings, equipment, and other personal property (the “Equipment”), which the Company proposes to sell to the Authority after the completion of the construction and installation of the Improvements and the Equipment on the Site, pursuant to the terms of a Purchase, Sale, Financing, and Option Agreement, to be dated the date of its execution and delivery (the “Purchase Agreement”), between the Company, as seller, and the Authority, as purchaser. The Company has obtained and proposes to obtain loans (“Construction Loans”) to finance or refinance the costs of the acquisition, construction, and installation of the Site, the Improvements, and the Equipment (collectively the “Facilities”). The purchase price to be paid by the Authority to the Company pursuant to the Purchase Agreement will equal 250% of the cost to the Company of the Facilities and will be paid in multiple installments: (1) an initial installment equal to the total purchase price minus the principal and interest scheduled to be paid on the Construction Loans after the date of purchase of the Facilities by the Authority (the “Initial Purchase Price”), to be payable on or shortly after the completion of the construction and installation of the Improvements and the Equipment (the “Completion Date”), and (2) subsequent installments equal to the principal and interest scheduled to be paid on the Construction Loans after the date of purchase of the Facilities by the Authority (the “Deferred Purchase Price”), to be payable on the due dates of such principal of and interest on the Construction Loans or, if the Company elects to prepay the Construction Loans in whole or in part prior to maturity, on the date of prepayment of the Construction Loans.

The Authority proposes to obtain funds to purchase the Facilities from the Company by (1) issuing and selling to the Company the Series 2026 Bond, in part to finance the Initial Purchase Price, pursuant to the terms of a Loan and Security Agreement, to be dated the date of its execution and delivery (the “Seller Loan Agreement”), between the Company, as lender, and the Authority, as borrower, and (2) obtaining loans from lenders selected by the Company, in part to finance the Deferred Purchase Price, the repayment of which will be evidenced by revenue bonds to be issued by the Authority in the future (“Future Bonds”). Pursuant to the terms of the Purchase Agreement, the Authority proposes to grant to the Company an option to purchase the Facilities in whole, after the expiration or sooner termination of the term of the hereinafter defined Rental Agreement, for a purchase price that will be sufficient to enable the Authority to pay, retire, and prepay the Series 2026 Bond and the Future Bonds. The Authority proposes to rent the Facilities to the Company, for a term commencing on the Completion Date and ending on December 1 of the 15th calendar year following the calendar year of the Completion Date, and for rental payments sufficient in time and amount to enable the Authority to pay principal of and interest on the Series 2026 Bond and to pay Deferred Purchase Price, when the same become due and payable, pursuant to the terms of a Rental Agreement, to be dated the date of its execution and delivery (the “Rental Agreement”), between the Authority, as landlord, and the Company, as tenant.

Pursuant to the terms of the Seller Loan Agreement and to accomplish the refunding of the Future Bonds, the Company proposes to make advances to the Authority sufficient in time and amount to enable the Authority to repay the Future Bonds and to pay interest on the Future Bonds. The Authority will secure its obligations under the Series 2026 Bond by assigning and pledging to the Company, and granting a first priority security interest in, all of its right, title,

and interest in and to the Rental Agreement, except for Unassigned Rights (as defined in the Rental Agreement), and the Purchase Agreement, pursuant to the Seller Loan Agreement.

The form, date, denomination, rate of interest, maturity date, prepayment provisions, payment terms, and all other facts pertaining to the Series 2026 Bond and the Purchase Agreement, the Seller Loan Agreement, and the Rental Agreement are set forth in detail in the Bond Resolution, a certified copy of which (together with copies of forms of the Purchase Agreement, the Seller Loan Agreement, and the Rental Agreement) is attached to this Notice and made a part hereof. The Authority has taken all necessary and proper steps to authorize the issuance of the Series 2026 Bond, and such steps were done in compliance with law.

You are hereby notified that the Authority intends to issue the Series 2026 Bond, and you are further hereby notified of the action of the Authority in accordance with the law pertaining to confirmation and validation of the Series 2026 Bond and the security therefor, and request is hereby made that you take immediate and proper steps for the confirmation and validation of the Series 2026 Bond and the security therefor as provided by law.

Dated: March 20, 2026

**KENNESAW DOWNTOWN DEVELOPMENT  
AUTHORITY**

(SEAL)

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary

**ACKNOWLEDGMENT**

I hereby acknowledge personal service of the foregoing Notice, copy received, this \_\_\_\_ day of March 2026.

\_\_\_\_\_  
District Attorney,  
Cobb Judicial Circuit

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

<b>STATE OF GEORGIA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CIVIL ACTION</b>
<b>vs.</b>	)	<b>FILE NO. 26-1-CV-_____</b>
	)	
<b>KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY and KENNESAW II MULTIFAMILY OWNER, LLC,</b>	)	<b>BOND VALIDATION</b>
	)	
<b>Defendants.</b>	)	

**ORDER**

The Petition and Complaint filed on behalf of the State of Georgia against the above-named defendants by the District Attorney of the Cobb Judicial Circuit having been read and considered, **IT IS ORDERED** that such Petition and Complaint be filed and that the defendants be served in the manner provided by law.

**IT IS FURTHER ORDERED** that the defendants, by their respective proper officers, appear before Judge \_\_\_\_\_ on April \_\_, 2026, at the Cobb County Courthouse in Marietta, Georgia, at \_\_\_\_\_.M., and then and there make answer under oath touching on all matters contained in the Petition and Complaint and show cause, if any exists, why up to \$\_\_\_\_\_ in original principal amount of a revenue bond to be known as “Kennesaw Downtown Development Authority Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026” (the “Series 2026 Bond”), and the security for the payment thereof, described in the Petition and Complaint, should not be confirmed and validated as provided by law.

In the meantime the Clerk of this Court is hereby directed to publish in the newspaper that is the official organ of Cobb County in which sheriff's advertisements appear, in each of the two successive weeks immediately preceding the week of such hearing, a notice to the public that on the date specified above in this order, the above-stated cause, the same being a Petition and Complaint for the purpose of confirming and validating the Series 2026 Bond and the security therefor and to pass on all matters of law and fact pertaining to the right to issue the Series 2026 Bond and to provide the security therefor (including the Purchase Agreement, the Seller Loan Agreement, and the Rental Agreement described in the Petition and Complaint) will be heard and determined, and any citizen of the State of Georgia residing in the City of Kennesaw, Georgia, or any person wherever residing who has a right to object, may intervene and become a party to this proceeding.

Let a copy of the Petition and Complaint and this order be served on the defendants and let the defendants, by their proper officers, make sworn answer, as provided by law.

This the \_\_\_\_ day of March 2026.

---

**JUDGE**, Superior Court of Cobb County

**NOTICE TO THE PUBLIC**

**YOU ARE HEREBY NOTIFIED** that on April \_\_, 2026, at \_\_\_\_\_.M., at the Cobb County Courthouse in Marietta, Georgia, Judge \_\_\_\_\_ of the Superior Court of Cobb County will hear the case of **STATE OF GEORGIA vs. KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY and KENNESAW II MULTIFAMILY OWNER, LLC**, Civil Action File No. 26-1-CV-\_\_\_\_\_, in the Superior Court of Cobb County, the same being a proceeding to confirm and validate up to \$\_\_\_\_\_ in original principal amount of a revenue bond to be known as “Kennesaw Downtown Development Authority Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026” (the “Series 2026 Bond”). The Series 2026 Bond is to be issued by the Kennesaw Downtown Development Authority (the “Authority”) for the purpose of financing and refinancing the costs of acquiring mixed use facilities containing approximately 300 multifamily housing units and not less than 2,500 square feet of commercial space and related surface and structured parking and related furnishings and equipment, to be owned by the Authority and to be rented by the Authority to Kennesaw II Multifamily Owner, LLC (the “Company”), a Delaware limited liability company, in order to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities; to promote the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City of Kennesaw, Georgia; and to revitalize and redevelop the central business district of the City of Kennesaw, Georgia. In such proceeding the Court will also pass on the validity of the security for the payment of the Series 2026 Bond, which consists of the Purchase, Sale, Financing, and Option Agreement between the Company, as seller, and the Authority, as

buyer, the Loan and Security Agreement between the Company, as lender, and the Authority, as borrower, and the Rental Agreement between the Authority, as landlord, and the Company, as tenant, each proposed to be executed in connection therewith. All questions of law and fact pertaining to the right to issue the Series 2026 Bond and to provide the security therefor will be heard and determined. Any citizen of the State of Georgia residing in the City of Kennesaw, Georgia, or any person wherever residing who has a right to object, may intervene and become a party to this proceeding.

**WAIVER OF PUBLIC ACCOUNTABILITY: NO PERFORMANCE AUDIT OR PERFORMANCE REVIEW UNDER SECTION 36-82-100 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED SHALL BE CONDUCTED WITH RESPECT TO THE SERIES 2026 BOND.**

This the \_\_\_\_\_ day of March 2026.

\_\_\_\_\_  
CLERK, Superior Court of Cobb County

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

<b>STATE OF GEORGIA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CIVIL ACTION</b>
<b>vs.</b>	)	<b>FILE NO. 26-1-CV-_____</b>
	)	
<b>KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY and KENNESAW II MULTIFAMILY OWNER, LLC,</b>	)	<b>BOND VALIDATION</b>
	)	
<b>Defendants.</b>	)	

**ANSWER OF KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY**

COMES now the defendant, **KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY**, a public body corporate and politic duly created and existing under the laws of the State of Georgia, and having been duly served in the above-stated cause, makes this answer to the Petition and Complaint and the Order of this Court pursuant thereto served on it, and says:

**1.**

This defendant admits each and every paragraph and the allegations contained in the Petition and Complaint filed against this defendant in this case.

**2.**

Answering further, this defendant shows that due and legal service was made on it of an Order to show cause why up to \$\_\_\_\_\_ in original principal amount of a revenue bond of this defendant to be known as “Kennesaw Downtown Development Authority Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026” (the “Series 2026 Bond”), and the security for the payment thereof, described in the Petition and

Complaint, should not be confirmed and validated. Following the service on this defendant of the Petition and Complaint and the Order of this Court pursuant thereto, the Clerk of this Superior Court published in the newspaper that is the official organ of Cobb County in which sheriff's advertisements are published for Cobb County a notice to the public of the validation hearing to be held on the date specified by the Order of this Court, as required by law. An affidavit of the publisher of such newspaper is attached hereto as Exhibit A and made a part hereof.

**3.**

This defendant further shows that the authority for the issuance of the Series 2026 Bond is pursuant to the Constitution and statutes of the State of Georgia, including specifically the Act of the General Assembly of the State of Georgia referred to in paragraph 2 of the Petition and Complaint, and under and by virtue of the authority of a Series 2026 Bond Resolution (the "Bond Resolution") of this defendant duly adopted on March 20, 2026, evidencing its intent to issue the Series 2026 Bond, a certified copy of which formed a part of the Petition and Complaint. The Bond Resolution also authorized and approved the execution and delivery by this defendant of (a) a Purchase, Sale, Financing, and Option Agreement, to be dated the date of its execution and delivery (the "Purchase Agreement"), to be entered into between Kennesaw II Multifamily Owner, LLC (the "Company"), a Delaware limited liability company, as seller, and this defendant, as buyer, (b) a Loan and Security Agreement, to be dated the date of its execution and delivery (the "Company Loan Agreement"), to be entered into between the Company, as lender, and this defendant, as borrower, and (c) a Rental Agreement, to be dated the date of its execution and delivery (the "Rental Agreement"), to be entered into between this defendant, as landlord, and the Company, as tenant. Copies of forms of the Purchase Agreement, the Company Loan Agreement, and the Rental Agreement were attached to the Bond Resolution and

formed a part of the Petition and Complaint. The Bond Resolution has not been altered, amended, or repealed and is in full force and effect.

**4.**

This defendant further shows that the proceeds from the sale of the Series 2026 Bond will be used and applied only for the purposes set forth in the Bond Resolution and in the Petition and Complaint.

**5.**

This defendant further shows that the Company has agreed in the Rental Agreement to pay “Bond Rent” to this defendant in amounts sufficient to enable this defendant to pay the principal of and interest on the Series 2026 Bond, as the same become due and payable.

**6.**

This defendant further shows that it has secured the Series 2026 Bond as provided in the Company Loan Agreement.

**7.**

This defendant further shows that Section 2.04 of the Rental Agreement provides that in the event that (1) any tangible property interest of the Company in the Facilities (as defined in the Rental Agreement) becomes subject to ad valorem property taxation during the period of time that title to the Facilities is vested in this defendant or (2) the Rental Agreement is determined to grant to the Company a “special franchise” or an “unenumerated franchise” within the meaning of Article 9 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated or any successor statutes, the amounts to be paid under the Rental Agreement as “Bond Rent” and “Additional Rent” (but not as “Administrative Rent” or “Deferred Purchase Price Rent”) shall be reduced (but not below zero) by the actual cumulative payments made by the Company as ad valorem property taxes on the Company’s tangible property interest in the Facilities or on any

special franchise or unenumerated franchise determined to be granted by the Rental Agreement. This defendant further shows that the Company's interest in the Facilities under the Rental Agreement will constitute a mere usufruct and bailment for hire (which are not separately taxable estates) and will not constitute an estate for years (which would be an estate in which the leasehold interest would be taxable based on the value of the leasehold interest), because of (1) the amount of dominion and control the Rental Agreement allows this defendant to exercise over the Facilities, (2) the restrictions the Rental Agreement places upon the Company's use of the Facilities, and (3) the restrictions the Rental Agreement places upon the assignability or alienability of the Company's rights under the Rental Agreement. This defendant further shows that (1) the Rental Agreement will not create a tangible property interest of the Company in the Facilities that is subject to ad valorem property taxation pursuant to Section 48-5-3 of the Official Code of Georgia Annotated and (2) the Rental Agreement will not grant to the Company a "special franchise" or an "unenumerated franchise" within the meaning of Article 9 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated and that, as a result, Section 2.04 of the Rental Agreement will not become operative to reduce the "Bond Rent" payable pursuant to the Rental Agreement.

**8.**

This defendant further shows that this defendant is empowered under the Constitution and statutes of the State of Georgia to purchase the Facilities (as defined in the Purchase Agreement) subject to the "Permitted Exceptions" set forth in the Purchase Agreement.

**9.**

This defendant further shows that the undertaking for which the Series 2026 Bond is to be issued, the issuance of the Series 2026 Bond, and the security for the payment thereof are sound, feasible, and reasonable.

**10.**

This defendant submits that it has in every way complied with the Constitution and statutes of the State of Georgia governing the issuance of the Series 2026 Bond and the provision of the security for the payment thereof and that all steps taken pertaining thereto are legal in all respects, and this defendant prays an adjudication of all questions of law and fact pertaining to the validity of the Series 2026 Bond and the security therefor.

**11.**

This defendant, pursuant to the laws of the State of Georgia, in particular Section 9-11-52 of the Official Code of Georgia Annotated, waives the requirement that separate findings of fact and conclusions of law be entered in this action.

**WHEREFORE**, having answered fully, this defendant prays for judgment in favor of the issuance of the Series 2026 Bond; for a finding that all necessary requirements as a matter of fact and as a matter of law have been met; for a finding that the Rental Agreement be adjudicated as not creating a tangible property interest of the Company in the Facilities that is subject to ad valorem property taxation pursuant to Section 48-5-3 of the Official Code of Georgia Annotated and as not granting to the Company a “special franchise” or an “unenumerated franchise” within the meaning of Article 9 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated and, as a result, Section 2.04 of the Rental Agreement will not become operative to reduce the “Bond Rent” payable pursuant to the Rental Agreement; for a finding that this defendant is empowered under the Constitution and statutes of the State of Georgia to purchase the Facilities subject to the “Permitted Exceptions” set forth in the Purchase Agreement; and for an order confirming and validating the Series 2026 Bond and the security therefor (including the execution, delivery, and performance of the Purchase Agreement, the Company Loan Agreement, and the Rental

Agreement) and authorizing the Clerk of this Superior Court to execute the validation certificate on the Series 2026 Bond, all as provided by law.

**BENTLEY BENTLEY & BENTLEY**

By: \_\_\_\_\_

Fred D. Bentley, Jr.  
Attorneys for Kennesaw Downtown  
Development Authority

241 Washington Avenue, N.E.  
Marietta, Georgia 30060  
(770) 422-2300

**EXHIBIT "A"**

**AFFIDAVIT OF PUBLICATION**

[Attached]

**STATE OF GEORGIA**

**COBB COUNTY**

**VERIFICATION**

Personally appeared before the undersigned officer duly authorized to administer oaths in and for such State and County, the undersigned, who on oath deposes and says that (s)he is the duly qualified and acting Chairman of the Kennesaw Downtown Development Authority, that (s)he is authorized to make this affidavit, that (s)he has read the foregoing Answer of the Kennesaw Downtown Development Authority, and that the statements and allegations made therein are true and correct.

\_\_\_\_\_  
Chairman, Kennesaw Downtown Development  
Authority

Sworn to and subscribed before  
me this \_\_\_ day of April 2026.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
(date)

(NOTARIAL SEAL)

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

<b>STATE OF GEORGIA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CIVIL ACTION</b>
<b>vs.</b>	)	<b>FILE NO. 26-1-CV-_____</b>
	)	
<b>KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY and KENNESAW II MULTIFAMILY OWNER, LLC,</b>	)	
	)	<b>BOND VALIDATION</b>
	)	
<b>Defendants.</b>	)	

**ACKNOWLEDGMENT OF SERVICE BY  
KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY**

Due and legal service of the foregoing Petition and Complaint with exhibit, the Order of the Court pursuant thereto, and the Answer of Kennesaw II Multifamily Owner, LLC with respect thereto is hereby acknowledged on behalf of the Kennesaw Downtown Development Authority, copies received. Any and all other notices, process, service of process, and all other and further service are hereby waived.

This the \_\_\_ day of April 2026.

**KENNESAW DOWNTOWN  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Chairman

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

<b>STATE OF GEORGIA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CIVIL ACTION</b>
<b>vs.</b>	)	<b>FILE NO. 26-1-CV-_____</b>
	)	
<b>KENNESAW DOWNTOWN</b>	)	
<b>DEVELOPMENT AUTHORITY and</b>	)	
<b>KENNESAW II MULTIFAMILY</b>	)	<b>BOND VALIDATION</b>
<b>OWNER, LLC,</b>	)	
	)	
<b>Defendants.</b>	)	

**ACKNOWLEDGMENT OF SERVICE BY THE  
DISTRICT ATTORNEY OF THE COBB JUDICIAL CIRCUIT**

Due and legal service of the within and foregoing Answers of the defendants Kennesaw Downtown Development Authority and Kennesaw II Multifamily Owner, LLC, together with copies of all the exhibits attached thereto, is hereby acknowledged, copies received.

This the \_\_\_\_ day of April 2026.

\_\_\_\_\_  
District Attorney,  
Cobb Judicial Circuit

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

<b>STATE OF GEORGIA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CIVIL ACTION</b>
<b>vs.</b>	)	<b>FILE NO. 26-1-CV-_____</b>
	)	
<b>KENNESAW DOWNTOWN</b>	)	
<b>DEVELOPMENT AUTHORITY and</b>	)	
<b>KENNESAW II MULTIFAMILY</b>	)	<b>BOND VALIDATION</b>
<b>OWNER, LLC,</b>	)	
	)	
<b>Defendants.</b>	)	

**ANSWER OF KENNESAW II MULTIFAMILY OWNER, LLC**

COMES now the defendant, **KENNESAW II MULTIFAMILY OWNER, LLC**, a Delaware limited liability company, and having been duly served in the above-stated cause, makes this answer to the Petition and Complaint and the Order of this Court pursuant thereto served on this defendant, and says:

**1.**

This defendant submits to the jurisdiction of this Court.

**2.**

This defendant admits each and every paragraph and the allegations contained in the Petition and Complaint filed against this defendant in this case.

**3.**

Answering further, this defendant shows that due and legal service was made on this defendant of an Order to show cause why up to \$ \_\_\_\_\_ in original principal amount of a revenue bond to be known as “Kennesaw Downtown Development Authority Economic

Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026” (the “Series 2026 Bond”) and the security for the payment thereof, described in the Petition and Complaint, should not be confirmed and validated.

**4.**

Answering further, this defendant shows that this defendant will be party to the Purchase, Sale, Financing, and Option Agreement, the Loan and Security Agreement, and the Rental Agreement (collectively the “Company Contracts”) described in the Petition and Complaint; that this defendant will be duly authorized by appropriate action to execute, deliver, and perform its obligations under the Company Contracts; and that this defendant is subject to no limitation, restriction, previous agreement, provision in its organic documents, rule, or regulation that would prevent this defendant from executing and entering into the Company Contracts and fully performing the obligations and covenants contained therein.

**5.**

This defendant further shows that the Company Contracts will be duly executed and delivered by this defendant and, upon the execution and delivery thereof concurrently with the delivery of the Series 2026 Bond, will constitute the valid, binding, and legally enforceable obligations of this defendant in accordance with the terms and conditions thereof.

**6.**

This defendant further shows that Section 2.04 of the Rental Agreement provides that in the event that (1) any tangible property interest of this defendant in the Facilities (as defined in the Rental Agreement) becomes subject to ad valorem property taxation during the period of time that title to the Facilities is vested in the defendant Kennesaw Downtown Development Authority (the “Authority”) or (2) the Rental Agreement is determined to grant to this defendant

a “special franchise” or an “unenumerated franchise” within the meaning of Article 9 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated or any successor statutes, the amounts to be paid under the Rental Agreement as “Bond Rent” and “Additional Rent” (but not as “Administrative Rent” or “Deferred Purchase Price Rent”) shall be reduced (but not below zero) by the actual cumulative payments made by this defendant as ad valorem property taxes on this defendant’s tangible property interest in the Facilities or on any special franchise or unenumerated franchise determined to be granted by the Rental Agreement. This defendant further shows that this defendant’s interest in the Facilities under the Rental Agreement will constitute a mere usufruct and bailment for hire (which are not separately taxable estates) and will not constitute an estate for years (which would be an estate in which the leasehold interest would be taxable based on the value of the leasehold interest), because of (1) the amount of dominion and control the Rental Agreement allows the Authority to exercise over the Facilities, (2) the restrictions the Rental Agreement places upon this defendant’s use of the Facilities, and (3) the restrictions the Rental Agreement places upon the assignability or alienability of this defendant’s rights under the Rental Agreement. This defendant further shows that (1) the Rental Agreement will not create a tangible property interest of this defendant in the Facilities that is subject to ad valorem property taxation pursuant to Section 48-5-3 of the Official Code of Georgia Annotated and (2) the Rental Agreement will not grant to this defendant a “special franchise” or an “unenumerated franchise” within the meaning of Article 9 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated and that, as a result, Section 2.04 of the Rental Agreement will not become operative to reduce the “Bond Rent” payable pursuant to the Rental Agreement.

7.

This defendant further shows that the undertaking for which the Series 2026 Bond is to be issued, the issuance of the Series 2026 Bond, and the security for the payment thereof are sound, feasible, and reasonable.

8.

This defendant, pursuant to the laws of the State of Georgia, in particular Section 9-11-52 of the Official Code of Georgia Annotated, waives the requirement that separate findings of fact and conclusions of law be entered in this action.

**WHEREFORE**, having answered fully, this defendant prays for judgment in favor of the issuance of the Series 2026 Bond; for a finding that the Rental Agreement be adjudicated as not creating a tangible property interest of this defendant in the Facilities that is subject to ad valorem property taxation pursuant to Section 48-5-3 of the Official Code of Georgia Annotated and as not granting to this defendant a “special franchise” or an “unenumerated franchise” within the meaning of Article 9 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated and, as a result, Section 2.04 of the Rental Agreement will not become operative to reduce the “Bond Rent” payable pursuant to the Rental Agreement; for a judgment declaring that this defendant is authorized to execute, deliver, and perform its obligations under the Company Contracts, that the Company Contracts and all of the terms and conditions contained therein will constitute valid, binding, and legally enforceable obligations of this defendant in accordance with their terms, and that the Clerk of this Superior Court is authorized to execute the validation certificate on the

Series 2026 Bond; and for an order confirming and validating the Series 2026 Bond and the security therefor, all as provided by law.

**ALSTON & BIRD LLP**

By: \_\_\_\_\_  
Amber A. Pelot  
Attorney for Kennesaw II Multifamily Owner,  
LLC

1201 West Peachtree Street  
Atlanta, Georgia 30309-3424  
(404) 881-7000

**STATE OF GEORGIA**

**COBB COUNTY**

**VERIFICATION**

Personally appeared before the undersigned officer duly authorized to administer oaths in and for such State and County, the undersigned, who on oath deposes and says that (s)he is an authorized representative of Kennesaw II Multifamily Owner, LLC, that (s)he is authorized to make this affidavit, that (s)he has read the foregoing Answer of Kennesaw II Multifamily Owner, LLC, and that the statements and allegations made therein are true and correct.

\_\_\_\_\_  
Authorized Representative, Kennesaw II  
Multifamily Owner, LLC

Sworn to and subscribed before  
me this \_\_\_ day of April 2026.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
(date)

(NOTARIAL SEAL)

**IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA**

<b>STATE OF GEORGIA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CIVIL ACTION</b>
<b>vs.</b>	)	<b>FILE NO. 26-1-CV-_____</b>
	)	
<b>KENNESAW DOWNTOWN</b>	)	
<b>DEVELOPMENT AUTHORITY and</b>	)	
<b>KENNESAW II MULTIFAMILY</b>	)	<b>BOND VALIDATION</b>
<b>OWNER, LLC,</b>	)	
	)	
<b>Defendants.</b>	)	

**ACKNOWLEDGMENT OF SERVICE  
BY KENNESAW II MULTIFAMILY OWNER, LLC**

Due and legal service of the foregoing Petition and Complaint with exhibit, the Order of the Court pursuant thereto, and the Answer of Kennesaw Downtown Development Authority with respect thereto is hereby acknowledged on behalf of Kennesaw II Multifamily Owner, LLC, copies received. Any and all other notices, process, service of process, and all other and further service are hereby waived.

This the \_\_\_\_ day of April 2026.

**KENNESAW II MULTIFAMILY OWNER,  
LLC**

By: \_\_\_\_\_  
Authorized Representative



Court has jurisdiction over the subject matter of this proceeding, and that the parties to this proceeding are properly before this Court.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that an Act of the General Assembly of the State of Georgia entitled the “Downtown Development Authorities Law,” as amended, codified as Chapter 42 of Title 36 of the Official Code of Georgia Annotated, has been duly enacted and approved and is legal and valid in all respects; that all rights, powers, authority, and duties therein granted and imposed are legal in all respects; that pursuant thereto the defendant Authority was legally created as a public body corporate and politic of the State of Georgia by a duly adopted activating resolution of the governing body of the City of Kennesaw, Georgia, a copy of which was duly filed with the Secretary of State of the State of Georgia; that the defendant Authority is duly authorized to issue the Series 2026 Bond in the manner and for the purpose stated in the Petition and Complaint filed in this cause; and that the defendant Authority was and is legally authorized to take and did take all proper and necessary steps for issuing the Series 2026 Bond and providing the security for the payment of the Series 2026 Bond.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the defendant Authority and the defendant Kennesaw II Multifamily Owner, LLC (the “Company”) have properly authorized and are authorized to execute and deliver and to assume the obligations represented by the Purchase, Sale, Financing, and Option Agreement, to be dated the date of its execution and delivery (the “Purchase Agreement”), between the Company and the Authority, the Rental Agreement, to be dated the date of its execution and delivery (the “Rental Agreement”), between the Company and the Authority, and the Loan and Security Agreement, to be dated the date of its execution and

delivery (the “Company Loan Agreement”), between the Company and the Authority, referred to in and made a part of the pleadings of this cause, and the Purchase Agreement, the Rental Agreement, and the Company Loan Agreement and all of the terms and conditions contained therein will, upon execution and delivery of the same concurrently with the delivery of the Series 2026 Bond, constitute valid, binding, and legally enforceable obligations of the defendant Authority and the defendant Company in accordance with their terms.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the Rental Agreement will not create a tangible property interest of the defendant Company in the Facilities described in the pleadings of this cause that is subject to ad valorem property taxation pursuant to Section 48-5-3 of the Official Code of Georgia Annotated and will not grant to the defendant Company a “special franchise” or an “unenumerated franchise” within the meaning of Article 9 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, and, as a result, Section 2.04 of the Rental Agreement will not become operative to reduce the “Bond Rent” payable pursuant to the Rental Agreement.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the defendant Authority is empowered under the Constitution and statutes of the State of Georgia to purchase the Facilities (as defined in the Purchase Agreement) subject to the “Permitted Exceptions” set forth in the Purchase Agreement.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the defendant Authority has the right, power, and authority by virtue of the Constitution and statutes of the State of Georgia and was and is lawfully authorized to take and did take all necessary and proper steps in the adoption of its Series 2026 Bond Resolution adopted on March 20, 2026 (the “Bond Resolution”) authorizing

the issuance of the Series 2026 Bond and authorizing the execution, delivery, acceptance, and performance of the Purchase Agreement, the Company Loan Agreement, and the Rental Agreement, a certified copy of which Bond Resolution forms a part of the Petition and Complaint of the District Attorney in this cause.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED**, as a matter of fact and as a matter of law, that the defendant Authority has the right, power, and authority to enter into and accept the obligations, covenants, conditions, and agreements contained in the Bond Resolution, the Purchase Agreement, the Company Loan Agreement, and the Rental Agreement and that the defendant Company has the right, power, and authority to enter into and accept the obligations, covenants, conditions, and agreements contained in the Rental Agreement, the Purchase Agreement, and the Company Loan Agreement.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED**, as a matter of fact and as a matter of law, that the Bond Resolution, the Series 2026 Bond, the Purchase Agreement, the Company Loan Agreement, and the Rental Agreement, substantially in the forms filed with the Petition and Complaint of the District Attorney in this cause, and all of the terms, covenants, provisions, and conditions contained therein, are hereby in each and every respect confirmed and validated.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED**, as a matter of fact and as a matter of law, that the amounts pledged by the Company Loan Agreement will be sufficient to pay the principal of and interest on the Series 2026 Bond referred to in the Petition and Complaint of the District Attorney in this cause as the same become due and will be irrevocably assigned and pledged for that purpose under the Company Loan Agreement.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the Series 2026 Bond shall never constitute an indebtedness or general obligation of the State of Georgia, the City of Kennesaw, Georgia, or any other political subdivision of the State of Georgia, within the meaning of any constitutional provision or statutory limitation whatsoever, nor a pledge of the faith and credit or taxing power of any of the foregoing, nor shall any of the foregoing be subject to any pecuniary liability thereon; that the Authority has no taxing power; that the Series 2026 Bond shall not be payable from nor a charge upon any funds other than the revenues pledged to the payment thereof and shall be a limited or special obligation of the Authority payable solely from the funds provided therefor in the Company Loan Agreement; that no owner of the Series 2026 Bond shall ever have the right to compel the exercise of the taxing power of the State of Georgia, the City of Kennesaw, Georgia, or any other political subdivision of the State of Georgia to pay the principal of the Series 2026 Bond or the interest or any premium thereon, or to enforce payment thereof against any property of the foregoing, nor shall the Series 2026 Bond constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the foregoing.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the undertaking for which the Series 2026 Bond is to be issued, the proposed issuance of the Series 2026 Bond, and the security therefor are sound, feasible, and reasonable.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the defendant Authority has taken all proper and necessary steps and has met all necessary requirements to issue the Series 2026 Bond, to use the proceeds for the purposes stated, and to provide the security for the payment of the Series 2026

Bond and that all of the acts of the defendant Authority set forth in the pleadings herein are hereby confirmed and validated.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the Series 2026 Bond and the security therefor be, and the same are hereby in each and every respect, confirmed and validated, that the defendant Authority is authorized and empowered to issue the Series 2026 Bond, and that when the Series 2026 Bond is so issued the same shall be a valid, binding, and legally enforceable obligation of the Authority in accordance with its terms.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the parties to these proceedings have duly and lawfully waived the requirement that separate findings of fact and conclusions of law be entered pursuant to Section 9-11-52 of the Official Code of Georgia Annotated.

**IT IS FURTHER DETERMINED, DECLARED, ORDERED, AND ADJUDGED,** as a matter of fact and as a matter of law, that the Clerk of this Superior Court is authorized to execute the validation certificate on the Series 2026 Bond, as provided by law.

Let the defendants pay the costs for these proceedings.

Dated: April \_\_, 2026

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**JUDGE,** Superior Court of Cobb County

**GEORGIA, COBB COUNTY**

I, **CONNIE TAYLOR**, Clerk of the Superior Court of Cobb County, State of Georgia, **DO HEREBY CERTIFY** that the within and foregoing is a true, correct, and complete copy of the original record of the Validation Proceedings for the issuance of up to \$ \_\_\_\_\_ in original principal amount of a revenue bond to be known as “Kennesaw Downtown Development Authority Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026,” in the case of **STATE OF GEORGIA vs. KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY and KENNESAW II MULTIFAMILY OWNER, LLC**, Civil Action File No. 26-1-CV-\_\_\_\_\_, in the Superior Court of Cobb County; that this court is a court of record; that there were no proceedings had or papers filed other than the Petition and Complaint, Order, Answers, Verifications, Acknowledgments of Service, and Order and Final Judgment; that no other person intervened or in any way became a party to such proceedings; that the Order and Final Judgment was entered on April \_\_, 2026; and that no exception, intervention, or objection to such judgment or appeal therefrom or filing of extension of appeal has been taken.

**WITNESS** my hand and official seal, this \_\_\_\_\_ day of April 2026.

\_\_\_\_\_  
Clerk, Superior Court of Cobb County

(COURT SEAL)

## LOAN AND SECURITY AGREEMENT

April \_\_, 2026

Kennesaw Downtown Development Authority  
2529 J.O. Stephenson Avenue  
Kennesaw, Georgia 30144

Ladies and Gentlemen:

This letter constitutes the agreement (this “**Agreement**”) between the Borrower and the Lender named below with respect to the Loan described below:

1. **Borrower** - Kennesaw Downtown Development Authority, a Georgia public body corporate and politic (the “**Borrower**”).

2. **Lender** - Kennesaw II Multifamily Owner, LLC, a Delaware limited liability company (the “**Lender**”).

3. **Loan** - Subject to the terms and conditions of this Agreement, the Lender agrees to make the following loan or loans in a principal amount of up to \$ \_\_\_\_\_ (collectively, the “**Loan**”) available to the Borrower:

(a) The Lender irrevocably and unconditionally agrees to advance to the Borrower up to \$ \_\_\_\_\_ of funds sufficient to enable the Borrower to pay the costs of purchasing mixed use facilities containing approximately 300 multifamily housing units and not less than 2,500 square feet of commercial space and related surface and structured parking, to be located on an approximately 7.5 acre site more particularly described in Exhibit A attached to this Agreement (collectively the “**Facilities**”), from the Lender, pursuant to the terms of a Purchase, Sale, Financing, and Option Agreement, dated this date (the “**Purchase Agreement**”), between the Lender, as seller, and the Borrower, as purchaser. All advances required by this Section 3(a) shall be applied directly by the Lender to pay the costs of purchasing the Facilities on behalf of the Borrower, by paying the purchase price owed to the Lender pursuant to the Purchase Agreement.

(b) In lieu of advancing moneys to the Borrower pursuant to Section 3(a) to enable the Borrower to pay the Initial Purchase Price (as defined in the Purchase Agreement), the Lender may convey the Facilities to the Borrower, in which case the advance to enable the Borrower to pay the Initial Purchase Price shall be deemed to have been made.

(c) The Lender irrevocably and unconditionally agrees to advance to the Borrower up to \$ \_\_\_\_\_ of funds sufficient in time and amount to enable the Borrower to repay the Borrower’s revenue bonds evidencing Lender Loans (as defined in the Purchase Agreement) (the “**Future Bonds**,” which term shall include any extensions, renewals, modifications, or replacements thereof) and to pay interest on the Future Bonds and all other amounts owed by the Borrower to the holders of Future Bonds pursuant to the credit documents governing the Future Bonds. All advances

required by this Section 3(c) shall be paid in lawful money of the United States of America directly to the holders of Future Bonds for the account of the Borrower.

(d) The Borrower's obligation to pay the Lender the principal of and interest on the Loan shall be evidenced by the records of the Lender and by the Series 2026 Bond described below.

4. **Series 2026 Bond** - The Loan shall be evidenced by the Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026, dated this date, executed by the Borrower in favor of the Lender in an original stated principal amount equal to the maximum amount of the Loan as described above (the "**Series 2026 Bond**," which term shall include any extensions, renewals, modifications, or replacements thereof). The Series 2026 Bond shall be in substantially the form attached to this Agreement as Exhibit B.

5. **Interest and Fees** - In consideration of the Loan, the Borrower shall pay the Lender the following interest or fees:

(a) The Loan shall bear interest at the rate or rates per annum specified in the Series 2026 Bond, and such interest shall be calculated in the manner specified in the Series 2026 Bond.

(b) On the date of this Agreement, the Borrower shall pay the Lender an origination fee for the Loan in the amount of \$-0-, which fee shall be deemed fully earned upon the date of this Agreement.

6. **Prepayment** - The Loan shall be prepayable in accordance with the terms and conditions of the Series 2026 Bond. The Borrower shall, at the written request of the Lender, exercise its option to prepay the Loan in whole or in part at any time or from time to time, provided that the Lender arranges a loan or loans to the Borrower to refinance the portion of the Loan requested to be prepaid upon terms and conditions reasonably satisfactory to the Borrower.

7. **Security for the Loan** - (a) In order to secure its obligation to repay the Loan, the Borrower does hereby grant, bargain, convey, sell, transfer, assign, pledge, and set over, and grant a security interest in, unto the Lender and its successors and assigns, all of the Borrower's right, title, interest, remedies, powers, options, benefits, and privileges in, to, and under (1) the Rental Agreement, dated this date (the "**Rental Agreement**"), between the Borrower, as landlord, and Kennesaw II Multifamily Owner, LLC, as tenant, reserving, however, to the Borrower the Unassigned Rights, as defined in the Rental Agreement, and all amounts due and to become due to the Borrower under and pursuant to the Rental Agreement, except pursuant to Unassigned Rights, and (2) the Purchase Agreement.

(b) The Borrower represents and warrants to the Lender that it has not previously assigned, transferred, pledged, or encumbered in any manner, or granted a security interest in, any of its right, title, interest, remedies, powers, options, benefits, or privileges in, to, or under the Rental Agreement or the Purchase Agreement. The Borrower shall defend the title to all of the foregoing against the claims and demands of all persons whomsoever claiming by, through, or under the Borrower.

(c) The Borrower hereby authorizes and empowers the Lender, and hereby irrevocably and duly constitutes and appoints the Lender as the Borrower's attorney-in-fact, to receive any and all amounts payable under the Rental Agreement or the Purchase Agreement (except pursuant to

Unassigned Rights), to collect any and all such amounts by such means and taking such action as the Lender may deem necessary or desirable, to exercise any and all rights or remedies provided for under the Rental Agreement and the Purchase Agreement, to file such claims and take any other action or to institute any other proceedings that the Lender may deem necessary or advisable to enforce any such obligations, and to act in all other ways under and with respect to the Rental Agreement and the Purchase Agreement, in the place and stead of the Borrower. The foregoing appointment of the Lender as the Borrower's attorney-in-fact is coupled with an interest; cannot be revoked by insolvency, reorganization, merger, consolidation, or otherwise; and shall not terminate until the Series 2026 Bond has been paid and satisfied in full.

**8. Miscellaneous** - (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, exclusive of such state's rules regarding choice of law.

(b) This Agreement shall be binding upon and shall inure to the benefit of the Borrower, the Lender, and their respective legal representatives, successors, and assigns.

(c) This Agreement may not be waived or amended except by a writing signed by authorized officers of the parties hereto.

(d) This Agreement shall be effective on the date on which the Borrower and the Lender have signed one or more counterparts of it and the Lender shall have received the same. At such time as the Lender is no longer obligated under this Agreement to make any further advances under the Loan and all principal, interest, or other amounts owing with respect to the Loan have been finally and irrevocably repaid by the Borrower to the Lender, this Agreement shall terminate.

(e) This Agreement and the Series 2026 Bond constitute the entire agreement between the Borrower and the Lender with respect to the Loan and supersede all prior agreements, negotiations, representations, or understandings between such parties with respect to such matters.

(f) This Agreement may be executed in one or more counterparts.

(g) All pronouns used herein include all genders, and all singular terms used herein include the plural (and vice versa).

(h) The Lender shall execute and deliver to the Borrower an investment letter in form and substance satisfactory to the Borrower simultaneously with the execution and delivery of the Series 2026 Bond.

If the Borrower is in agreement with the terms and conditions for the Loan set forth in this Agreement, please so signify by signing the enclosed copy of this Agreement in the space indicated below and returning it to the Lender by the close of the Lender's business on April \_\_, 2026. This Agreement shall not become effective unless and until it is so signed and returned by the Borrower by such deadline.

Very truly yours,

**KENNESAW II MULTIFAMILY OWNER,  
LLC**

BY: KENNESAW II MULTIFAMILY  
VENTURE, LLC, its Sole Member

BY: HP KENNESAW II, LLC,  
its Managing Member

By: \_\_\_\_\_  
Manager

AGREED TO:

**KENNESAW DOWNTOWN  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Chairman

(SEAL)

Attest:

\_\_\_\_\_  
Secretary

**EXHIBIT A**  
**DESCRIPTION OF THE SITE**

[TO BE ADDED]

**EXHIBIT B**  
**FORM OF REVENUE BOND**

[Attached]

**PURCHASE, SALE, FINANCING, AND OPTION AGREEMENT**

**THIS PURCHASE, SALE, FINANCING, AND OPTION AGREEMENT** (this “**Agreement**”) is made and entered into on April \_\_, 2026, by and between **KENNESAW II MULTIFAMILY OWNER, LLC** (“**Seller**”), a Delaware limited liability company, and the **KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY** (“**Buyer**”), a Georgia public body corporate and politic.

**WITNESSETH:**

**WHEREAS**, Seller is the owner of an approximately 7.5 acre site, more particularly described in Exhibit A attached hereto, located at 2765 South Main Street in the City of Kennesaw, Georgia (the “**Site**”), on which it plans to construct mixed use facilities containing approximately 300 multifamily housing units and not less than 2,500 square feet of commercial space and related surface and structured parking, and related improvements (the “**Improvements**”) and plans to install related fixtures, furnishings, equipment, and other personal property more particularly described in Exhibit B attached hereto (the “**Equipment**”), which Seller proposes to sell to Buyer pursuant to this Agreement after the completion of the construction and installation of the Improvements and the Equipment on the Site; and

**WHEREAS**, Seller will obtain loans (“**Construction Loans**”) to finance or refinance the costs of the acquisition, construction, and installation of the Site, the Improvements, and the Equipment (collectively the “**Facilities**”); and

**WHEREAS**, Buyer will obtain funds to purchase the Facilities from Seller by (1) issuing and selling to Seller its Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026 (the “**Initial Bond**”), in the original principal amount not to exceed \$\_\_\_\_\_, pursuant to the Loan and Security Agreement, dated this date (the “**Seller Loan Agreement**”), between Seller, as lender, and Buyer, as borrower, and (2) obtaining Lender Loans (as defined in Section 2.1 of this Agreement); and

**WHEREAS**, Buyer proposes to grant to Seller options to purchase the Facilities in whole or in part;

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

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THE RIGHTS AND INTERESTS OF THE KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY IN THIS PURCHASE, SALE, FINANCING, AND OPTION AGREEMENT HAVE BEEN ASSIGNED AND ARE THE SUBJECT OF A GRANT OF A SECURITY INTEREST TO KENNESAW II MULTIFAMILY OWNER, LLC, UNDER THE SELLER LOAN AGREEMENT, IN ORDER TO SECURE THE INITIAL BOND.

## ARTICLE I

### PURCHASE AND SALE

**Section 1.1. Agreement to Sell and Purchase the Facilities.** Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase and take from Seller, subject to and in accordance with all of the terms and conditions of this Agreement, the Facilities.

**Section 1.2. Purchase Price.** The purchase price for the Facilities (the “**Purchase Price**”) shall be an amount equal to 250% of the cost to Seller of the Facilities, including principal and interest paid or payable on Construction Loans, which amount shall be substantiated by reasonable documentation and certification provided by Seller to Buyer. The portion of the Purchase Price equal to the total Purchase Price minus the principal and interest scheduled to be paid on the Construction Loans after the hereinafter defined Closing Date (the “**Initial Purchase Price**”) shall be paid by Buyer to Seller on the Closing Date, by wire delivery of funds through the Federal Reserve System to an account designated in writing by Seller or, if Seller is the registered owner of the Initial Bond, by the written acknowledgement of Buyer to Seller that Seller has advanced an amount equal to the Initial Purchase Price pursuant to the Seller Loan Agreement in exchange for the Facilities being purchased hereunder by Buyer. The portion of the Purchase Price equal to the principal and interest scheduled to be paid on the Construction Loans after the hereinafter defined Closing Date (the “**Deferred Purchase Price**”) shall be paid by Buyer to Seller in one or more installments on the due dates of such principal of and interest on the Construction Loans or, if Seller elects to prepay the Construction Loans in whole or in part prior to maturity, on the date of prepayment of the Construction Loans, by wire delivery of funds through the Federal Reserve System to the holder of the Construction Loans for the account of Seller.

**Section 1.3. Closing.** The closing of the purchase and sale of the Facilities (the “**Closing**”) shall be held at the offices of Buyer at such time and on such date (the “**Closing Date**”) as may be specified by written notice from Seller to Buyer not less than ten (10) days prior thereto; provided, however, that the Closing Date shall not occur before the date on which a temporary certificate of occupancy for the Improvements has been issued by appropriate local governmental authorities.

**Section 1.4. Access and Inspection; Delivery of Documents and Information by Seller.**  
(a) Between the date of this Agreement and the Closing Date, Buyer and Buyer’s agents and designees shall have the right, after giving reasonable written notice to Seller and making reasonable arrangements with Seller, to enter the Site for the purposes of inspecting the Facilities, conducting tests, and making surveys and any other investigations and inspections (collectively the “**Inspections**”) as Buyer may reasonably require to assess the condition of the Facilities; provided, however, that such activities by or on behalf of Buyer on the Facilities shall not damage the Facilities or interfere with Seller’s lawful use of the Facilities or construction and installation of the Improvements and the Equipment. In exercising the foregoing rights, Buyer shall comply with the reasonable requirements imposed by Seller or Seller’s contractor, including, without limitation, requirements related to job site safety.

(b) On or before the date ten (10) days prior to the Closing Date, Seller shall deliver to Buyer, if not previously delivered, or make available to Buyer for examination or copying by Buyer, at the address for Buyer set forth below Buyer’s execution of this Agreement, the following

documents and information with respect to the Facilities (collectively the “**Facilities Information**”): (i) all surveys, environmental, engineering, and mechanical data relating to the Facilities, and reports such as soils reports and environmental audits, which are in Seller’s possession or which Seller can obtain with reasonable effort, and (ii) a copy of any policy of title insurance issued in favor of Seller, together with legible copies of all instruments referenced therein. All of the Facilities Information provided to Buyer or to any third party shall be and is provided without warranty as to any of the matters set forth therein, and Buyer hereby acknowledges and agrees that no warranties, either express or implied, shall be deemed to have been given or made by Seller or its agents, employees, attorneys, or representatives as to the content, authenticity, truthfulness, correctness, or otherwise with respect to any of the Facilities Information. In the event the Closing hereunder does not occur for any reason, Buyer agrees to return to Seller all of the Facilities Information.

**Section 1.5. Title.** Seller covenants to convey to Buyer at the Closing good and marketable fee simple title in and to the Site and the Improvements by limited warranty deed. For the purposes of this Agreement, “**good and marketable fee simple title**” shall mean fee simple ownership that is: (i) free of all claims, liens, and encumbrances of any kind or nature whatsoever other than the Permitted Exceptions, herein defined, and (ii) insurable by a title insurance company, at then current standard rates under the standard form of ALTA owner’s policy of title insurance (ALTA Form 2006), without exception other than for the Permitted Exceptions. Seller covenants to convey to Buyer at the Closing good and merchantable title in and to the Equipment by bill of sale. For the purposes of this Agreement, “**good and merchantable title**” shall mean ownership that is free of all claims, liens, and encumbrances of any kind or nature whatsoever other than the Permitted Exceptions. For the purposes of this Agreement, the term “**Permitted Exceptions**” shall mean: (A) current city, state, and county ad valorem taxes not yet due and payable; (B) all easements, restrictions, reservations, rights-of-way, and other matters of record serving the Facilities; (C) any matters revealed by the title commitment or survey; (D) any lien that secures Construction Loans which financed or refinanced costs of the Facilities that would, if financed by Buyer, constitute “cost of project” (as defined in Section 36-42-3(2) of the Official Code of Georgia Annotated); and (E) the Rental Agreement, dated this date (the “**Rental Agreement**”), between Buyer, as landlord, and Kennesaw II Multifamily Owner, LLC (the “**Tenant**”), as tenant, and all sub-lets, sublicenses, and “Permitted Encumbrances” permitted by the Rental Agreement.

**Section 1.6. Proceedings at Closing.** On the Closing Date, the Closing shall take place as follows:

(a) Seller shall deliver to Buyer a Limited Warranty Deed to the Site and the Improvements, in recordable form, and such other documents as are customary or reasonably required by the title company and Buyer in such form as is reasonably approved by Buyer in order to ensure Buyer has good and marketable fee simple title to the Site and the Improvements.

(b) Seller shall deliver to Buyer a Bill of Sale and Assignment to the Equipment and such other documents as are customary or reasonably required by Buyer in such form as is reasonably approved by Buyer in order to ensure Buyer has good and merchantable title to the Equipment.

(c) Buyer shall pay the Initial Purchase Price to Seller in accordance with the provisions of this Agreement.

**Section 1.7. Costs of Closing.** All costs and expenses of the transactions contemplated hereby shall be paid by Seller.

**Section 1.8. Warranties, Representations, and Additional Covenants of Seller.** (a) Seller represents and warrants to Buyer, knowing that Buyer is relying on each such representation and warranty, that, as of the date hereof and as of the Closing Date:

(1) There are no actions, suits, or proceedings pending or threatened against, by, or affecting Seller that affect title to the Facilities or that question the validity or enforceability of this Agreement as to Seller or of any action taken by Seller under this Agreement, in any court or before any governmental authority, domestic or foreign.

(2) To the best of Seller's knowledge and belief, there are no violations of (A) any zoning, building, health, environmental, or other laws, codes, ordinances, regulations, orders, or requirements of any city, county, state, or other governmental authority having jurisdiction thereof or (B) any private restrictive covenants affecting the Facilities.

(3) To the best of Seller's knowledge and belief, there are no pending, threatened, or contemplated condemnation actions involving all or any material portion of the Facilities or any interest therein, and there are no existing, proposed, or contemplated plans to widen, modify, or realign any public rights-of-way located adjacent to any portion of the Site, except as disclosed in writing to Buyer.

(4) There are no leases or other agreements for use, occupancy, or possession presently in force with respect to all or any portion of the Facilities other than the Permitted Exceptions.

(b) Seller covenants with Buyer that:

(1) Between the date hereof and the Closing Date, without the prior written approval of Buyer, which shall not be unreasonably withheld, conditioned, or delayed, Seller shall not, except for Permitted Exceptions, (A) make or enter into any lease or other agreement for the use, occupancy, or possession of all or any part of the Facilities or (B) encumber the Facilities, unless such lease, other agreement, or encumbrance is terminated on or before the Closing Date as to the Facilities.

(2) On or before the Closing Date, Seller shall cause the Facilities to be released from any and all liens, monetary encumbrances, and security interests arising by, through, or under Seller other than (A) real estate ad valorem taxes and assessments for the current year and all subsequent years thereafter and (B) Permitted Exceptions.

(3) On the Closing Date there will be no indebtedness arising by, through, or under Seller to any contractor, laborer, mechanic, materialman, architect, engineer, or any other person for work, labor, or services performed or rendered, or for materials supplied or furnished, in connection with the Facilities for which any such person could claim a lien against the Facilities, unless (A) Seller has provided Buyer with reasonable indemnification or title insurance with respect to such claim of lien or (B) such claim of lien is a Permitted Exception.

(4) Seller shall pay when due all ad valorem property taxes that are lawfully assessed against the Facilities while the Facilities are owned by Seller and before the Facilities are conveyed to Buyer, except for those ad valorem property taxes being contested by Seller diligently and in good faith.

(5) Between the date hereof and the Closing Date, Seller shall cause the Improvements to be designed, constructed, furnished, and equipped in a manner that results in at least 300 multifamily housing units and 2,500 square feet of ground floor commercial space and structured parking containing at least \_\_\_ publicly available parking spaces.

(6) On or before the Closing Date, Seller shall have granted to the City of Kennesaw, Georgia (the "City") an easement for the general public to use at least \_\_\_\_\_ (\_\_\_) parking spaces in the structured parking to be constructed by Seller, free of charge and on other terms reasonably acceptable to the City.

(7) Between the date hereof and the Closing Date, Seller shall have completed the construction of a new walking trail to Gateway Park.

(c) Buyer covenants with Seller that Buyer shall promptly take all actions reasonably necessary and within its control to obtain timely Lender Loans, if and only if Seller locates lenders to make such Lender Loans on lawful terms, so that Buyer shall have sufficient unspent proceeds from such Lender Loans (1) to pay the Deferred Purchase Price as and when due under this Agreement and (2) to prepay the Initial Bond in amounts requested by Seller in accordance with Section 6 of the Seller Loan Agreement.

Seller acknowledges and agrees that no examination or investigation of the Facilities by or on behalf of Buyer prior to the Closing shall in any way modify, affect, or diminish Seller's obligations under the representations, warranties, covenants, and agreements set forth in this Agreement. Except for the specific representations, warranties, and covenants set forth in this Section 1.8, Seller is conveying the Facilities "AS IS, WHERE IS, AND WITH ALL FAULTS," and Buyer assumes the risk that adverse physical characteristics and existing conditions may not have been revealed by the Inspections. The representations, warranties, and additional covenants of Seller set forth in this Section 1.8 shall survive the Closing for a period of one (1) year from the Closing Date.

**Section 1.9. Conditions of Buyer's Obligations.** Buyer's obligations to consummate the purchase and sale of the Facilities on the Closing Date shall be subject to the satisfaction or performance of the following terms and conditions, any one or more of which may be waived in writing by Buyer, in whole or in part, on or as of the Closing Date:

(a) Seller shall have fully and completely kept, observed, performed, satisfied, and complied with all terms, covenants, conditions, agreements, requirements, restrictions, and provisions required by this Agreement to be kept, observed, performed, satisfied, or complied with by Seller before, on, or as of the Closing Date;

(b) the representations and warranties of Seller in this Agreement (and the substantive facts contained in any representations and warranties limited to Seller's knowledge and belief) shall be true and correct in all material respects, and certified by Seller to Buyer as such, on and as of the

Closing Date, in the same manner and with the same effect as though such representations and warranties had been made on and as of the Closing Date; and

(c) Buyer shall have issued the Initial Bond and shall have sufficient unspent proceeds from the sale of the Initial Bond or sufficient undrawn advances due to Buyer pursuant to the Seller Loan Agreement to enable Buyer to pay the Initial Purchase Price due on the Closing Date; and

(d) the insurance required by Section 5.03 of the Rental Agreement shall be in full force and effect.

If any of the foregoing conditions have not been satisfied or performed or waived in writing by Buyer on or as of the Closing Date, Buyer shall have the right, at Buyer's option, after Buyer has given Seller thirty (30) days' prior written notice and the opportunity to satisfy and perform such conditions during such thirty (30) day period, either: (i) to postpone the Closing scheduled for the Closing Date, by giving written notice to Seller on or before the Closing Date, in which event the Closing shall be postponed until such time as the foregoing conditions have been satisfied or performed or waived in writing by Buyer or (ii) if such failure of condition constitutes a breach of representation or warranty by Seller, constitutes a failure by Seller to perform any of the terms, covenants, conditions, agreements, requirements, restrictions, or provisions of this Agreement, or otherwise constitutes a default by Seller under this Agreement, to exercise such rights and remedies as may be provided for in Section 1.11 of this Agreement.

**Section 1.10. Possession at Closing.** Seller shall surrender possession of the Facilities to Buyer on the Closing Date, subject to Permitted Exceptions.

**Section 1.11. Remedies.** If (i) any representation or warranty of either party set forth in this Agreement shall prove to be untrue or incorrect in any material respect; or (ii) either party shall fail to keep, observe, perform, satisfy, or comply with, fully and completely, any of the terms, covenants, conditions, agreements, requirements, restrictions, or provisions required by this Agreement to be kept, observed, performed, satisfied, or complied with by such party; or (iii) the purchase and sale of the Facilities is otherwise not consummated in accordance with the terms and provisions of this Agreement due to circumstances or conditions that constitute a default by either party under this Agreement (the matters described in the foregoing clauses (i), (ii), and (iii) are herein sometimes collectively called "**Defaults**"), then the other party may, in its sole discretion and as its sole and exclusive remedy as a result of any Defaults, enforce this Agreement and the purchase and sale transactions contemplated herein by specific performance. Each party hereby expressly waives any right to seek or obtain any monetary judgment or damages against the other party in the event of any Defaults and acknowledges and agrees that no other damages, rights, or remedies shall be collectible, enforceable, or available to such party.

**Section 1.12. Risk of Loss and Insurance.** Between the date of this Agreement and the Closing Date, the risks and obligations of ownership and loss of the Facilities and the correlative rights against insurance carriers and third parties shall belong to Seller. In the event of the damage or destruction of any material portion of the Facilities prior to the Closing Date, Buyer shall have the right, at Buyer's option, to postpone the Closing scheduled for the Closing Date, by giving written notice to Seller prior to the Closing Date, in which event the Closing shall be postponed until such

time as the Facilities shall be restored, repaired, or replaced to their condition immediately preceding such damage or destruction.

**Section 1.13. Condemnation.** In the event of the taking of all or any material part of the Facilities, or any material interest therein, by eminent domain proceedings of any public body other than (i) the City of Kennesaw, Georgia or (ii) any public body controlled by the City of Kennesaw, Georgia, or the commencement or bona-fide threat of the commencement of any such proceedings, prior to the Closing, Buyer shall have the right, at Buyer's option, to cancel the Closing, by giving written notice thereof to Seller prior to the Closing, in which event the Closing shall be cancelled. If Buyer does not so cancel the Closing, the Purchase Price shall be reduced by the total of any awards or other proceeds received by Seller prior to Closing with respect to any taking, and, at Closing, Seller shall assign to Buyer all rights of Seller in and to any awards or other proceeds to be paid or to become payable after Closing by reason of any taking, which shall be applied by Buyer as provided in the Rental Agreement. Seller shall notify Buyer of eminent domain proceedings within five (5) business days after Seller has notice thereof.

**Section 1.14. Broker and Commission.** All negotiations relative to this Agreement and the purchase and sale of the Facilities as contemplated by and provided for in this Agreement have been conducted by and between Seller and Buyer without the intervention of any person or other party as agent or broker. Seller and Buyer warrant and represent to each other that Seller and Buyer have not entered into any agreement or arrangement and have not received services from any broker or broker's employees that would give rise to any claim of lien or lien against the Facilities, and there are and will be no broker's commissions or fees payable in connection with this Agreement or the purchase and sale of the Facilities by reason of their respective dealings, negotiations, or communications.

**Section 1.15. Further Assurances; Survival.** At the Closing, and from time to time thereafter, Seller shall do all such additional and further acts and shall execute and deliver all such additional and further deeds, bills of sale, affidavits, instruments, certificates, and documents, as Buyer or any title insurer may reasonably require fully to vest in and assure to Buyer full right, title, and interest in and to the Facilities to the full extent contemplated by this Agreement and otherwise to effectuate the purchase and sale of the Facilities as contemplated by and provided for in this Agreement. All the provisions of this Article I (including, without limitation, the representations, covenants, and warranties of Seller as set forth in this Agreement) shall survive the consummation of the purchase and sale of the Facilities on the Closing Date, the delivery of the deed and bill of sale to Buyer, and the payment of the Initial Purchase Price for a period of one (1) year from the Closing Date.

## ARTICLE II

### FINANCING

**Section 2.1. Lender Loans.** Seller shall locate and identify lender(s) not affiliated with Seller to make loans ("**Lender Loans**") to Buyer to finance all or a portion of the Deferred Purchase Price payable at maturity of the Construction Loans or payable upon prepayment in whole of the Construction Loans or to refinance all or a portion of any other Lender Loans or any Seller Loans (as defined in Section 2.2 hereof). Buyer shall issue its revenue bonds (i) to evidence the repayment of

Lender Loans from time to time in such amounts and on such terms and conditions as may be allowed by Chapter 42 of Title 36 of the Official Code of Georgia Annotated, entitled “Downtown Development Authorities Law,” as amended and as the same may be from time to time additionally supplemented and amended (collectively the “Act”), and (ii) to such institutional lenders as may be directed by Seller. Seller shall be solely responsible for obtaining lenders to make the Lender Loans, which lenders must be institutional lenders experienced in making commercial real estate loans. Such revenue bonds evidencing Lender Loans shall be secured solely by a pledge of amounts to be drawn under the line of credit established pursuant to Section 2.2 hereof, by a first priority security title to and lien on and security interest in the Facilities owned by Buyer, by a pledge of the revenues derived from the ownership of the Facilities owned by Buyer, and by any guarantees and collateral provided by Seller. No recourse may be had or claim made against assets, properties, or revenues of Buyer for the payment of any amounts due with respect to such revenue bonds evidencing Lender Loans, except for assets, properties, or revenues pledged by Buyer to secure such revenue bonds.

**Section 2.2. Seller Loans.** Seller shall establish a non-revolving line of credit (including without limitation, pursuant to the Seller Loan Agreement) (“**Seller Loans**”) in favor of Buyer in an amount sufficient to enable Buyer to pay the Initial Purchase Price and to pay all amounts that are payable with respect to the Lender Loans. Seller Loans may also be made to Buyer by Seller or its affiliates to refinance any Lender Loans or any other Seller Loans. Buyer shall issue its revenue bonds (including, without limitation, the Initial Bond) from time to time evidencing the Seller Loans. Such revenue bonds shall bear interest at the rate of 18% per annum, which shall accrue and compound annually on December 1 of each year until maturity, and shall mature on December 1 of the year specified by Seller, which maturity date shall not be later than forty (40) years from the date of issuance of such revenue bonds, on which date all principal and compounded interest shall be due and payable. Such revenue bonds evidencing Seller Loans shall be secured solely by Buyer’s right, title, and interest in and to the Rental Agreement (except for Unassigned Rights, as defined in the Rental Agreement) and this Agreement. No recourse may be had or claim made against any other assets, properties, or revenues of Buyer for the payment of any amounts due with respect to such revenue bonds evidencing Seller Loans.

**Section 2.3. Fees and Expenses.** Buyer shall charge no financing fees for any revenue bonds issued to evidence Lender Loans or Seller Loans, except as set forth in the Rental Agreement. Seller agrees to pay all reasonable out-of-pocket costs and expenses of Buyer incurred in connection with its negotiation, structuring, documenting, and closing the Lender Loans and the Seller Loans, including, without limitation, the fees and disbursements of counsel for Buyer and Buyer’s Bond Counsel. Seller agrees to pay all reasonable out-of-pocket costs and expenses of Buyer incurred in connection with its administration or modification of, or in connection with the preservation of its rights under, enforcement of, or any refinancing, renegotiation, restructuring, or termination of, any Lender Loan or Seller Loan or any instruments relating thereto or any amendment, waiver, or consent relating thereto, including, without limitation, the fees and disbursements of counsel for Buyer and Buyer’s Bond Counsel.

At the request of Seller, Buyer shall provide Seller with an estimate of the fees and expenses expected to be incurred by Buyer pursuant to this Section 2.3. Such fees and expenses shall be billed to Seller by Buyer from time to time, together with (i) a statement certifying that the amount billed has been incurred or paid by Buyer for one or more of the above items and (ii) copies of invoices,

bills, or other evidence reasonably acceptable to Seller substantiating the amount billed. Amounts so billed shall be paid by Seller within thirty (30) days after receipt of the bill by Seller.

## ARTICLE III

### OPTION TO PURCHASE THE FACILITIES

**Section 3.1. Option to Purchase Facilities.** At any time within the later of (i) one hundred eighty (180) days after the expiration or sooner termination of the term of the Rental Agreement or (ii) ninety (90) days following receipt by Seller of written notice from Buyer of the expiration or sooner termination of the term of the Rental Agreement, Seller shall have, and is hereby granted, the option to purchase the Facilities in their entirety by paying a purchase price equal to an amount that will be sufficient to enable Buyer to pay, retire, and prepay all of the unpaid Lender Loans and Seller Loans in accordance with their terms (including, without limiting the generality of the foregoing, principal, prepayment premium, interest to maturity or earliest applicable prepayment date, as the case may be, expenses of prepayment, and other related fees and expenses). In addition, at any time prior to the expiration or sooner termination of the term of the Rental Agreement, Seller shall have, and is hereby granted, the option to purchase any portion of the Facilities by paying a purchase price equal to an allocable portion of the original Purchase Price. To exercise either of such options, Seller shall give written notice of exercise to Buyer. The purchase of the Facilities or any portion thereof shall be closed within sixty (60) days from the date of such notice. Seller may at its option deliver to Buyer for cancellation any revenue bonds evidencing Seller Loans in lieu of paying to Buyer an amount sufficient to enable Buyer to pay, retire, or prepay the Seller Loans evidenced by such revenue bonds. Seller may at its option pay the purchase price of a portion of the Facilities by delivering written notice to Buyer that the outstanding compounded amount of Seller Loans has been reduced by such purchase price.

**Section 3.2. No Obligation to Purchase Facilities.** Seller shall be under no obligation to purchase the Facilities.

**Section 3.3. Conveyance on Exercise of Option to Purchase.** At the closing of any purchase pursuant to the exercise of the option to purchase granted herein, Buyer shall upon receipt of the purchase price (which may include delivery of revenue bonds evidencing Seller Loans for cancellation) deliver to Seller (or its nominee) documents conveying to Seller (or its nominee) good and marketable title (of the same quality as received by Buyer) to the property being purchased, as such property then exists, subject to the following: (i) those encumbrances (if any) to which title to such property was subject immediately following its conveyance to Buyer; (ii) those encumbrances created by, through, or under Seller or the Tenant or to the creation or suffering of which Seller or the Tenant consented to in writing; (iii) those encumbrances resulting from the failure of the Tenant to perform or observe any of the agreements on its part contained in the Rental Agreement; (iv) Permitted Encumbrances (as defined in the Rental Agreement) that were not created by Buyer without the written consent of Seller; and (v) if title to the Facilities is subject to an eminent domain proceeding, the rights and title of the condemning authority.

**Section 3.4. Public Purpose of Option to Purchase.** Buyer and Seller acknowledge that the option to purchase the Facilities granted in this Article is a material inducement to Seller to sell the Facilities to Buyer pursuant to this Agreement, to enable the Facilities to be rented by Buyer to

the Tenant pursuant to the Rental Agreement and thereby create employment opportunities in the City of Kennesaw, Georgia, and that in granting such option Buyer is considering the entire transaction as a whole, including the development and promotion for the public good and general welfare of trade, commerce, industry, and employment opportunities; the promotion of the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City of Kennesaw, Georgia; and the revitalization and redevelopment of the central business district of the City of Kennesaw, Georgia.

## ARTICLE IV

### GENERAL PROVISIONS

**Section 4.1. Notices.** Whenever any notice, demand, or request is required or permitted under this Agreement, such notice, demand, or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth below their respective executions hereof, or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each party set forth below their respective executions hereof, or to such other numbers as are specified by written notice given in accordance herewith. All notices, demands, or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given on the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal. Nonetheless, the time period, if any, in which a response to any notice, demand, or request must be given shall commence to run from the date of receipt of the notice, demand, or request by the addressee thereof. Any notice, demand, or request not received because of changed address or facsimile number of which no notice was given as hereinabove provided or because of refusal to accept delivery shall be deemed received by the party to whom addressed on the date of hand delivery, on the date of facsimile transmittal, on the first calendar day after deposit with commercial courier, or on the third calendar day following deposit in the United States Mail, as the case may be.

**Section 4.2. Limited Obligations.** It is understood and agreed that in the performance of the agreements of Buyer herein contained, any obligation it may thereby incur for the payment of money shall not constitute a general obligation of Buyer but shall be a limited obligation of Buyer payable solely out of the proceeds of Lender Loans and Seller Loans, and no recourse shall be had or claim shall be made against any other assets, properties, or revenues of Buyer to satisfy any obligations of Buyer under this Agreement.

**Section 4.3. Facsimile as Writing.** The parties expressly acknowledge and agree that, notwithstanding any statutory or decisional law to the contrary, the printed product of a facsimile transmittal shall be deemed to be “written” and a “writing” for all purposes of this Agreement.

**Section 4.4. Assignment; Parties.** This Agreement may not be assigned by Buyer, in whole or in part, without the prior written consent of Seller, which consent may be withheld in the sole and absolute discretion of Seller. Seller consents to the collateral assignment of Buyer’s rights

in this Agreement made pursuant to the Seller Loan Agreement. This Agreement may be assigned by Seller, in whole or in part, without the prior written consent of Buyer, but with prior written notice to Buyer of such assignment and the identity of the assignee. This Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, Buyer and Seller and their respective successors and permitted assigns.

**Section 4.5. Headings.** The use of headings, captions, and numbers in this Agreement is solely for the convenience of identifying and indexing the various provisions in this Agreement and shall in no event be considered otherwise in construing or interpreting any provision in this Agreement.

**Section 4.6. Exhibits.** Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

**Section 4.7. Defined Terms.** Capitalized terms used in this Agreement shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

**Section 4.8. Pronouns.** Wherever appropriate in this Agreement, personal pronouns shall be deemed to include the other genders and the singular to include the plural.

**Section 4.9. Severability.** If any term, covenant, condition, or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, covenant, condition, or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition, and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

**Section 4.10. Non-Waiver.** Failure by any party to complain of any action, non-action, or breach of any other party shall not constitute a waiver of any aggrieved party's rights hereunder. Waiver by any party of any right arising from any breach of any other party shall not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, present, or future.

**Section 4.11. Time of Essence; Dates.** Time is of the essence of this Agreement. If any date set forth in this Agreement shall fall on, or any time period set forth in this Agreement shall expire on, a day that is a Saturday, Sunday, federal or state holiday, or other non-business day, such date shall automatically be extended to, and the expiration of such time period shall automatically be extended to, the next day that is not a Saturday, Sunday, federal or state holiday, or other non-business day.

**Section 4.12. Applicable Law.** This Agreement shall be governed by, construed under, and interpreted and enforced in accordance with the laws of the State of Georgia.

**Section 4.13. Entire Agreement; Modification.** This Agreement supersedes all prior oral or written discussions and agreements between Seller and Buyer with respect to the purchase and sale of the Facilities and other matters contained herein, and this Agreement, together with the Seller Loan Agreement and the Rental Agreement, contains the sole and entire understanding between Seller and Buyer with respect thereto. This Agreement shall not be modified or amended except by an instrument in writing executed by or on behalf of Seller and Buyer, in each case consented to in writing by the holder of each Construction Loan and each Lender Loan.

**Section 4.14. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

**Section 4.15. Recording.** An appropriate notice or memorandum of the purchase option contained in Article III of this Agreement shall be recorded in all offices as may at the time be provided by law as the proper place for recordation thereof.

**Section 4.16. Seller's Termination Rights.** Seller shall have the right to terminate this Agreement prior to the Closing Date, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving written notice thereof to Buyer and delivering to Buyer the Initial Bond for cancellation and upon payment of the fee owed to Buyer on the Closing Date pursuant to Section 4.03(e) of the Rental Agreement, if Seller determines in its sole discretion that (i) it may not receive the anticipated economic benefits to be obtained in connection with the sale of the Facilities pursuant to this Agreement and the rental of the Facilities pursuant to the Rental Agreement or (ii) that it may experience difficulty in obtaining any Lender Loans for Buyer.

[Signatures and Seals to Follow]

**IN WITNESS WHEREOF**, the parties have caused their duly authorized representatives to execute, seal, and deliver this Agreement, all as of the day and year first written above.

**SELLER:**

**KENNESAW II MULTIFAMILY OWNER, LLC**

BY: KENNESAW II MULTIFAMILY  
VENTURE, LLC, its Sole Member

BY: HP KENNESAW II, LLC,  
its Managing Member

By: \_\_\_\_\_  
Manager

Initial address for notices:

1776 Peachtree Street, N.W.  
Atlanta, Georgia 30309  
Telecopy: ( ) \_\_\_ - \_\_\_\_  
Attention: Manager

**BUYER:**

**KENNESAW DOWNTOWN  
DEVELOPMENT AUTHORITY**

(SEAL)

Attest:

By: \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

Initial address for notices:

2529 J.O. Stephenson Avenue  
Kennesaw, Georgia 30144  
Telecopy: (770) 429-4548  
Attention: Economic Development Director

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF SITE**

[TO BE ADDED]

**EXHIBIT “B”**

**DESCRIPTION OF EQUIPMENT**

All personal property to be located on the Site and designated by written notice from Seller to Buyer to be conveyed to Buyer pursuant to this Agreement.

-----Space Above This Line for Recorder's Use-----

After recording, please return to:  
Nelson Mullins Riley & Scarborough LLP  
201 17th Street, N.W. - Suite 1700  
Atlanta, Georgia 30363  
Attn: Joy Pealor

STATE OF GEORGIA     )  
  )  
COUNTY OF COBB     )

---

**KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY**  
as Landlord

and

**KENNESAW II MULTIFAMILY OWNER, LLC**  
as Tenant

---

**RENTAL AGREEMENT**

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Dated April \_\_, 2026

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THE RIGHTS AND INTERESTS OF THE KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY IN THIS RENTAL AGREEMENT AND THE REVENUES AND RECEIPTS DERIVED HEREFROM, EXCEPT FOR ITS UNASSIGNED RIGHTS, AS DEFINED HEREIN, HAVE BEEN ASSIGNED AND ARE THE SUBJECT OF A GRANT OF A SECURITY INTEREST TO KENNESAW II MULTIFAMILY OWNER, LLC, UNDER A LOAN AND SECURITY AGREEMENT DATED THIS DATE.

**RENTAL AGREEMENT**

**TABLE OF CONTENTS**

(This Table of Contents is not a part of the Rental Agreement  
and is only for convenience of reference.)

	<u>Page</u>
<b>PARTIES AND RECITALS .....</b>	<b>1</b>
<b>ARTICLE I -- DEFINITIONS .....</b>	<b>1</b>
<b>ARTICLE II -- REPRESENTATIONS AND WARRANTIES .....</b>	<b>6</b>
Section 2.01. Representations by the Landlord .....	6
Section 2.02. Representations by the Tenant .....	7
Section 2.03. Reliance by Lender .....	11
Section 2.04. Ad Valorem Tax Status of Facilities .....	11
<b>ARTICLE III -- DEMISING CLAUSE; COLLATERAL ASSIGNMENT; TITLE .....</b>	<b>12</b>
Section 3.01. Demise of the Facilities .....	12
Section 3.02. Acknowledgment of Collateral Assignment; Perfection .....	12
Section 3.03. Warranty of Title .....	12
Section 3.04. Title Insurance .....	13
Section 3.05. Tenant’s Covenants Regarding Title .....	13
<b>ARTICLE IV -- OCCUPANCY TERM; RENTAL PROVISIONS; NATURE OF OBLIGATIONS OF TENANT .....</b>	<b>13</b>
Section 4.01. Occupancy Term .....	13
Section 4.02. Delivery and Acceptance of Possession .....	14
Section 4.03. Rents and Other Amounts Payable .....	14
Section 4.04. Place of Rental Payments .....	15
Section 4.05. Nature of Obligations of Tenant Hereunder .....	15
<b>ARTICLE V -- MAINTENANCE, TAXES, AND INSURANCE .....</b>	<b>16</b>
Section 5.01. Maintenance and Modification of Facilities by the Tenant .....	16
Section 5.02. Taxes, Other Governmental Charges, and Utility Charges .....	17
Section 5.03. Insurance Required .....	17
Section 5.04. Application of Net Proceeds of Insurance .....	18
Section 5.05. Additional Provisions Respecting Insurance .....	19
Section 5.06. Review by Insurance Consultant .....	19
Section 5.07. Advances by the Landlord or the Lender .....	19
Section 5.08. Contest of Liens .....	20

<b>ARTICLE VI -- DAMAGE, DESTRUCTION, CONDEMNATION, AND FAILURE OF TITLE .....</b>	<b>20</b>
Section 6.01. Damage and Destruction .....	20
Section 6.02. Condemnation and Failure of Title .....	21
Section 6.03. Condemnation of Tenant-Owned Property .....	22
<b>ARTICLE VII -- ADDITIONAL COVENANTS .....</b>	<b>22</b>
Section 7.01. No Warranty of Condition or Suitability by the Landlord .....	22
Section 7.02. Access to Facilities and Records .....	22
Section 7.03. Tenant to Maintain its Existence; Conditions Under Which Exceptions Permitted.....	22
Section 7.04. Qualification in the State.....	23
Section 7.05. Indemnity.....	24
Section 7.06. Information and Notices.....	25
Section 7.07. Use of Party Walls.....	25
Section 7.08. Operation of Facilities and Safety Code.....	25
Section 7.09. Hazardous Materials.....	26
Section 7.10. Permitted Uses.....	27
<b>ARTICLE VIII -- ASSIGNMENT, SUB-LETTING, ENCUMBERING, AND SELLING; INSTALLATION OF TENANT’S OWN MACHINERY AND EQUIPMENT .....</b>	<b>27</b>
Section 8.01. Assignment and Sub-letting .....	27
Section 8.02. Restrictions on Sale, Encumbrance, or Conveyance of the Facilities by the Landlord .....	28
Section 8.03. Installation of Tenant’s Own Machinery and Equipment .....	28
Section 8.04. Documents Required for Financing; Estoppel Certificates.....	29
<b>ARTICLE IX -- EVENTS OF DEFAULT AND REMEDIES.....</b>	<b>29</b>
Section 9.01. Events of Default Defined.....	29
Section 9.02. Remedies on Default .....	31
Section 9.03. No Remedy Exclusive .....	32
Section 9.04. Agreement to Pay Attorneys’ Fees and Expenses.....	32
Section 9.05. Waiver of Events of Default.....	32
<b>ARTICLE X -- OPTIONS IN FAVOR OF TENANT; RENT PREPAYMENTS AND ABATEMENT .....</b>	<b>33</b>
Section 10.01. General Option to Terminate Occupancy Term .....	33
Section 10.02. Prepayment of Bond.....	33
Section 10.03. Prepayment of Bond Rent .....	33
Section 10.04. Option to Prepay Bond Rent and Prepay the Bond at Prior Optional Prepayment Dates.....	33
Section 10.05. No Obligation to Prepay Rents.....	33
Section 10.06. Reference to Bond Ineffective After Bond Paid .....	34

	<u>Page</u>
Section 10.07. Tenant Entitled to Certain Rent Abatements if Bond Paid Prior to Maturity .....	34
Section 10.08. Granting of Easements .....	34
<b>ARTICLE XI -- MISCELLANEOUS .....</b>	<b>34</b>
Section 11.01. Notices.....	34
Section 11.02. Recording and Filing.....	34
Section 11.03. Construction and Binding Effect.....	35
Section 11.04. Severability.....	35
Section 11.05. Fees and Expenses Paid by the Tenant.....	35
Section 11.06. Amendments, Changes, and Modifications.....	35
Section 11.07. Execution of Counterparts.....	35
Section 11.08. Law Governing Construction of this Rental Agreement.....	35
Section 11.09. Quiet Enjoyment.....	35
Section 11.10. Time of Essence .....	36
Section 11.11. No Estate .....	36
Section 11.12. No Merger .....	36
Section 11.13. Covenants Run with Premises.....	36
Section 11.14. Triple Net Rental Agreement .....	36
Section 11.15. Surrender of Facilities .....	36
Section 11.16. Tenancy at Sufferance .....	36
 <b>SIGNATURES AND SEALS .....</b>	 <b>37</b>
 <b>EXHIBIT A -- DESCRIPTION OF SITE .....</b>	 <b>A-1</b>
 <b>EXHIBIT B -- DESCRIPTION OF EQUIPMENT.....</b>	 <b>B-1</b>

## RENTAL AGREEMENT

This **RENTAL AGREEMENT**, dated April \_\_, 2026, by and between the Kennesaw Downtown Development Authority (the “Landlord”), a public body corporate and politic created and existing under the laws of the State of Georgia, whose mailing address is 2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144, Attention: Economic Development Director, and Kennesaw II Multifamily Owner, LLC (the “Tenant”), a limited liability company formed and existing under the laws of the State of Delaware, whose mailing address is 1776 Peachtree Street, N.W., Atlanta, Georgia 30309, Attention: Manager.

### W I T N E S S E T H:

**IN CONSIDERATION OF** the respective representations and agreements hereinafter contained, the parties hereto agree as follows, provided, that in the performance of the agreements of the Landlord herein contained, any obligation it may thereby incur for the payment of money shall not constitute a general obligation of the Landlord but shall be payable solely out of the Security, and the Bond shall not constitute a general obligation of the Landlord nor constitute an indebtedness or general obligation of the City of Kennesaw, Georgia or of the State of Georgia or any other agency or political subdivision of the State of Georgia or the City of Kennesaw, Georgia, within the meaning of any constitutional or statutory provision whatsoever:

### ARTICLE I

#### DEFINITIONS

Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms used in this Rental Agreement shall have the respective meanings specified below.

“**Additional Rent**” means the rent payable by the Tenant to the Landlord, described under the subheading “Additional Rent” in Section 4.03(d) of this Rental Agreement.

“**Additions or Alterations**” means modifications, repairs, renewals, improvements, replacements, alterations, additions, enlargements, or expansions in, on, or to the Facilities, including any and all machinery, furnishings, fixtures, equipment, and other personal property therefor, and including the restoration, reconstruction, or replacement of buildings, equipment, or other property damaged or destroyed by fire or other casualty or taken by or under the threat of condemnation or for which title is lost.

“**Administrative Rent**” means the rent payable by the Tenant to the Landlord, described under the subheading “Administrative Rent” in Section 4.03(b) of this Rental Agreement.

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, (i) “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, membership, or otherwise, and (ii) the terms “controlling” and “controlled” have meanings correlative to the foregoing.

**“Bond”** means the Economic Development Revenue Bond (Kennesaw II Multifamily Owner, LLC Project), Series 2026, dated this date, of the Landlord, in the original principal amount not to exceed \$ \_\_\_\_\_, to be issued pursuant to the Loan Agreement, and any revenue bond issued in substitution or exchange therefor.

**“Bond Documents”** means, collectively, this Rental Agreement, the Purchase and Sale Agreement, the Loan Agreement, and the Bond.

**“Bond Rent”** means the rent payable by the Tenant to the Landlord, described under the subheading “Bond Rent” in Section 4.03(a) of this Rental Agreement.

**“Buildings”** means those certain buildings and all other facilities, fixtures, and improvements constituting part of the Facilities and not constituting part of the Equipment, which are or will be located on the Site.

**“Commencement Date”** means the date that the Seller conveys the Facilities to the Landlord pursuant to the Purchase and Sale Agreement.

**“Default”** means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

**“Deferred Purchase Price Rent”** means the rent payable by the Tenant to the Landlord, described under the subheading “Deferred Purchase Price Rent” in Section 4.03(c) of this Rental Agreement.

**“Environmental Laws”** means all federal, state, and local laws, rules, regulations, ordinances, programs, permits, guidances, orders, and consent decrees relating to health, safety, and environmental matters, now or hereafter in effect, of any governmental authority having jurisdiction over the Facilities, including, but not limited to, the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Toxic Substances Control Act, as amended, the Clean Water Act, as amended, the Clean Air Act, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, the Federal Water Pollution Control Act, as amended, the Oil Pollution Act, as amended, the Emergency Planning and Community Right-to-Know Act, as amended, the Safe Drinking Water Act, as amended, state and federal superlien and environmental cleanup programs and laws, and U.S. Department of Transportation regulations.

**“Equipment”** means the equipment, machinery, furnishings, and other personal property described in Exhibit B attached hereto, which, by this reference thereto, is incorporated herein, and all replacements, substitutions, and additions thereto.

**“Event of Default”** means the events specified in Section 9.01 of this Rental Agreement.

**“Facilities”** means the Site and the Buildings located thereon and the Equipment, which are the subject of this Rental Agreement.

**“Insurance Consultant”** means any Person appointed by the Tenant and reasonably satisfactory to the Landlord, who is qualified to survey risks and to recommend insurance coverage

for facilities and organizations engaged in like operations as that of the Tenant and who may be a broker or agent with whom the Tenant transacts business.

**“Insurance Requirements”** means all terms of any insurance policy required to be obtained under this Rental Agreement covering or applicable to the Facilities or any part thereof; all requirements of the issuer of any such policy; and all orders, rules, regulations, and other requirements of the national board of fire underwriters (or any other body exercising similar functions) applicable to or affecting the Facilities or any part thereof or any use of the Facilities or any part thereof.

**“Landlord”** means the Kennesaw Downtown Development Authority, a public body corporate and politic created and existing under the laws of the State, and its successors and assigns.

**“Landlord Contracts”** means, collectively, this Rental Agreement, the Loan Agreement, the Bond, and the Purchase and Sale Agreement.

**“Lender”** means Kennesaw II Multifamily Owner, LLC, a limited liability company formed and existing under the laws of the State of Delaware, and its successors and assigns, in its capacity as lender pursuant to the Loan Agreement.

**“Lien”** means any interest in Property securing an obligation owed to, or a claim by, a person other than the owner of the Property, whether such interest is based on the common law, statute, or contract, and including, but not limited to, the security interest, security title, or lien arising from a security agreement, mortgage, deed of trust, security deed, encumbrance, pledge, conditional sale, or trust receipt or a lease, consignment, or bailment for security purposes. The term “Lien” shall include reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases, and other title exceptions and encumbrances affecting Property.

**“Loan Agreement”** means the Loan and Security Agreement, dated this date, between the Landlord, as borrower, and the Lender, as the same may be amended or supplemented from time to time in accordance with the terms thereof.

**“Net Proceeds”** means, when used with respect to any insurance or condemnation award, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorney’s fees, adjuster’s fees, and any other expenses) incurred in the collection of such gross proceeds.

**“Occupancy Term”** means the duration of the right of occupancy created in this Rental Agreement, as specified in Section 4.01 hereof.

**“Permitted Encumbrance”** means, with respect to the Facilities, any of the following:

- (i) the Lien on the Facilities created by this Rental Agreement;
- (ii) any judgment lien or notice of pending action against the Tenant so long as such judgment or pending action is being contested and execution thereon has been stayed or the period for responsive pleading or appeal has not lapsed, and neither the Lien of

this Rental Agreement nor the Facilities will be materially impaired or subject to material loss or forfeiture;

- (iii) (A) rights reserved to or vested in the federal government, the State, or any county, municipality, or public authority by the terms of any right, power, franchise, grant, license, permit, or provision of law affecting the Facilities, to (1) terminate such right, power, franchise, grant, license, or permit, provided that the exercise of such right would not, in the opinion of the Tenant, materially impair the use of the Facilities or materially and adversely affect the value thereof; or (2) purchase, condemn, appropriate, or recapture, or designate a purchaser of, the Facilities; (B) any Liens (or deposits to obtain the release of such Liens) on the Facilities for taxes, assessments, levies, fees, water and sewer charges, and other governmental and similar charges, and any Liens of mechanics, materialmen, laborers, suppliers, or vendors for work or services performed or materials furnished in connection with the Facilities, which, in the opinion of the Tenant, are not material in amount or which are not due and payable or which are not delinquent or which, or the amount or validity of which, are being contested in good faith and execution thereon is stayed or, with respect to Liens of mechanics, materialmen, laborers, suppliers, or vendors, have been due for less than 90 days; (C) utility, access, and other easements, rights-of-way, servitudes, restrictions (including private restrictive covenants), and other minor defects, encumbrances, encroachments, and irregularities in the title to the Facilities that do not, in the opinion of the Tenant, materially impair the use of the Facilities or materially and adversely affect the value thereof, including, without limitation, that certain Reciprocal Easement Agreement for 2681 and 2615 South Main Street, which is to be entered into between the Tenant and an adjacent property owner; (D) rights reserved to or vested in the federal government, the State, or any county, municipality, or public authority to control or regulate the Facilities or to use the Facilities in any manner (including rights arising under any building, health, environmental, or other laws, codes, ordinances, regulations, orders, or requirements), which rights do not, in the opinion of the Tenant, materially impair the use of the Facilities or materially and adversely affect the value thereof; (E) landlord's liens; and (F) Liens of or resulting from any judgment or award, the time for the appeal or petition for rehearing of which has not expired, or in respect of which the Tenant at any time in good faith is prosecuting an appeal or proceeding for a review and in respect of which a stay of execution pending such appeal or proceeding for review is in effect;
- (iv) any matters revealed by the title insurance binder or policy required by Section 3.04 hereof;
- (v) any Lien on the right of occupancy created by this Rental Agreement;
- (vi) any Lien that secures indebtedness which financed or refinanced costs of the Facilities that would, if financed by the Landlord, constitute "cost of project" (as defined in Section 36-42-3(2) of the Official Code of Georgia Annotated); and
- (vii) residency agreements, tenant contracts, sub-lets, and sublicenses permitted by Section 8.01 hereof.

**“Person”** means an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a joint venture, a trust, an unincorporated organization, a governmental unit or an agency, a political subdivision or instrumentality thereof, or any other group or organization of individuals.

**“Prime Rate”** means the rate quoted from time to time as the “U.S. Prime Rate” in the Money Rates column of *The Wall Street Journal* (or if more than one U.S. prime rate is quoted, the average of such rates). If *The Wall Street Journal* is not published on any day, “Prime Rate” shall be determined from the last date *The Wall Street Journal* was published.

**“Property”** means, with respect to any Person, any and all rights, titles, and interests of such Person in and to any and all property, whether real or personal, tangible or intangible, and wherever situated.

**“Purchase and Sale Agreement”** means the Purchase, Sale, Financing, and Option Agreement, dated this date, between the Seller, as seller, and the Landlord, as purchaser, as the same may be amended or supplemented from time to time in accordance with the terms thereof.

**“Regulatory Body”** means any federal, state, or local government, department, agency, or instrumentality and other public or private body, including accrediting organizations, having regulatory jurisdiction and authority over the Tenant or its facilities or operations.

**“Rental Agreement”** means this Rental Agreement between the Landlord and the Tenant, as it may be supplemented and amended from time to time in accordance with the provisions hereof.

**“Secured Loans”** means indebtedness that is secured by a Lien on the Facilities.

**“Security”** means any of the property subject to the operation of the assignment and pledge and grant of lien and security interest contained in the Loan Agreement.

**“Seller”** means Kennesaw II Multifamily Owner, LLC, a limited liability company formed and existing under the laws of the State of Delaware, and its successors and assigns, in its capacity as the seller of the Facilities pursuant to the Purchase and Sale Agreement.

**“Site”** means the real estate described in Exhibit A attached hereto, which, by this reference thereto, is incorporated herein.

**“Specially Designated National or Blocked Person”** means (i) Persons designated by the U.S. Department of Treasury’s Office of Foreign Assets Control, or other governmental entity, from time to time as a “specially designated national or blocked person” or similar status and (ii) a Person described in Section 1 of U.S. Executive Order 13224 issued on September 23, 2001.

**“State”** means the State of Georgia.

**“Tenant”** means Kennesaw II Multifamily Owner, LLC, a limited liability company duly formed and existing under the laws of the State of Delaware, and its successors and assigns.

**“Tenant Contracts”** means this Rental Agreement.

“**Unassigned Rights**” means all of the rights of the Landlord pursuant to Sections 3.03, 3.04, 3.05, 4.02, 4.03(b), 4.03(c), 4.03(d), 4.03(e), 7.02, 7.05, 7.06, 7.08, 7.09, 8.01, and 11.05 hereof; pursuant to Articles V and VI hereof; and, to the extent relating solely to the foregoing, pursuant to Article IX hereof.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**Section 2.01. Representations by the Landlord.** The Landlord makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Creation and Authority. The Landlord is a public body corporate and politic duly created and validly existing under the laws of the State. The Landlord has all requisite power and authority (1) to issue the Bond to finance the costs of acquiring the Facilities and to finance related costs; (2) to acquire the Facilities and to rent the Facilities to the Tenant; and (3) to enter into, perform its obligations under, and exercise its rights under the Landlord Contracts.

(b) Pending Litigation. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the Landlord, after making due inquiry with respect thereto, threatened against or affecting the Landlord in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the transactions contemplated by the Landlord Contracts or which, in any way, would adversely affect the validity or enforceability of the Landlord Contracts or any agreement or instrument to which the Landlord is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the Landlord aware of any facts or circumstances presently existing that would form the basis for any such actions, suits, or proceedings.

(c) Agreements Are Authorized. The execution and delivery by the Landlord of the Landlord Contracts and the compliance by the Landlord with all of the provisions of each thereof (i) are within the purposes, powers, and authority of the Landlord; (ii) have been done in full compliance with the provisions of the laws of the State and have been approved by its Board of Directors and will not conflict with or constitute on the part of the Landlord a violation of or a breach of or a default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance (other than Permitted Encumbrances) upon any property of the Landlord under the provisions of, any charter instrument, bylaw, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the Landlord is a party or by which the Landlord or its properties are otherwise subject or bound, or any license, judgment, decree, law, statute, order, writ, injunction, demand, rule, or regulation of any court or governmental agency or body having jurisdiction over the Landlord or any of its activities or properties, which involve the possibility of materially and adversely affecting the transactions contemplated by the Landlord Contracts; and (iii) have been duly authorized by all necessary corporate action on the part of the Landlord. The Landlord Contracts are the valid, legal, and binding obligations of the Landlord enforceable against the Landlord in accordance with their terms,

except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). The officers of the Landlord executing the Landlord Contracts are duly and properly in office and are fully authorized and empowered to execute the same for and on behalf of the Landlord.

(d) Governmental Consents. Neither the nature of the Landlord nor any of its activities or properties, nor any relationship between the Landlord and any other Person, nor any circumstance in connection with the transactions contemplated by the Landlord Contracts is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Landlord in connection with the execution, delivery, and performance of the Landlord Contracts or the consummation of any transaction therein contemplated, which are presently obtainable, except as shall have been obtained or made and as are in full force and effect.

(e) No Defaults. To the knowledge of the Landlord, after making due inquiry with respect thereto, the Landlord is not in default or violation in any material respect under its authorizing legislation or under any charter instrument, bylaw, or other agreement or instrument to which it is a party or by which it may be bound, which involve the possibility of materially and adversely affecting the transactions contemplated by the Landlord Contracts.

(f) No Prior Pledge. Neither the Landlord Contracts or the Facilities nor any of the payments or amounts to be received by the Landlord under the Landlord Contracts or with respect to the Facilities have been or will be pledged or hypothecated in any manner or for any purpose or have been or will be the subject of a grant of a security interest by the Landlord other than as provided in the Landlord Contracts.

(g) Disclosure. The representations of the Landlord contained in this Rental Agreement and any certificate, document, written statement, or other instrument furnished by or on behalf of the Landlord to the Tenant in connection with the transactions contemplated hereby do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading. There is no fact that the Landlord has not disclosed to the Tenant in writing that materially and adversely affects or in the future may (so far as the Landlord can now reasonably foresee) materially and adversely affect the acquisition of the Facilities or the rental of the Facilities or the ability of the Landlord to perform its obligations under the Landlord Contracts or any of the documents or transactions contemplated hereby or thereby or any other transactions contemplated by the Bond Documents that has not been set forth in writing to the Tenant or in the other certificates, documents, and instruments furnished to the Tenant by or on behalf of the Landlord prior to the date hereof in connection with the transactions contemplated hereby.

**Section 2.02. Representations by the Tenant.** The Tenant makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Formation and Power. The Tenant is a limited liability company duly formed, validly existing, and in good standing under and by virtue of the laws of the State of Delaware, without limit as to the duration of its existence, and is duly qualified to do business as a foreign limited liability company in good standing in all jurisdictions in which such qualification is required, and has all requisite power and authority and all necessary licenses and permits to own and operate its properties and to carry on its operations as they are now being conducted and as they are presently proposed to be conducted.

(b) Pending Litigation and Taxes. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the Tenant, after making due inquiry with respect thereto, threatened against or affecting the Tenant in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the ability of the Tenant to perform its obligations under the Tenant Contracts or the transactions contemplated by the Tenant Contracts or which, in any way, would adversely affect the validity or enforceability of the Tenant Contracts or any agreement or instrument to which the Tenant is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the Tenant aware of any facts or circumstances presently existing that would form the basis for any such actions, suits, or proceedings. The Tenant is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, governmental authority, or arbitration board or tribunal, which would have a material adverse effect on the transactions contemplated by the Tenant Contracts. All tax returns (federal, state, and local) required to be filed by or on behalf of the Tenant have been duly filed, and all taxes, assessments, and other governmental charges shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Tenant in good faith, have been paid or adequate reserves have been made for the payment thereof.

(c) Agreements Are Authorized. The execution and delivery by the Tenant of the Tenant Contracts, the consummation of the transactions herein and therein contemplated, and the fulfillment of or the compliance with all of the provisions hereof and thereof (i) are within the power, legal right, and authority of the Tenant; (ii) will not conflict with or constitute on the part of the Tenant a violation of or a breach of or a default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance (other than Permitted Encumbrances) upon any property of the Tenant under the provisions of, any organic document, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the Tenant is a party or by which the Tenant or its properties are otherwise subject or bound, or any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or governmental agency or body having jurisdiction over the Tenant or any of its activities or properties, which involve the possibility of materially and adversely affecting the ability of the Tenant to perform its obligations under the Tenant Contracts or the transactions contemplated by the Tenant Contracts; and (iii) have been duly authorized by all necessary and appropriate company action on the part of the governing body of the Tenant. The Tenant Contracts are the valid, legal, and binding obligations of the Tenant enforceable against the Tenant in accordance with their terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, or other similar laws

affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). The officers of the Tenant executing the Tenant Contracts are duly and properly in office and are fully authorized and empowered to execute the same for and on behalf of the Tenant.

(d) Governmental Consents. Neither the Tenant nor any of its activities or properties, nor any relationship between the Tenant and any other Person, nor any circumstances in connection with the execution, delivery, and performance by the Tenant of its obligations under the Tenant Contracts is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Tenant in connection with the execution, delivery, and performance of the Tenant Contracts or the consummation of any transaction therein contemplated, which are presently obtainable, except as shall have been obtained or made and as are in full force and effect. To the knowledge of the Tenant, after making due inquiry with respect thereto, the Tenant will be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of governmental authorities as may be required on or prior to the date the Tenant is legally required to obtain the same.

(e) No Defaults. To the knowledge of the Tenant, after making due inquiry with respect thereto, no event has occurred and no condition exists that would constitute an Event of Default or that, with the lapse of time or with the giving of notice or both, would become an Event of Default. To the knowledge of the Tenant, after making due inquiry with respect thereto, the Tenant is not in default or violation in any material respect under any organic document or other agreement or instrument to which it is a party or by which it may be bound, which involve the possibility of materially and adversely affecting the ability of the Tenant to perform its obligations under the Tenant Contracts or the transactions contemplated by the Tenant Contracts.

(f) Compliance with Law. To the knowledge of the Tenant, after making due inquiry with respect thereto, the Tenant is not in violation of any laws, ordinances, or governmental rules or regulations (including, without limitation, all Environmental Laws) to which it or its properties are subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (which are presently obtainable) necessary to the ownership of its properties or to the conduct of its business, which violation or failure to obtain might materially and adversely affect the ability of the Tenant to perform its obligations under the Tenant Contracts or the transactions contemplated by the Tenant Contracts, and there have been no citations, notices, or orders of noncompliance issued to the Tenant under any such law, ordinance, rule, or regulation.

(g) Restrictions on the Tenant. The Tenant is not a party to or bound by any contract, instrument, or agreement, or subject to any other restriction (other than Permitted Encumbrances), that materially and adversely affects the ability of the Tenant to perform its obligations under the Tenant Contracts or the transactions contemplated by the Tenant Contracts. The Tenant has satisfied the conditions of any contract or agreement that restricts the right or ability of the Tenant to incur indebtedness for borrowed money or to enter into long-term leases, so that the Tenant may enter into and perform its obligations under this Rental Agreement.

(h) Disclosure. The representations of the Tenant contained in this Rental Agreement and any certificate, document, written statement, or other instrument furnished by or on behalf of the Tenant to the Landlord or the Lender in connection with the transactions contemplated hereby do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading. There is no fact that the Tenant has not disclosed to the Landlord and to the Lender in writing that materially and adversely affects or in the future may (so far as the Tenant can now reasonably foresee) materially and adversely affect the acquisition, rental, or operation of the Facilities or the ability of the Tenant to perform its obligations under the Tenant Contracts or any of the documents or transactions contemplated hereby or thereby or any other transactions contemplated by the Bond Documents that has not been set forth in writing to the Landlord and the Lender or in the other certificates, documents, and instruments furnished to the Landlord and the Lender by or on behalf of the Tenant prior to the date hereof in connection with the transactions contemplated hereby.

(i) Facilities Legal Compliance. To the knowledge of the Tenant, after making due inquiry with respect thereto, the operation of the Facilities in the manner presently contemplated will not conflict in any material respect with any zoning, water or air pollution or other ordinance, order, law, rule, or regulation applicable to the Facilities, including, without limitation, Environmental Laws. The Tenant has caused or will cause the Facilities to be designed in accordance with all applicable federal, state, and local laws or ordinances (including rules and regulations) relating to zoning, planning, building, safety, and environmental quality. The Tenant will operate or will cause the Facilities to be operated in compliance in all material respects with the requirements of all such laws, ordinances, rules, and regulations, including, without limitation, Environmental Laws. The Tenant further covenants and agrees to comply in all material respects with, or use its reasonable efforts to cause other Persons whose obligation it is to so comply by contract or pursuant to law to comply in all material respects with, and materially conform to, all present and future laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, and requirements applicable to the Facilities, and irrespective of the nature of the work to be done, of every applicable governmental authority, including Environmental Laws applicable to the Facilities, and all covenants, restrictions, and conditions now or hereafter of record that may be applicable to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair, or reconstruction of the Facilities, including building and zoning codes and ordinances (collectively, the “Legal Requirements”), provided that the Tenant shall not be in default hereunder so long as the Tenant, promptly after receiving an actual written notice of any noncompliance, files a copy thereof with the Landlord, and the Tenant commences and uses its diligent efforts to cause compliance with such Legal Requirements, and as long as the failure to comply does not subject the Facilities to any material danger of being forfeited or lost as a result thereof. The Tenant possesses or will possess, and the Tenant hereby agrees to maintain and obtain in the future, all necessary licenses and permits, or rights thereto, to operate the Facilities as presently proposed to be operated, and all such licenses, permits, or other approvals required in connection with the operation of the Facilities have been duly obtained and are in full force and effect except for any such licenses, permits, or other approvals that are not yet required and that will be duly obtained not later than the time required or the failure to obtain which will not materially and adversely affect the operation of the Facilities. The Tenant covenants and agrees to do all

commercially reasonable things necessary to preserve and keep in full force and effect its franchises, rights, powers, and privileges as the same relate to the Facilities.

(j) Statutory Liens. There are no mechanics' or materialmen's liens or other statutory liens on the Facilities, except for Permitted Encumbrances and except as the Landlord shall be advised in writing, and in the event the Landlord is so advised in writing of any such liens, the Tenant will provide the Landlord with waivers of all such liens in such form as may be reasonably satisfactory to the Landlord, subject to the Tenant's right to contest such liens contained in Section 5.08 hereof.

(k) Utilities. All utility services and facilities necessary for the operation of the Facilities for their intended purposes are available at the Site.

(l) Condemnation. No condemnation or eminent domain proceeding has been commenced and is currently pending or, to the knowledge of the Tenant, threatened against the Facilities.

**Section 2.03. Reliance by Lender**. The Landlord and the Tenant acknowledge and agree that these representations and warranties are made to induce the Lender to make the loan contemplated by the Loan Agreement, and that such representations and warranties and any other representations and warranties made by the Landlord and the Tenant in the Bond Documents are made for the benefit of the Lender and may be relied upon by the Lender.

**Section 2.04. Ad Valorem Tax Status of Facilities**. (a) It is the understanding of the parties that the Landlord does not pay ad valorem property taxes on its interest in the Facilities. The Tenant's interest in the Facilities under this Rental Agreement constitutes a mere usufruct and bailment for hire (which are not separately taxable estates) and does not constitute an estate for years (which would be an estate in which the leasehold interest would be taxable based on the value of the leasehold interest). Thus, while this Rental Agreement is in effect, the parties hereto contemplate that the Tenant shall be liable for no actual ad valorem property taxes on its occupancy or bailment for hire interest in the Facilities. Notwithstanding anything herein to the contrary, the Landlord cannot and does not warrant, guarantee, or promise any particular *ad valorem* tax treatment resulting from this Rental Agreement. In the event that (1) any tangible property interest of the Tenant in the Facilities becomes subject to ad valorem property taxation during the period of time that title to the Facilities is vested in the Landlord or (2) this Rental Agreement is determined to grant to the Tenant a "special franchise" or an "unenumerated franchise" within the meaning of Article 9 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated or any successor statutes, the amounts to be paid hereunder as Bond Rent and Additional Rent (but not as Administrative Rent or Deferred Purchase Price Rent) shall be reduced (but not below zero) by the actual cumulative payments made by the Tenant as ad valorem property taxes on the Tenant's tangible property interest in the Facilities or on any special franchise or unenumerated franchise determined to be granted by this Rental Agreement, other than special assessments. The Tenant shall furnish to the Landlord and to the Lender, upon request, validated receipts showing the payment of any ad valorem property taxes on the Tenant's tangible property interest in the Facilities or on any special franchise or unenumerated franchise determined to be granted by this Rental Agreement.

(b) In the event that the Tax Commissioner of Cobb County or any other tax collector attempts to collect ad valorem property taxes from the Tenant on its interest in the Facilities or on any special franchise or unenumerated franchise determined to be granted by this Rental Agreement, the Tenant shall exercise commercially reasonable efforts to contest the collection of such ad valorem property taxes. The Landlord shall cooperate fully with the Tenant in any such contest at the expense of the Tenant.

### ARTICLE III

#### DEMISING CLAUSE; COLLATERAL ASSIGNMENT; TITLE

**Section 3.01. Demise of the Facilities.** The Landlord demises and rents to the Tenant, and the Tenant rents from the Landlord, the Facilities at the rentals set forth in Section 4.03 hereof and for the Occupancy Term and in accordance with the provisions of this Rental Agreement, subject to Permitted Encumbrances. Nothing in this Rental Agreement shall be construed to require the Landlord to operate the Facilities other than as landlord.

**Section 3.02. Acknowledgment of Collateral Assignment; Perfection.** The Tenant hereby assents to the collateral assignment and grant of a first priority security interest made of the Landlord's rights hereunder (except for Unassigned Rights) in the Loan Agreement and hereby agrees that its obligations to make all payments of Bond Rent under this Rental Agreement shall be absolute and shall not be subject to any defense, except payment, or to any right of setoff, counterclaim, or recoupment arising out of any breach by the Landlord of any obligation to the Tenant, whether hereunder or otherwise, or arising out of any indebtedness or liability at any time owing to the Tenant by the Landlord, except as provided in Section 2.04 of this Rental Agreement. The Tenant further agrees that all payments required to be made under this Rental Agreement, except for those arising out of Unassigned Rights, shall be paid directly to the Lender for the account of the Landlord. The Lender shall have all rights and remedies herein accorded to the Landlord (except for Unassigned Rights), and any reference herein to the Landlord shall be deemed, with the necessary changes in detail, to include the Lender, and the Lender is deemed to be and is a third party beneficiary of the representations, covenants, and agreements of the Tenant herein contained.

Upon reasonable and timely written request from the Lender or the Landlord as to the required form, substance, timing, and place for filing, re-filing, recording, or re-recording, or for taking possession or control of any collateral, the Tenant shall file, refile, record, or re-record all financing statements, continuation statements, documents, and notices or deliver possession or control of any instrument or cash necessary to perfect and maintain any lien or security interest created by the Loan Agreement for the benefit of the Lender as a first and preferred pledge, lien, encumbrance, and security interest in and to the Security. The Landlord agrees that it will cooperate fully and will take any action required to assist the Tenant in meeting the provisions of this Section 3.02.

**Section 3.03. Warranty of Title.** The Landlord warrants that (a) the Landlord has the right to acquire good and marketable fee simple title to the Site pursuant to the Purchase and Sale Agreement, (b) the Landlord has the right to acquire legal title to the Buildings and good and merchantable title to the Equipment pursuant to the Purchase and Sale Agreement, and (c) the Seller

is required to convey the Facilities to the Landlord free of all adverse claims and Liens, other than Permitted Encumbrances, pursuant to the Purchase and Sale Agreement.

**Section 3.04. Title Insurance.** The Tenant shall, on or before the Commencement Date, furnish title insurance in the form of an ALTA owner's title binder or policy issued by a generally recognized responsible title insurance company authorized by law to insure risks in the State and having an A.M. Best policy holder rating of "A-" or better (or an equivalent rating approved in writing by the Authority), in the face amount of at least the cost established for the Site and the Buildings pursuant to the Purchase and Sale Agreement, and shall furnish a copy of such binder or policy to the Landlord. The Tenant shall furnish within the time limit specified in any binder an original of an owner's title policy issued by such title insurance company. The owner's title policy shall insure that the Landlord has good and marketable fee simple title to the Site and the Buildings subject only to Permitted Encumbrances. Any Net Proceeds payable either to the Landlord or the Tenant under such policy shall be applied as provided in Section 6.02 hereof.

**Section 3.05. Tenant's Covenants Regarding Title.** The Tenant agrees to protect, preserve, and defend the Landlord's interest in the Facilities and its title thereto, to appear and defend such interest and title in any action or proceeding affecting or purporting to affect such interest and title, and to pay on demand all reasonable costs and expenses incurred by the Landlord in or in connection with any such action or proceeding, including reasonable attorneys' fees, as described in Section 9.04 of this Rental Agreement, whether any such action or proceeding progresses to judgment and whether brought by or against the Landlord. The Landlord shall be reimbursed for any such costs and expenses in accordance with the provisions of Section 5.07 hereof. If the Tenant does not take the action contemplated herein, the Landlord may, after providing thirty (30) days prior written notice to the Tenant, but shall not be under any obligation to, appear or intervene in any such action or proceeding and retain counsel therein and defend the same or otherwise take such action therein as it may be advised and may, with the prior written consent of the Tenant, settle or compromise the same and, in that behalf and for any of such purposes, may expend and advance such sums of money as it may deem necessary, and such sums shall be an advance payable in accordance with Section 5.07 of this Rental Agreement. The Landlord agrees that it shall, upon the written request of the Tenant, join where necessary in any proceeding to protect and defend the Landlord's title in and to the Facilities, provided that the Tenant shall pay the entire cost of any such proceeding and reimburse and indemnify and hold harmless the Landlord from any cost or liability whatsoever, except for costs and liabilities resulting from the gross negligence or willful misconduct of the Landlord.

## ARTICLE IV

### OCCUPANCY TERM; RENTAL PROVISIONS; NATURE OF OBLIGATIONS OF TENANT

**Section 4.01. Occupancy Term.** This Rental Agreement shall become effective upon the Commencement Date and shall be in full force and effect until midnight on December 1 of the 15th calendar year following the calendar year of the Commencement Date, subject to the provisions of this Rental Agreement permitting earlier termination (including particularly Articles IX and X hereof), or if the Bond has not been paid in full, until the date that such payment shall have been

made; provided, however, that the covenants and obligations expressed herein to so survive shall survive the termination of this Rental Agreement.

**Section 4.02. Delivery and Acceptance of Possession.** The Landlord agrees to deliver to the Tenant sole and exclusive possession of the Facilities upon the Commencement Date (subject to Permitted Encumbrances and the right of the Landlord to enter thereon for inspection purposes and subject to the other provisions of Section 7.02 hereof), and the Tenant agrees to accept possession of the Facilities upon the Commencement Date. The Landlord shall be permitted such continued possession of the Facilities as shall be necessary and convenient for it to construct or install or cause to be constructed or installed any Additions or Alterations and to make or cause to be made any repairs or restorations required or permitted to be made by the Landlord pursuant to the provisions of Section 5.07 hereof. The Landlord covenants and agrees that it shall not take any action, other than pursuant to Article IX of this Rental Agreement, to prevent the Tenant from having quiet and peaceable possession and enjoyment of the Facilities during the Occupancy Term and shall, at the request of the Tenant and at the cost of the Tenant, cooperate with the Tenant in order that the Tenant may have quiet and peaceable possession and enjoyment of the Facilities.

**Section 4.03. Rents and Other Amounts Payable.** (a) **Bond Rent:** Until the principal of, premium, if any, and interest on the Bond shall have been fully paid, the Tenant shall pay to the Lender for the account of the Landlord rent for the Facilities, on or before each date on which any payment of principal of, premium, if any, or interest on the Bond is due and payable, in a sum equal to the amount payable on such date as principal of, premium, if any, and interest on the Bond, as provided in the Loan Agreement, but subject to the credit provisions of Section 2.04 hereof. Each installment of Bond Rent under this Section due on an interest or principal payment date or prepayment date until the Bond is fully paid shall in all events be sufficient to pay the total amount of interest, principal, prepayment requirement, and premium, if any, payable on the Bond on the principal or interest payment date or on the prepayment date, but subject to the credit provisions of Section 2.04 hereof. Any installment of Bond Rent not received by the Lender when due shall continue as an obligation of the Tenant until paid and shall bear interest at the rate of interest on the Bond to which such installment of Bond Rent relates.

(b) **Administrative Rent:** The Tenant agrees to pay rent for the Facilities, upon the delivery of the Bond, in a sum equal to all reasonable out-of-pocket costs and expenses of the Landlord and the Lender incurred in connection with their negotiation, structuring, documenting, and closing the Bond Documents, including, without limitation, the reasonable fees and disbursements of counsel for the Landlord and counsel for the Lender. The Tenant agrees to pay rent for the Facilities in a sum equal to all reasonable out-of-pocket costs and expenses of the Landlord and the Lender incurred in connection with their administration or modification of, or in connection with the preservation of their rights under, enforcement of, or any refinancing, renegotiation, restructuring, or termination of, any Bond Document or any instruments referred to therein or any amendment, waiver, or consent relating thereto, including, without limitation, the reasonable fees and disbursements of counsel for the Landlord and counsel for the Lender.

Such Administrative Rent shall be billed to the Tenant by the Landlord or the Lender, as applicable, from time to time, together with (i) a statement certifying that the amount billed has been incurred or paid by such party for one or more of the above items and (ii) copies of invoices, bills, or

other evidence reasonably acceptable to the Tenant substantiating the amount billed. Amounts so billed shall be paid by the Tenant within thirty (30) days after receipt of the bill by the Tenant.

In the event the Tenant shall fail to make any of the payments required in this subsection, the item or installment so in default shall continue as an obligation of the Tenant until the amount in default shall have been fully paid.

(c) **Deferred Purchase Price Rent:** Until the expiration of the term of the Purchase and Sale Agreement or earlier termination of the Purchase and Sale Agreement, the Tenant shall pay to the Seller for the account of the Landlord rent for the Facilities, on or before each payment date of Deferred Purchase Price (as defined in the Purchase and Sale Agreement) due under the Purchase and Sale Agreement, a sum equal to the amount payable on such payment date as Deferred Purchase Price due under the Purchase and Sale Agreement, subject to a credit for any such Deferred Purchase Price financed by Lender Loans (as defined in the Purchase and Sale Agreement). Each installment of Deferred Purchase Price Rent under this Section due on each payment date of Deferred Purchase Price under the Purchase and Sale Agreement while the Purchase and Sale Agreement is in effect shall in all events be sufficient to pay the total amount of Deferred Purchase Price due under the Purchase and Sale Agreement on each such payment date of Deferred Purchase Price.

(d) **Additional Rent:** The Tenant shall pay to the Landlord rent for the Facilities, on or before each January 1, commencing on January 1 of the calendar year following the calendar year of the Commencement Date, in an amount equal to \$150,000.

Any installment of Additional Rent not paid by the Tenant when due shall continue as an obligation of the Tenant until paid and shall bear interest at the Prime Rate plus two percent (2.00%) per annum.

(e) **Landlord's Fee:** The Tenant shall pay to the Landlord, upon the delivery of the Bond, a fee equal to \$75,000.

**Section 4.04. Place of Rental Payments.** The Bond Rent provided for in Section 4.03(a) hereof shall be paid in lawful money of the United States of America directly to the Lender for the account of the Landlord. The payments of the Administrative Rent to be made to the Landlord or the Lender pursuant to Section 4.03(b) hereof shall be paid in lawful money of the United States of America directly to the Landlord or the Lender, as applicable, for its own use. The Deferred Purchase Price Rent provided for in Section 4.03(c) hereof shall be paid in lawful money of the United States of America directly to the Seller for the account of the Landlord. The Additional Rent provided for in Section 4.03(d) hereof shall be paid in lawful money of the United States of America directly to the Landlord for its own use.

**Section 4.05. Nature of Obligations of Tenant Hereunder.** (a) The obligations of the Tenant to make the payments required in Section 4.03 hereof and other sections hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a general obligation of the Tenant and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim, except for payment, it may otherwise have against the Landlord, but subject to the credit provisions of Section 2.04 hereof. The Tenant agrees that it shall not (i) suspend, abate, reduce, abrogate, diminish, postpone, modify, or

discontinue any payments provided for in Section 4.03 hereof, except as provided in Section 2.04 hereof; (ii) fail to observe in any material respect any of its other agreements contained in the Tenant Contracts; or (iii) except as provided in Section 10.01 hereof, terminate its obligations under the Tenant Contracts for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of the Tenant to occupy or to use the Facilities as contemplated in this Rental Agreement or otherwise; any change or delay in the time of availability of the Facilities; any acts or circumstances that may impair or preclude the use or possession of the Facilities; any defect in the title, design, operation, merchantability, fitness, or condition of the Facilities or in the suitability of the Facilities for the Tenant's purposes or needs; failure of consideration; any declaration or finding that the Bond is unenforceable or invalid; the invalidity of any provision of the Tenant Contracts; any acts or circumstances that may constitute an eviction or constructive eviction; destruction of or damage to the Facilities; the taking by eminent domain of title to or the use of all or any part of the Facilities; failure of the Landlord's title to the Facilities or any part thereof; commercial frustration of purpose; any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof or in the rules or regulations of any governmental authority; or any failure of the Landlord to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Tenant Contracts.

(b) Nothing contained in this Section shall be construed to release the Landlord from the performance of any of the agreements on its part herein contained. In the event the Landlord should fail to perform any such agreement on its part, the Tenant may institute such action against the Landlord as the Tenant may deem necessary to compel performance so long as such action does not abrogate the Tenant's obligations hereunder. The Landlord hereby agrees that it shall not take or omit to take any action that would cause this Rental Agreement to be terminated, other than the exercise of its rights contained in Section 9.02 hereof. The Tenant may, however, at its own cost and expense and in its own name or in the name of the Landlord, prosecute or defend any action or proceeding or take any other action involving third persons that the Tenant deems reasonably necessary in order to secure or protect its right of possession, occupancy, and use hereunder, and in such event the Landlord hereby agrees to cooperate fully with the Tenant and to take all action necessary to effect the substitution of the Tenant for the Landlord in any such action or proceeding if the Tenant shall so request.

## ARTICLE V

### MAINTENANCE, TAXES, AND INSURANCE

**Section 5.01. Maintenance and Modification of Facilities by the Tenant.** The Tenant agrees that during the Occupancy Term it shall at its own expense (i) keep the Facilities in as reasonably safe condition as its operations shall permit; (ii) keep the Buildings and all other improvements forming a part of the Facilities in good repair and in good operating condition, making from time to time all necessary and proper repairs thereto and renewals and replacements thereof, including external and structural repairs, renewals, and replacements; and (iii) use the Equipment in the regular course of its business only, within the normal capacity of the Equipment, without abuse, and in a manner contemplated by the manufacturer thereof, and cause the Equipment to be maintained in good working order. The Tenant may, also at its own expense, from time to time make any Additions or Alterations it may deem desirable for its business purposes that do not

materially and adversely affect the operation or value of the Facilities. Subject to the provisions of Section 8.03 hereof, Additions or Alterations so made by the Tenant shall be on the Site, shall become a part of the Facilities, shall become subject to the demise of this Rental Agreement, and shall be made in accordance with applicable law. The Landlord shall cooperate with the Tenant at the expense of the Tenant in satisfying any applicable requirements of procurement and bonding laws for public works projects, which cooperation shall not be unreasonably withheld, conditioned, or delayed.

The Tenant shall not permit any mechanics' or materialmen's or other statutory liens to be perfected or remain against the Facilities for labor or materials furnished in connection with any Additions or Alterations so made by it, provided that it shall not constitute an Event of Default hereunder upon such lien being filed, if the Tenant shall promptly notify the Landlord of any such liens, and the Tenant in good faith promptly contests such liens in accordance with the provisions of Section 5.08 hereof. The Tenant shall not do or permit others under its control to do any work in or about the Facilities or related to any repair, rebuilding, restoration, replacement, alteration of, or addition to the Facilities, or any part thereof, unless the Tenant shall have first procured and paid for all requisite municipal and other governmental permits and authorizations. All such work shall be done in a good and workmanlike manner and in compliance in all material respects with all applicable building, zoning, and other laws, ordinances, governmental regulations, and requirements and in accordance with the Insurance Requirements.

**Section 5.02. Taxes, Other Governmental Charges, and Utility Charges.** The Tenant shall during the Occupancy Term duly pay and discharge, as the same become due and payable, (i) all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Facilities, including, without limiting the generality of the foregoing, all ad valorem taxes or payments in lieu of such taxes lawfully assessed upon the Tenant's rights in and to the Facilities, and all sales and use taxes lawfully assessed upon the Landlord or the Tenant in connection with the Facilities; (ii) all utility and other charges incurred in the ownership, operation, maintenance, use, occupancy, and upkeep of the Facilities; and (iii) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Facilities; provided, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Tenant shall be obligated to pay only such installments as are required to be paid during the Occupancy Term.

If the Tenant shall first notify the Landlord of its intention so to do, the Tenant may, at its own expense and in its own name and behalf or in the name and behalf of the Landlord and in good faith, contest any such taxes, assessments, and other charges in accordance with the provisions of Section 5.08 hereof and, in the event of any such contest, may permit the taxes, assessments, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom.

**Section 5.03. Insurance Required.** Throughout the Occupancy Term, the Tenant shall keep the Facilities and its operations or cause the same to be kept continuously insured against such casualties, contingencies, and risks as are customarily insured against with respect to facilities of like size and type and entities engaged in the same or similar activities, as recommended by an Insurance Consultant, paying as the same become due all premiums in respect thereto, including but not limited to:

(a) insurance upon the repair or replacement basis in an amount of not less than 100% of the then actual cost of replacement (excluding costs of replacing excavations and foundations but without deduction for depreciation) of the Buildings and the Equipment (with deductible provisions not to exceed \$100,000 in any one casualty) against loss or damage by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke and such other risks as are now or hereafter included in the extended coverage endorsement then in use in the State for similar structures (including vandalism and malicious mischief);

(b) workers' compensation coverage, or other provision therefor, as required by the laws of the State;

(c) comprehensive general liability insurance providing insurance (with deductible provisions not to exceed \$100,000 per occurrence) to the extent of not less than \$1,000,000 per occurrence against liability for personal and bodily injury including death resulting therefrom and \$1,000,000 per occurrence for damage to property, including loss of use thereof, occurring on or in any way related to the Facilities or any part thereof or the operation thereof, with excess coverage or "umbrella" insurance for claims under such coverage in the aggregate of not less than \$5,000,000 for any one occurrence;

(d) insurance under the Federal Flood Insurance Program shall be maintained at all times within the minimum requirements and amounts required for federally financed or assisted loans under the Flood Disaster Protection Act of 1973, as amended, if any portion of the Site is eligible under such program; and

(e) boiler explosion insurance on steam boilers, pressure vessels, and pressure piping in an amount not less than 100% of the then actual cost of replacement (excluding costs of replacing excavations and foundations but without deduction for depreciation) of the Buildings and the Equipment (with deductible provisions not to exceed \$100,000 in any one occurrence) provided, that such insurance need not be taken out until steam boilers, pressure vessels, or pressure piping are installed on the Site and then only for the portion of the Site on which steam boilers, pressure vessels, or pressure piping are installed.

The Tenant shall comply or cause compliance in all material respects with all Insurance Requirements before the expiration of any applicable extension or grace period and shall not bring or knowingly keep or permit to be brought or kept any article upon the Facilities or knowingly cause or permit any condition to exist thereon that would be prohibited by any Insurance Requirement, or would invalidate insurance coverage required hereunder to be maintained by the Tenant on or with respect to any part of the Facilities.

**Section 5.04. Application of Net Proceeds of Insurance.** The Net Proceeds of the insurance carried pursuant to the provisions of Section 5.03(a), (d), and (e) hereof shall be paid and applied as provided in Section 6.01 hereof, and the Net Proceeds of insurance carried pursuant to the provisions of Section 5.03(b) and (c) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds have been paid.

**Section 5.05. Additional Provisions Respecting Insurance.** All insurance required by Section 5.03 hereof shall be taken out and maintained in generally recognized responsible insurance companies authorized by law to insure risks in the State, selected by the Tenant and subject to the approval of the Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed. With respect to whether the Landlord's approval of any insurance company may be reasonably withheld, by way of example only, it shall be reasonable for the Landlord to evaluate whether the proposed insurance company has an A.M. Best policy holder rating of "A-" or better. All policies evidencing such insurance shall be subject to the approval of the Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed. All policies evidencing such insurance shall provide for payment to the Landlord, the Tenant, and the Lender as their respective interests may appear, and the policies required by Section 5.03 hereof (except for Section 5.03(b) hereof) shall name the Lender and the Landlord as additional insureds. A certificate or certificates of the insurers that such insurance is in force and effect shall be deposited with the Landlord and the Lender, and prior to or as soon as practicable after the expiration of any such policy the Tenant shall furnish the Landlord and the Lender with evidence reasonably satisfactory to the Landlord and the Lender that the policy has been renewed or replaced or is no longer required by this Rental Agreement. In lieu of separate policies, the Tenant may maintain one or more blanket policies of insurance having the coverage required by Section 5.03 hereof, which also insures other property or operations of the Tenant or its Affiliates. If any such insurance policies are modified adversely in any material respect to the interests of the Landlord or the Lender or are cancelled by the issuer thereof before the termination of the Occupancy Term, the Tenant shall provide written notice to the Landlord and the Lender as soon as practicable after it receives notice of any such event.

**Section 5.06. Review by Insurance Consultant.** On or before the Commencement Date, and at all times during the Occupancy Term, an Insurance Consultant shall be designated by the Tenant. The Tenant shall procure a review of its insurance requirements not less than every three (3) years along with a written recommendation, if any, for changing any of the insurance or coverages hereinabove required, and shall furnish a copy of such review to the Landlord and the Lender. If any such review by the Insurance Consultant contains reasonable recommendations for changing any of such insurance or coverages, the Tenant shall promptly change such insurance or coverages in accordance with the recommendations.

**Section 5.07. Advances by the Landlord or the Lender.** If the Tenant shall fail to maintain the insurance coverages required by this Rental Agreement or shall fail to pay the taxes and other charges required to be paid by this Rental Agreement or shall fail to keep the Facilities in as reasonably safe condition as its operations shall permit or shall fail to keep the Buildings and the Equipment in good repair and good operating condition, the Landlord or the Lender may (but shall be under no obligation to), after notifying the Tenant in writing of its intention to do so and after affording the Tenant thirty (30) days after such written notice to correct such failure, take out the required policies of insurance and pay the premiums on the same or pay the taxes or other charges or make the required repairs, renewals, and replacements. In addition, if the Tenant should fail to make any payment or to perform or comply with any of the agreements, covenants, or obligations of the Tenant under the Tenant Contracts, then the Landlord or the Lender, at the option of either one after notifying the Tenant in writing of such failure and after affording the Tenant thirty (30) days after such written notice to correct such failure, may make such payment or perform such agreement, covenant, or obligation for the account and at the expense of the Tenant, but shall not be obligated to do so. Any and all payments and expenses incurred or paid in so doing shall become an additional

obligation of the Tenant to the one making the advancement, which amounts, together with interest thereon from the date of payment at the Prime Rate plus two percent (2.00%) per annum, the Tenant agrees to pay on demand. Any remedy herein vested in the Landlord or the Lender for the collection of amounts due under Section 9.02 hereof shall also be available to the Landlord and the Lender for the collection of all such amounts so advanced.

**Section 5.08. Contest of Liens.** In the event the Tenant in good faith contests Liens pursuant to Sections 5.01 or 5.02 of this Rental Agreement, the Tenant may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, provided the Tenant shall furnish the Landlord and the Lender with a bond equal to at least the amount so contested or a certificate of an architect registered in the State and reasonably acceptable to the Landlord and the Lender stating that by nonpayment of such items the title of the Landlord as to any material part of the Facilities will not be materially and imminently endangered and neither the Facilities nor any material part thereof will be subject to imminent loss or forfeiture. If the Tenant is unable or otherwise fails to obtain such a bond or an architect's certificate, the Tenant shall promptly cause to be satisfied and discharged all such unpaid items by payment thereof, by causing the lien to be transferred from the Facilities to other security as permitted by State law, or by payment of the amount so contested into a reserve held by the Landlord or any holder of a Secured Loan. Such reserve may be used by or at the written direction of the Landlord or any holder of a Secured Loan to satisfy the items if action is taken to enforce the lien and such action is not stayed. Such reserve will be returned to the Tenant if the items are successfully contested. In the event the Tenant shall fail to pay any of the foregoing items required by this Section to be paid by the Tenant, the Landlord or the Lender may (but shall be under no obligation to) pay the same, and any amounts so advanced therefor by the Landlord or the Lender shall become an advance repayable in accordance with Section 5.07 of this Rental Agreement. The Landlord shall, at the expense of the Tenant, cooperate fully with the Tenant in any such contest.

## ARTICLE VI

### DAMAGE, DESTRUCTION, CONDEMNATION, AND FAILURE OF TITLE

**Section 6.01. Damage and Destruction.** (a) Subject to the rights of holders of Secured Loans to require the hereinafter described Net Proceeds to be applied to retire such Secured Loans, if prior to the termination of the Occupancy Term, the Facilities are destroyed or are damaged (in whole or in part) by fire or other casualty, the Tenant (i) shall promptly repair, rebuild, restore, or re-equip the Facilities to substantially the same condition thereof as existed prior to the event causing such damage or destruction with such changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the Tenant and as will not materially impair the value or the character of the Facilities and (ii) shall apply for such purpose so much as may be necessary of any Net Proceeds of insurance resulting from such recovery. All such Net Proceeds of insurance shall be paid to the Tenant, to be applied as provided in this Section 6.01(a).

(b) In the event the Net Proceeds are not sufficient to pay in full the costs of any such repair, rebuilding, restoration, or re-equipping, the Tenant shall nonetheless complete such work and shall pay that portion of the costs thereof in excess of the amount of such Net Proceeds. Any Net

Proceeds remaining after the payment in full of the costs of any such repair, rebuilding, restoration, or re-equipping shall belong to the Tenant and become the property of the Tenant.

(c) The Tenant shall not, by reason of the payment of such excess costs, be entitled to any reimbursement from the Landlord or the Lender or any abatement or diminution of the rents payable under Section 4.03 hereof.

**Section 6.02. Condemnation and Failure of Title.** Subject to the rights of holders of Secured Loans to require the hereinafter described Net Proceeds to be applied to retire such Secured Loans, in the event that title to any portion of the Facilities fails or title to or the temporary use of the Facilities or any part thereof is taken under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority, the Landlord and the Tenant shall cause the Net Proceeds received by them or either of them from any title insurance policy or any award made in such eminent domain proceedings to be applied in one or more of the following ways as shall be directed in writing by the Tenant:

(a) to the restoration of the Facilities to substantially the same condition thereof as existed prior to the failure of title or the exercise of the power of eminent domain with such changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the Tenant and as will not materially impair the value or the character of the Facilities; or

(b) to the acquisition of other suitable land within the downtown development area of the City of Kennesaw, Georgia and the acquisition, by construction or otherwise, in the name of the Landlord, to the extent permitted by applicable law, of improvements consisting of a building or buildings, facilities, furnishings, machinery, equipment, or other properties suitable for the Tenant's operations at the Facilities as conducted prior to such failure of title or taking (which improvements shall be deemed a part of the Facilities and available for use and occupancy by the Tenant without the payment of any rent other than as herein provided to the same extent as if such improvements were specifically described herein and demised by this Rental Agreement); provided, that such improvements and properties shall be acquired by the Tenant, in the name of the Landlord, subject to no Liens other than Permitted Encumbrances. Such improvements and properties must be approved in writing by the Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed. The Tenant and the Landlord shall enter into amendments to this Rental Agreement to identify such improvements and properties as part of the Facilities, and the Landlord shall enter into a supplemental Loan and Security Agreement assigning and pledging, and granting a security interest in, the foregoing amendments to the Lender.

Within ninety (90) days from the date of failure of title or the date of entry of a final order in any eminent domain proceedings granting condemnation, the Tenant shall direct the Landlord in writing as to which of the ways specified in this Section the Tenant elects to have the title insurance proceeds or condemnation award applied.

The Landlord shall cooperate fully with the Tenant in handling and conducting any prospective or pending condemnation proceeding with respect to the Facilities or any part thereof and shall, to the extent it may lawfully do so, permit the Tenant to litigate in any such proceeding in

the name and behalf of the Landlord. In no event shall the Landlord voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceeding with respect to the Facilities or any part thereof without the prior written consent of the Tenant.

The Tenant shall be entitled to pursue any claims it may have as tenant of the Facilities under this Rental Agreement in any prospective or pending condemnation proceeding, independent and separate from any claims of the Landlord as owner of the Facilities.

**Section 6.03. Condemnation of Tenant-Owned Property.** The Tenant shall be entitled to the Net Proceeds of any condemnation award or portion thereof made for damages to or for taking of its own property not included in the Facilities (except for damages for the value of its right of occupancy in the Facilities under this Rental Agreement, which shall be applied pursuant to Section 6.02 hereof).

## ARTICLE VII

### ADDITIONAL COVENANTS

**Section 7.01. No Warranty of Condition or Suitability by the Landlord.** THE LANDLORD MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE HABITABILITY, MERCHANTABILITY, CONDITION, OR WORKMANSHIP OF ANY PART OF THE FACILITIES OR THAT THEY WILL BE SUITABLE FOR THE TENANT'S PURPOSES OR NEEDS.

**Section 7.02. Access to Facilities and Records.** The Tenant agrees that the Landlord, the Lender, and their duly authorized representatives and agents shall have the right, upon reasonable prior written notice, to enter the Facilities at all reasonable times during the Occupancy Term for the purpose of (i) examining and inspecting the Facilities, including any construction or renovation thereof; (ii) performing such work in and about the Facilities made necessary by reason of an Event of Default; and (iii) upon an Event of Default, exhibiting the Facilities to prospective purchasers, lessees, or mortgagees. Any such entry shall be subject to the reasonable requirements imposed by the Tenant or its operator and shall not unreasonably interfere with the Tenant's use, occupancy, or operation of the Facilities. Any representatives or agents of the Landlord or the Lender accessing the Facilities pursuant to this Section 7.02 must at all times be accompanied by a representative or agent of the Tenant. The Landlord and the Lender shall also have the right at all reasonable times to examine the books and records of the Tenant, insofar as necessary to ascertain compliance with this Rental Agreement.

**Section 7.03. Tenant to Maintain its Existence; Conditions Under Which Exceptions Permitted.** (a) The Tenant agrees that during the Occupancy Term it shall maintain its legal existence as a Delaware limited liability company, shall not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, and shall not dissolve or otherwise dispose of all or substantially all of its assets. The Tenant may, without violating the agreement contained in this Section, consolidate with or merge into another domestic entity (that is, an entity organized and existing under the laws of one or more states of the United States of America), or permit one or more such domestic entities to consolidate with or merge into it, or sell or

otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, if the surviving, resulting, or transferee Person:

(1) is authorized to do business in the State;

(2) is a domestic corporation, partnership, limited liability company, or other entity, or if a natural person, is a resident of the United States of America;

(3) assumes in writing all of the obligations of the Tenant under the Tenant Contracts arising from and after the date of the consolidation, merger, sale, or transfer;

(4) has not been convicted of a felony in any state or federal court, and is not in control or controlled by Persons who have been convicted of felonies in any state or federal court, and it and its Affiliates are not Specially Designated National or Blocked Persons; and

(5) if and only if the surviving, resulting, or transferee Person is not an Affiliate of the Tenant prior to the consolidation, merger, sale, or transfer, the Tenant obtains the prior written consent of the Landlord to the consolidation, merger, sale, or transfer, which consent shall not be unreasonably withheld, conditioned, or delayed.

(b) With respect to whether the Landlord's consent to the consolidation, merger, sale, or transfer may be reasonably withheld, by way of example only, it shall be reasonable for the Landlord to: (a) evaluate whether the proposed successor Person has, in the Landlord's reasonable judgment, sufficient financial resources to fulfill the Tenant's obligations under this Rental Agreement (provided, however, it being understood that any successor Person with a verifiable net worth of at least twenty-five percent (25%) of the total consideration paid for the consolidation, merger, sale, or transfer, including, without limitation, the amount of all related debt, shall be deemed to have such sufficient financial resources) and (b) evaluate whether the proposed successor Person has, in the Landlord's reasonable judgment, sufficient experience in owning or operating mixed use multifamily and commercial properties.

(c) The Landlord shall be deemed to have consented to any consolidation, merger, sale, or transfer if the Tenant shall submit a request in writing to the Landlord for such consent and the Landlord does not respond in writing to such request within thirty (30) days of the receipt of such request from the Tenant, provided that the Tenant has furnished to the Landlord all information reasonably requested by the Landlord to permit the Landlord to make an informed decision about such request within the thirty (30) day period referenced above.

(d) If the requirements of this Section 7.03 regarding consolidation, merger, sale, or transfer are met, the Tenant shall be relieved from its obligations arising from and after the date of the consolidation, merger, sale, or transfer, and such successor Person shall succeed to and be substituted for the Tenant, under the Tenant Contracts, with the same effect as if such successor Person had originally been a party to such instruments.

**Section 7.04. Qualification in the State.** The Tenant warrants that it is and while this Rental Agreement is in effect it (or the surviving, resulting, or transferee entity permitted by Section 7.03 hereof) will continue to be duly qualified to do business in the State.

**Section 7.05. Indemnity.** (a) The Tenant shall and agrees to indemnify and save the Landlord, the Lender, and their respective directors, officers, members, and employees harmless against and from all claims by or on behalf of any Person arising from the conduct or management of or from any work or thing done on the Facilities and against and from all claims arising from (i) any condition of or operation of the Facilities; (ii) any breach or default on the part of the Tenant in the performance of any of its obligations under the Tenant Contracts; (iii) any act or negligence of the Tenant or of any of its agents, contractors, servants, employees, or licensees; (iv) any failure by the Tenant, in making Additions or Alterations, to comply with the applicable requirements of procurement or bonding laws for public works projects (including, without limitation, Chapter 91 of Title 36 of the Official Code of Georgia Annotated); or (v) any act or negligence of any assignee or subtenant of the Tenant or of any agents, contractors, servants, employees, or licensees of any assignee or subtenant of the Tenant, provided, however, this indemnity shall not apply to any acts of negligence or willful or intentional misconduct of the Landlord or the Lender or their directors, officers, members, or employees. The indemnities set forth above specifically extend to, but are in no way limited to, governmental or other claims relating to any actual or alleged violation of any Environmental Laws. The Tenant shall indemnify and save the Landlord and the Lender harmless from and against all costs and expenses actually incurred in or in connection with any such claim arising as aforesaid from clauses (i), (ii), (iii), (iv) or (v), *supra*, or in connection with any action or proceeding brought thereon, including reasonable attorneys' fees as provided in Section 9.04 hereof, and upon notice from the Landlord or the Lender, the Tenant shall defend them or either of them in any such action or proceeding.

(b) If the Landlord, the Lender, or their respective directors, officers, members, and employees incur pecuniary liability by reason of the terms of the Bond Documents (other than obligations expressly created by the Bond Documents) or the undertakings required of the Landlord under the Landlord Contracts or the Lender under the Loan Agreement, by reason of (i) the issuance of the Bond; (ii) the execution of the Bond Documents; (iii) the performance of any act required by the Bond Documents; (iv) the performance of any act requested by the Tenant; or (v) any other costs, fees, or expenses incurred by the Landlord or the Lender and their respective directors, officers, members, and employees with respect to the Facilities or the financing thereof, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, the Tenant shall indemnify and hold harmless the Landlord and the Lender and their respective directors, officers, members, and employees against all claims by or on behalf of any Person arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, including reasonable attorneys' fees as provided in Section 9.04 hereof, and upon notice from the Landlord or the Lender, the Tenant shall defend the Landlord and the Lender in any such action or proceeding. The indemnity contained in this Section 7.05(b) shall not apply to any acts of negligence or willful or intentional misconduct of the Landlord, the Lender, or their respective directors, officers, members, and employees.

(c) Nothing contained in this Section 7.05 shall require the Tenant to indemnify the Landlord or the Lender or their respective officers, directors, members, or employees for any claim or liability that the Tenant was not given any opportunity to contest or for any settlement of any such action effected without the Tenant's consent, if such opportunity is available and has not been waived in writing by the Tenant. The indemnity of the Landlord and the Lender and their respective officers, directors, members, and employees contained in this Section 7.05 shall survive the termination of this Rental Agreement.

(d) In case any action shall be brought against the Landlord, the Lender, or any of their respective directors, officers, members, or employees in respect of which indemnity may be sought against the Tenant pursuant to this Section 7.05, the Landlord shall promptly notify the Tenant in writing and the Tenant shall have the right to assume the investigation and defense thereof including the employment of counsel and the payment of all expenses. Failure to give any such notice shall not affect the right of the Landlord to receive the indemnification provided herein unless the result of such failure is that the interests of the Tenant were materially and adversely affected.

**Section 7.06. Information and Notices.** The Tenant shall provide the Landlord and the Lender (1) promptly upon obtaining knowledge of an Event of Default, a certificate specifying the nature and period of existence thereof and what action the Tenant proposes to take with respect thereto; (2) promptly after (i) the occurrence thereof, notice of the institution by any Person of any action, suit, or proceeding or any governmental investigation or any arbitration, before any court or arbitrator or any governmental or administrative body, agency, or official, against the Tenant or the Facilities, which could reasonably be expected to have a material adverse effect upon, or a material adverse change in, the ability of the Tenant to perform its obligations under the Tenant Contracts or (ii) the receipt of actual knowledge thereof, notice of the threat of any such action, suit, proceeding, investigation, or arbitration that could reasonably be expected to have such a material adverse effect or material adverse change as described above, each such notice under this section to specify, if known, the amount of damages being claimed or other relief being sought, the nature of the claim, the Person instituting the action, suit, proceeding, investigation, or arbitration, and any other significant features of the claim; and (3) on or before January 1 of each year, the number of Children who occupy each multifamily housing unit of the Facilities.

**Section 7.07. Use of Party Walls.** If the Tenant acquires or leases real property adjacent to the Site, the Tenant and the Landlord agree that all walls presently standing or hereafter erected by the Landlord or the Tenant as a part of the Facilities on or contiguous to the boundary line of the portion of or interest in the Site or other real property so purchased, acquired, or leased shall be party walls, and each party grants to the other a 10-foot easement adjacent to any such party wall for the purpose of inspection, maintenance, repair, and replacement thereof and the tying-in of new construction. If the Tenant utilizes any party wall for the purpose of tying in new construction that will be utilized under common control with the Facilities, the Tenant may also tie into the utility facilities on the Site for the purpose of serving the new construction and may remove any non-loadbearing wall panels in the party wall; provided, however, that if the property so owned, purchased, acquired, or leased by the Tenant ceases to be operated under common control with the Facilities, the Tenant covenants that it shall install non-loadbearing wall panels similar in quality to those that have been removed and shall provide separate utility services for the new construction. If the improvements resulting from such new construction will be utilized under common control with the Facilities, the Landlord grants an easement to the Tenant to use the Facilities as necessary or desirable to serve the new improvements and to permit the new improvements to encroach upon the Site; provided, however, that if the property so owned, purchased, acquired, or leased by the Tenant ceases to be operated under common control with the Facilities, the easements granted in this sentence shall terminate.

**Section 7.08. Operation of Facilities and Safety Code.** The Tenant warrants that throughout the Occupancy Term it shall operate and maintain the Facilities in compliance in all material respects with all applicable life and safety codes and all applicable building and zoning,

health, and safety ordinances and laws; all applicable Environmental Laws; and all other applicable laws, ordinances, rules, and regulations of the United States of America, the State, and any political subdivision or agency thereof having jurisdiction over the Facilities, other than those the Tenant is contesting in good faith and by appropriate proceedings.

**Section 7.09. Hazardous Materials.** (a) In addition to and without limitation of all other representations, warranties, and covenants made by the Tenant under this Rental Agreement and except as disclosed in writing to the Landlord before the execution and delivery of this Rental Agreement, the Tenant further represents, warrants, and covenants that the Tenant has not and, to the best of its knowledge, any contractors responsible for constructing the Facilities have not, used Hazardous Materials (as hereinafter defined) on, from, or affecting the Facilities in any manner that violates any Environmental Laws, and that, to the best of the Tenant's knowledge, after due investigation, no prior owner of the Facilities or any tenant, subtenant, prior tenant, or prior subtenant have used Hazardous Materials on, from, or affecting the Facilities in any manner that violates Environmental Laws. The Tenant shall keep or cause the Facilities to be kept free of Hazardous Materials except as otherwise provided in this Section 7.09.

(b) Without limiting the generality of the foregoing, the Tenant shall not cause or permit the Facilities or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable Environmental Laws, nor shall the Tenant cause or permit, as a result of any intentional or unintentional act or omission on the part of the Tenant or any tenant or subtenant, a release of Hazardous Materials onto the Site, except in compliance with all applicable Environmental Laws. The Tenant shall comply in all material respects with and ensure compliance by all tenants and subtenants in all material respects with all applicable Environmental Laws, whenever and by whomever invoked, and shall obtain and comply in all material respects with, and ensure that all tenants and subtenants obtain and comply in all material respects with, any and all approvals, registrations, or permits required thereunder. The Tenant shall (i) conduct and complete all investigations, studies, samplings, and testing and all remedial, removal, and other actions necessary under applicable Environmental Laws to clean up and remove all Hazardous Materials on, from, or affecting the Facilities (A) in accordance with all applicable Environmental Laws and (B) in accordance with the directives of all federal, state, and local governmental authorities and (ii) defend, indemnify, and hold harmless the Landlord and the Lender from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise arising out of or in any way related to (x) the presence, disposal, release, or threatened release of any Hazardous Materials that are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise of the Facilities or (y) any violation of Environmental Laws or any policies or requirements of the Landlord or the Lender, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorneys' fees, investigation and laboratory fees, court costs, and litigation expenses. In the event of the termination of this Rental Agreement, the Tenant shall surrender possession of the Facilities free of any and all Hazardous Materials existing in violation of Environmental Laws so that the condition of the Facilities shall conform in all material respects with all applicable Environmental Laws affecting the Facilities.

(c) For purposes of this Section 7.09, "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials or wastes, hazardous or toxic

substances, or related materials defined in any Environmental Law; provided, however, that Hazardous Materials shall not include, for purposes of this Section 7.09, nonfriable asbestos or cleaning products, medical supplies, or other substances used by the Tenant or its subtenants in the ordinary course of conduct of its or their occupancy or operations at the Facilities. The provisions of this Section 7.09 shall be in addition to any and all other obligations and liabilities the Tenant may have to the Landlord and the Lender at common law and shall survive the termination of this Rental Agreement.

(d) The indemnifications and protections set forth in this Section 7.09 shall be extended, with respect to the Landlord and the Lender, to their respective members, directors, officers, employees, and agents.

**Section 7.10. Permitted Uses.** The Tenant may use and occupy the Facilities for multifamily housing, retail, restaurant, office, and parking purposes and for other purposes as are reasonably related to multifamily housing, retail, restaurant, office, and parking purposes, but for no other uses or purposes without the prior written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed.

## ARTICLE VIII

### ASSIGNMENT, SUB-LETTING, ENCUMBERING, AND SELLING; INSTALLATION OF TENANT'S OWN MACHINERY AND EQUIPMENT

**Section 8.01. Assignment and Sub-letting.** (a) The rights and obligations of the Tenant under this Rental Agreement may be assigned and delegated, and the Facilities may be sub-let, as a whole or in part, by the Tenant with the prior written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, any such assignment or sub-let to an Affiliate of the Tenant shall not require the consent of the Landlord but shall require prior written notice to the Landlord of such assignment or sub-let and the identity of the assignee or subtenant. Notwithstanding the foregoing, the Tenant may, without the prior written consent of the Landlord, assign or pledge its rights under this Rental Agreement as collateral for any loan that was incurred or guaranteed to finance or refinance the acquisition, construction, and installation of the Facilities or any portion thereof (including any loan incurred or continued pursuant to Article II of the Purchase and Sale Agreement). Notwithstanding the foregoing, the Tenant may also, without notice to or the prior written consent of the Landlord, sub-let or sublicense (1) any multifamily housing unit or (2) any portion of the Facilities not constituting multifamily housing units to any subtenant or sublicensee that furnishes to the Landlord an affidavit to the effect that (A) such subtenant or sublicensee has not been convicted of a felony in any state or federal court, and is not in control or controlled by Persons who have been convicted of felonies in any state or federal court and (B) such subtenant or sublicensee and its Affiliates are not Specially Designated National or Blocked Persons. No sub-let or sublicense of all or any part of the Facilities shall relieve the Tenant from any of its obligations under this Rental Agreement. Nothing in this Rental Agreement shall be construed to restrict the ability of any Persons who own, directly or indirectly, equity interests in the Tenant to sell, transfer, pledge, hypothecate, or convey such equity interests or any equity interests in such Persons.

(b) With respect to whether the Landlord's consent to the assignment or sub-let may be reasonably withheld, by way of example only, it shall be reasonable for the Landlord to: (1) evaluate whether the proposed assignee or subtenant has, in the Landlord's reasonable judgment, sufficient financial resources to fulfill the Tenant's obligations under this Rental Agreement (provided, however, it being understood that any assignee or subtenant with a verifiable net worth of at least twenty-five percent (25%) of the total consideration paid for the assignment or sub-let, including, without limitation, the amount of all related debt, shall be deemed to have such sufficient financial resources); (2) evaluate whether the proposed assignee or subtenant has, in the Landlord's reasonable judgment, sufficient experience in owning or operating mixed use multifamily and commercial properties; (3) determine whether the proposed assignee or subtenant has been convicted of a felony in any state or federal court, or is in control of or controlled by Persons who have been convicted of felonies in any state or federal court; and (4) determine whether the proposed assignee or subtenant or its Affiliates are Specially Designated National or Blocked Persons.

(c) The Landlord shall be deemed to have consented to any assignment or sub-let, if the Tenant shall submit a request in writing to the Landlord for such consent and the Landlord does not respond in writing to such request within thirty (30) days of the receipt of such request from the Tenant, provided that the Tenant has furnished to the Landlord all information reasonably requested by the Landlord to permit the Landlord to make an informed decision about such request within the thirty (30) day period referenced above.

**Section 8.02. Restrictions on Sale, Encumbrance, or Conveyance of the Facilities by the Landlord.** The Landlord agrees that it shall not (1) directly, indirectly, or beneficially sell, convey, or otherwise dispose of any part of its interest in the Facilities except as required by the Purchase and Sale Agreement; (2) permit any part of the Facilities or the Site to become subject to any mortgage, lien, claim of title, encumbrance, security interest, conditional sale contract, title retention arrangement, finance lease, servitude, easement, license, restriction, reservation, defect in or cloud on title, or other charge or Lien of any kind, except for Permitted Encumbrances or except as otherwise permitted under this Rental Agreement; and (3) assign, transfer, or hypothecate (other than Bond Rent to the Lender pursuant to the Loan Agreement or Additional Rent) any rent (or analogous payment) then due or to accrue in the future under any lease of the Facilities or the Site, except for Permitted Encumbrances or except as otherwise permitted in this Rental Agreement, except that if the laws of the State at the time shall permit, nothing contained in this Section shall prevent the consolidation of the Landlord with, or merger of the Landlord into, or transfer of the Facilities as an entirety to, any political subdivision, public corporation, or agency of the State whose property and income are not subject to taxation and which has authority to carry on the business of owning, encumbering, and renting the Facilities, provided, that upon any such consolidation, merger, or transfer, (1) the due and punctual payment of the principal of, premium, if any, and interest on the Bond according to its tenor, and the due and punctual performance and observance of all the agreements and conditions of the Landlord Contracts to be kept and performed by the Landlord, shall be expressly assumed in writing by the political subdivision, public corporation, or agency resulting from such consolidation or surviving such merger or to which the Facilities shall be transferred as an entirety and (2) the exemption from ad valorem property taxation of the Facilities shall not be adversely affected by such consolidation, merger, or transfer.

**Section 8.03. Installation of Tenant's Own Machinery and Equipment.** The Tenant may from time to time, in its sole discretion and at its own expense, install machinery, equipment,

furnishings, and other personal property owned by it in the Buildings or on the Site, which may be attached or affixed to the Buildings or the Site. All such machinery, equipment, furnishings, and other personal property shall be and remain the sole property of the Tenant, and the Tenant may remove the same from the Buildings or the Site at any time, in its sole discretion and at its own expense; provided, that any damage to the Facilities resulting from any such removal shall be repaired by the Tenant at the expense of the Tenant. The Tenant may create any security interest, encumbrance, lien, or charge in or on any such machinery, equipment, furnishings, and other personal property. Neither the Landlord nor the Lender shall have any interest in or landlord's lien on any such machinery, equipment, furnishings, or personal property so installed pursuant to this Section, and all such machinery, equipment, furnishings, and personal property shall be and remain identified as the property of the Tenant by appropriate tags or other markings.

**Section 8.04. Documents Required for Financing; Estoppel Certificates.** (a) In connection with any collateral assignment or pledge by the Tenant as described in Section 8.01 hereof, the Landlord shall execute and deliver a consent (in such form as the Tenant may reasonably request) for the benefit of any Person designated by the Tenant. The Landlord further agrees, at the expense of the Tenant, to furnish any Person designated by the Tenant with such other documents as may be reasonably requested by the Tenant.

(b) Within fifteen (15) days after the Tenant requests an estoppel certificate, the Landlord shall issue and deliver an estoppel certificate to the Tenant and to any Person requested by the Tenant. The Landlord, in such estoppel certificate, shall certify as follows to the best of its knowledge:

- (i) that none of the Bond Documents have been supplemented or amended (or if any of them shall have been supplemented or amended, specifying the manner in which they shall have been supplemented or amended);
- (ii) that each Bond Document is in full force and effect (or if it is alleged that any Bond Document is not in full force and effect, specifying the reasons therefor);
- (iii) that no Default or Event of Default exists or, if such Default or Event of Default exists, specifying the nature thereof; and
- (iv) as to such other matters as the Tenant or any such Person may reasonably request.

Any such certificate may be relied upon by the Tenant and any Person to whom or to which it may be delivered, and the contents of any such certificate shall be binding on the Landlord.

## **ARTICLE IX**

### **EVENTS OF DEFAULT AND REMEDIES**

**Section 9.01. Events of Default Defined.** The following shall be "Events of Default" under this Rental Agreement, and the term "Event of Default" shall mean, whenever it is used in this Rental Agreement, any one or more of the following events:

(a) The Tenant's failure to pay the rents required to be paid under Section 4.03 of this Rental Agreement at the times specified therein and continuing for a period of ten (10) days after written notice in the manner provided in Section 11.01 of this Rental Agreement is given to the Tenant by either the Landlord or the Lender that the payment referred to in such notice has not been received.

(b) The Tenant's breach in any material respect of any representation or warranty contained in the Tenant Contracts or the Tenant's failure to observe, perform, or comply in any material respect with any covenant, condition, or agreement in the Tenant Contracts on the part of the Tenant to be observed or performed, other than as referred to in subsection (a) of this Section, in either case continuing uncured for a period of thirty (30) days after written notice specifying such breach or failure and requesting that it be remedied, given to the Tenant by the Landlord or the Lender, unless the Landlord and the Lender shall agree in writing to an extension of such time prior to its expiration. In the case of any such breach or default that cannot with due diligence be cured within such thirty (30) day period but can be wholly cured within a period of time not materially detrimental to the rights of the Landlord and the Lender, to be determined conclusively by the Lender, it shall not constitute an Event of Default if corrective action is instituted by the Tenant within the applicable period and diligently pursued until the breach or default is corrected in accordance with and subject to any directions or limitations of time established by the Lender.

(c) The Tenant shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of it or of all or a substantial part of its property or of the Facilities; (ii) fail to promptly lift, release, vacate, stay, or fully bond-off, within thirty (30) days after receipt of written demand therefor, any execution, garnishment, or attachment of such consequence as will (A) have a material adverse effect upon, or a material adverse change in, any of the business, results of operations, properties, prospects, or condition (financial or other) of the Tenant or the ability of the Tenant to perform its obligations under the Tenant Contracts or (B) as will impair the ability of the Tenant to carry on its operations at the Facilities; (iii) enter into an agreement of composition with its creditors; (iv) admit in writing its inability to pay its debts generally as such debts become due; (v) make a general assignment for the benefit of its creditors; (vi) commence a voluntary case under the federal bankruptcy law or any similar law in effect in a foreign jurisdiction (as now or hereafter in effect); (vii) file a petition or answer seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts; (viii) fail to controvert in a timely or appropriate manner or acquiesce in writing to any petition filed against it in an involuntary case under such federal bankruptcy law or any similar law in effect in a foreign jurisdiction; or (ix) take any action for the purpose of effecting any of the foregoing.

(d) A proceeding or case shall be commenced, without the application of the Tenant, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of the Tenant; (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Tenant or of all or any substantial part of the assets of it or of the Facilities; or (iii) similar relief in respect of the Tenant under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case shall continue

undismissed or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and shall continue unvacated and unstayed and in effect for a period of sixty (60) days, whether consecutive or not.

**Section 9.02. Remedies on Default.** (a) Whenever any Event of Default referred to in Section 9.01 hereof shall have happened and be subsisting, the Landlord, to the extent permitted by law, may take any one or more of the following remedial steps:

(1) The Landlord, upon thirty (30) days' prior written notice to the Tenant and with the prior written consent of the Lender, may terminate this Rental Agreement and exclude the Tenant from possession of the Facilities.

(2) The Landlord, upon thirty (30) days' prior written notice to the Tenant and with the prior written consent of the Lender, may, without terminating this Rental Agreement, exclude the Tenant from possession of the Facilities and use its best efforts to sub-let the Facilities to another for the account of the Tenant, holding the Tenant liable for all rent and other payments due up to the effective date of such sub-let and for the excess, if any, of the rent and other amounts payable by the Tenant under this Rental Agreement over the rents and other amounts that are payable by such new subtenant under such new sub-let.

(3) The Landlord may have access to and inspect, examine, and make copies of the books and records and any and all accounts, similar data, and income tax and other tax returns of the Tenant related to the Facilities, but only insofar as necessary to exercise its remedies contained in this Section 9.02.

(4) The Landlord may from time to time take whatever action at law or in equity or under the terms of the Bond Documents may appear necessary or desirable to collect the rent and other amounts payable by the Tenant hereunder then due or thereafter to become due, or to enforce performance and observance of any obligation, agreement, or covenant of the Tenant under the Tenant Contracts.

(5) At any time after the expiration of the Occupancy Term pursuant to paragraph (1) hereof, whether or not the Landlord shall have collected any current damages, the Landlord shall, at its option, be entitled to recover from the Tenant, and the Tenant will pay to the Landlord on demand, as and for liquidated and agreed final damages for the Tenant's default and in lieu of all current damages beyond the date of such demand, an amount equal to all unpaid installments of rent as hereinafter defined, and if any statute or rule of law shall validly limit the amount of such liquidated final damages to less than the amount agreed upon, the Landlord shall be entitled to the maximum amount allowable under such statute or rule of law. The term "all unpaid installments of rent" shall mean an amount equal to the entire unpaid principal amount of the Bond, together with any applicable prepayment premiums and all interest accrued or to accrue on and prior to the next succeeding prepayment date on which the Bond can be prepaid after giving notice to the Lender as required by the Loan Agreement, plus any other payments due or to become due hereunder, including, without limitation, any unpaid fees and expenses of the Landlord and the Lender that are then due or will become due prior to the time that the Bond is paid in full, plus an amount equal to the Additional Rent due in the current calendar year, plus an amount equal

to the sum of all unpaid installments of Deferred Purchase Price Rent due and to become due hereunder until the termination of the Purchase and Sale Agreement, regardless of the expiration of the Occupancy Term pursuant to paragraph (1) hereof.

(b) Any Bond Rent collected pursuant to action taken under this Section shall be paid to the Lender and applied in accordance with the provisions of the Loan Agreement. Any other rent collected pursuant to action taken under this Section shall be paid to the Landlord or to the Person to whom the Landlord has pledged such rent.

(c) No action taken pursuant to this Section (including repossession of the Facilities or termination of this Rental Agreement) shall relieve the Tenant from its obligations pursuant to Section 4.03 hereof, all of which shall survive any such action, and the Landlord may take whatever action at law or in equity as may appear necessary and desirable to collect the rent and other amounts then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement, or covenant of the Tenant hereunder.

(d) No Event of Default shall impair the Seller's right to exercise its option to purchase the Facilities pursuant to Article III of the Purchase and Sale Agreement.

**Section 9.03. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Landlord is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Rental Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Landlord to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the Landlord hereunder shall also extend to the Lender, and the Lender shall be deemed a third party beneficiary of all covenants and agreements herein contained.

**Section 9.04. Agreement to Pay Attorneys' Fees and Expenses.** In the event of the occurrence of an Event of Default and if the Landlord or the Lender should employ attorneys, accountants, or other experts or incur other expenses for the collection of amounts due hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Tenant herein contained or contained in the Tenant Contracts, the Tenant agrees that it shall on demand therefor pay to the Landlord or the Lender the reasonable fees of such attorneys, accountants, or other experts and such other expenses actually incurred by the Landlord or the Lender. Any attorneys' fees required to be paid by the Tenant under this Rental Agreement shall include attorneys' and paralegals' fees through all proceedings, including, but not limited to, negotiations, administrative hearings, trials, and appeals.

**Section 9.05. Waiver of Events of Default.** The Landlord or the Lender (except with respect to Unassigned Rights) may waive any Event of Default hereunder and its consequences. In case of any such waiver, or in case any proceeding taken by the Landlord or the Lender on account of any such Event of Default shall be discontinued or abandoned or determined adversely to the Landlord or the Lender, then and in every such case the Landlord and the Tenant shall be restored to

their former position and rights hereunder, but no such waiver shall extend to or affect any subsequent or other Event of Default or impair or exhaust any right, power, or remedy consequent thereon.

## ARTICLE X

### OPTIONS IN FAVOR OF TENANT; RENT PREPAYMENTS AND ABATEMENT

**Section 10.01. General Option to Terminate Occupancy Term.** Upon full payment of the Bond, any Administrative Rent then due, any and all sums then due to the Landlord and the Lender under this Rental Agreement prior to the end of the Occupancy Term, an amount equal to the sum of all unpaid installments of Deferred Purchase Price Rent due and to become due hereunder until the termination of the Purchase and Sale Agreement, regardless of the early termination of the Occupancy Term pursuant to this Section 10.01, and an amount equal to the Additional Rent due in the current calendar year, the Tenant may terminate the Occupancy Term by giving the Landlord notice in writing of such termination, which shall forthwith become effective.

**Section 10.02. Prepayment of Bond.** The Landlord, at the written request of the Tenant at any time and if the Bond is then prepayable, and if there are funds available therefor, shall forthwith take all steps that may be necessary under the applicable prepayment provisions of the Loan Agreement to effect prepayment of all or part of the then outstanding Bond, as may be specified by the Tenant, on the earliest date on which such prepayment may be made under such applicable provisions.

**Section 10.03. Prepayment of Bond Rent.** There is expressly reserved to the Tenant the right, and the Tenant is authorized and permitted, at any time it may choose, to prepay all or any part of the Bond Rent, and the Landlord agrees that the Lender may accept such prepayments of Bond Rent when the same are tendered by the Tenant. All Bond Rent so prepaid shall at the written direction of the Tenant be credited toward the Bond Rent specified in Section 4.03(a) hereof, in the order of their due dates, or applied to the retirement of the Bond prior to maturity (by prepayment) in accordance with the Loan Agreement. The Tenant shall also have the right to surrender the Bond acquired by it in any manner whatsoever to the Landlord for cancellation, and the Bond, upon such surrender and cancellation, shall be deemed to be paid and retired and shall be allocated as credits to Bond Rent.

**Section 10.04. Option to Prepay Bond Rent and Prepay the Bond at Prior Optional Prepayment Dates.** The Tenant shall also have the option to prepay Bond Rent in such manner and amounts as will enable the Landlord to prepay the Bond prior to maturity, in whole or in part on any date, as provided in Section 6 of the Loan Agreement. The Bond Rent payable by the Tenant in the event of its exercise of the option granted under this Section shall be the amount necessary to pay principal, all interest to accrue to the prepayment date, the applicable prepayment premium, as provided in Section 6 of the Loan Agreement, and any prepayment expense.

**Section 10.05. No Obligation to Prepay Rents.** The Tenant shall be under no obligation to prepay the rents payable hereunder except as herein expressly required or provided.

**Section 10.06. Reference to Bond Ineffective After Bond Paid.** Upon payment in full of the Bond, all references in this Rental Agreement to the Bond and the Lender shall be ineffective, and the Lender shall not thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested.

**Section 10.07. Tenant Entitled to Certain Rent Abatements if Bond Paid Prior to Maturity.** Upon full payment of the Bond under circumstances not resulting in termination of the Occupancy Term, and if the Tenant is not at the time otherwise in default hereunder, the Tenant shall be entitled to use and occupy the Facilities, from such date to and including the end of the Occupancy Term, with no obligation to make payments of Bond Rent specified in Section 4.03(a) hereof during that interval (but otherwise on the terms and conditions hereof, including, without limitation, with an obligation to continue to make payments of Deferred Purchase Price Rent specified in Section 4.03(c) hereof and Additional Rent specified in Section 4.03(d) hereof).

**Section 10.08. Granting of Easements.** If no Event of Default shall then be continuing, the Landlord, at the written request of the Tenant, shall at any time or times grant easements, licenses, rights of way (including the dedication of public highways), and other rights or privileges in the nature of easements with respect to any of the Site, or the Landlord, at the written request of the Tenant, shall release existing easements, licenses, rights of way, and other rights or privileges with or without consideration. The Landlord agrees that it shall execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right of way, or other right or privilege upon receipt of (i) a copy of the instrument of grant or release, (ii) a written application signed by the Tenant requesting such instrument, and (iii) a certificate of the Tenant, dated not more than sixty (60) days prior to the date of such grant or release, stating that such grant or release will not impair the effective use or materially and adversely interfere with the operation of the Facilities and will not materially and adversely impair the means of ingress thereto and egress therefrom. Any money consideration received by the Landlord in connection with the granting or release of an easement pursuant to this Section 10.08 shall be used to redeem the Bond. No grant or release effected under the provisions of this Section shall entitle the Tenant to any abatement or diminution of the rents payable under Section 4.03 hereof.

## ARTICLE XI

### MISCELLANEOUS

**Section 11.01. Notices.** All notices, certificates, and other communications provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), or (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by a recognized overnight delivery service (with charges prepaid). Any such notice must be sent to any party hereto at the addresses set forth on the first page of this Rental Agreement or to such other address as any party hereto shall have specified in writing to the other party. Notices under this Section 11.01 will be deemed given only when actually received. A duplicate copy of each notice, certificate, or other communication given hereunder shall also be given to the Lender.

**Section 11.02. Recording and Filing.** This Rental Agreement or an appropriate notice or memorandum hereof shall be recorded in all offices as may at the time be provided by law as the

proper place for recordation thereof. The security interest of the Lender created by the Loan Agreement shall be perfected by the filing of a financing statement or an instrument effective as a financing statement, which fully complies with the State Uniform Commercial Code or by the taking of possession or control of appropriate collateral. The Tenant further agrees that all necessary continuation statements shall be filed within the time prescribed by the State Uniform Commercial Code and the appropriate parties shall maintain possession or control of appropriate collateral in order to continue the security interest identified in this Section 11.02, to the end that the rights of the Lender in the Security shall be fully preserved as against third party creditors of, or purchasers for value in good faith from, the Landlord.

**Section 11.03. Construction and Binding Effect.** This Rental Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior agreements. This Rental Agreement shall inure to the benefit of and shall be binding upon the Landlord, the Tenant, and their respective successors and assigns, subject, however, to the limitations contained in Section 8.01 hereof.

**Section 11.04. Severability.** In the event any provision of this Rental Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 11.05. Fees and Expenses Paid by the Tenant.** The Tenant shall pay all reasonable fees and expenses relating to this Rental Agreement, including but not limited to, the expense of examination of title, premiums of owner's title insurance, costs of all supplemental examinations and certifications of title, recording fee and tax, expenses of any present or future assignment or assignments of collateral security, if any, required by the Lender, and reasonable attorneys' fees and expenses. In case the Lender or the Landlord pays or advances any money for fees, surveys, recording, recording tax, examination of title, owner's title insurance policies, preparation of documents, any reasonable and necessary expenses incurred in the completion of this transaction, the payment of any insurance premiums, encumbrance, tax, assessment, or other charge or lien upon the Facilities, or any other amounts necessary for the payment of the cost of improvements, to the extent authorized herein or approved in writing by the Tenant, the same shall be advances payable in accordance with Section 5.07 of this Rental Agreement.

**Section 11.06. Amendments, Changes, and Modifications.** The Tenant Contracts may not be amended, changed, modified, altered, or terminated, and the observance of any term thereof may not be waived, without the prior written consent of the Lender.

**Section 11.07. Execution of Counterparts.** This Rental Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 11.08. Law Governing Construction of this Rental Agreement.** This Rental Agreement is prepared and entered into with the intention that the law of the State of Georgia, exclusive of such state's rules governing choice of law, shall govern its construction.

**Section 11.09. Quiet Enjoyment.** The Landlord agrees that so long as the Tenant shall fully and punctually pay all of the rents and other amounts provided to be paid hereunder by the Tenant

and shall fully and punctually perform all of its other covenants and agreements hereunder, the Tenant shall peaceably and quietly have, hold, and enjoy the Facilities during the Occupancy Term, and the Landlord warrants and covenants that it shall defend the Tenant in such peaceable and quiet possession of the Facilities from claims arising by, through, or under the Landlord.

**Section 11.10. Time of Essence.** Time is of the essence of this Rental Agreement. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration for this Rental Agreement.

**Section 11.11. No Estate.** This Rental Agreement shall be deemed and construed to only create the relationship of landlord and tenant between the Landlord and the Tenant, and no estate shall pass out of the Landlord. The Tenant shall have only a usufruct with respect to the real property demised by this Rental Agreement and only a contract for hiring with respect to the personal property demised by this Rental Agreement, not subject to levy and sale and not assignable in whole or in part by the Tenant, except as expressly provided for herein and in compliance herewith.

**Section 11.12. No Merger.** There shall be no merger of this Rental Agreement or the right of occupancy created hereby with the fee simple estate in the Facilities or any part thereof, by reason of the fact that the same person or entity may acquire, own, or hold, directly or indirectly, this Rental Agreement or the right of occupancy created hereby or any interest in this Rental Agreement or such right of occupancy and the fee simple estate in the Facilities or any interest in such fee simple estate, and this Rental Agreement shall not be terminated except as expressly provided herein.

**Section 11.13. Covenants Run with Premises.** The covenants, agreements, and conditions herein contained shall run with the property and premises hereby rented and shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective successors and assigns.

**Section 11.14. Triple Net Rental Agreement.** This Rental Agreement shall be deemed and construed to be a “net, net, net rental agreement,” and the Tenant shall pay absolutely net during the Occupancy Term the rent and all other payments required hereunder, free of any deductions, without abatement, diminution, or set-off other than those herein expressly provided (including, without limitation, in Section 2.04 hereof).

**Section 11.15. Surrender of Facilities.** Except as otherwise provided in this Rental Agreement, at the expiration or sooner termination of the Occupancy Term, the Tenant agrees to surrender possession of the Facilities peaceably and promptly to the Landlord in as good condition as at the commencement of the Occupancy Term, ordinary wear, tear, and obsolescence only excepted.

**Section 11.16. Tenancy at Sufferance.** If the Tenant remains in possession of the Facilities after expiration of the Occupancy Term, without any express written agreement by the Landlord, the Tenant shall be and become a tenant at sufferance, and there shall be no renewal or extension of this Rental Agreement by operation of law.

[Signatures and Seals To Follow]

**SIGNATURES AND SEALS**

**IN WITNESS WHEREOF**, the Landlord has executed this Rental Agreement by causing its name to be hereunto subscribed by its Chairman and by causing the official seal of the Landlord to be impressed hereon and attested by its Secretary, and the Tenant has executed this Rental Agreement by causing its name to be hereunto subscribed by the Manager of the managing member of its sole member.

**KENNESAW DOWNTOWN  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Chairman

(SEAL)

Attest:

\_\_\_\_\_  
Secretary

As to the Landlord, signed, sealed, and delivered on the \_\_\_ day of April 2026, in the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
(date)

(NOTARIAL SEAL)

[Signatures and Seals Continued on Following Page]

[Signatures and Seals Continued From Preceding Page]

**KENNESAW II MULTIFAMILY OWNER, LLC**

BY: KENNESAW II MULTIFAMILY  
VENTURE, LLC, its Sole Member

BY: HP KENNESAW II, LLC,  
its Managing Member

By: \_\_\_\_\_  
Manager

As to the Tenant, signed, sealed, and  
delivered on the \_\_\_ day of April  
2026, in the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
(date)

(NOTARIAL SEAL)

**EXHIBIT A**  
**DESCRIPTION OF SITE**

[TO BE ADDED]

**EXHIBIT B**

**DESCRIPTION OF EQUIPMENT**

Any and all personal property acquired with proceeds of the Bond or with proceeds of casualty insurance policies or condemnation awards.



## Item Report

**TO:** The Kennesaw Downtown Development Authority  
**FROM:**  
**DATE:** March 20, 2026  
**TITLE:** Acceptance of Conflict of Interest Letter - Mark Allen

---

**Summary:**

**Recommendation:**

**Fiscal Impact:**

**Attachments:**

1. Allen-ConflictofInterest-3.20.26

CONFLICT OF INTEREST

3.4.2026  
Date

Lea Alvarez  
City Clerk  
City of Kennesaw  
2529 J.O. Stephenson Avenue  
Kennesaw, GA 30144

In reference to the agenda of Kennesaw Downtown Development Authority, March 20, 2026 for the item relating to Incentive Proposal/Inducement Resolution: Lazy Guy 2960 Keene Street

submitted by Mark Allen


I must excuse myself from any action or proceedings for the following reason(s):

- I am the owner of Lazy Guy Distillery. I have vested financial interest in the project.

I will not participate in the proceedings of the KDDA meeting for the stated agenda item.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Witness

Received by:   
\_\_\_\_\_



## Item Report

**TO:** The Kennesaw Downtown Development Authority  
**FROM:**  
**DATE:** March 20, 2026  
**TITLE:** Approval of Inducement Resolution — Lazy Guy Distillery Project

---

**Summary:**

**Recommendation:**

**Fiscal Impact:**

**Attachments:**

1. Inducement Resolution - Lazy Guy

**RESOLUTION OF THE KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY APPROVING IN PRINCIPLE THE ISSUANCE OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS HAVING A MAXIMUM AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,000,000.00 TO FINANCE ALL OR PART OF A CAPITAL PROJECT IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF KENNESAW, GEORGIA AND AUTHORIZING THE EXECUTION OF A LETTER OF INTENT AND INDUCEMENT AGREEMENT.**

**WHEREAS**, the Kennesaw Downtown Development Authority (the “**Issuer**”) is a downtown development authority and public body corporate and politic duly created and activated under the Downtown Development Authorities Law of the State of Georgia, O.C.G.A. Sec. 36-42-1, *et seq.* (the “**Act**”); the Act provides that the Issuer is created to revitalize and redevelop the central business district of the City of Kennesaw (the “**City**”), in the State of Georgia (the “**State**”) and is authorized by the Act to issue its revenue bonds to acquire land, buildings and related personal property, which revenue bonds are required to be validated pursuant to the provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60, *et seq.*); and

**WHEREAS**, the Issuer has been informed by LAZY GUY BRANDS, INC., a Georgia domestic profit corporation, that the foregoing entity, or a subsidiary or affiliate thereof, or any entity or entities to which the rights thereof under the Letter of Intent and Inducement Agreement attached hereto as Exhibit A may be assigned (any of the foregoing being referred to herein as the “**Company**”), desires for the Issuer to issue its revenue bonds (the “**Bonds**”) in one or more series or sub-series in an aggregate principal amount not to exceed \$4,000,000 (hereinafter called the “**Maximum Bond Amount**”) to construct, develop and install a capital project comprised of approximately 6,000 square feet, which will include dining, kitchen, distilling and storage space (collectively, the “**Project**”). The Project is described on the “**Project Summary**” attached hereto and incorporated herein by reference (the “**Project Summary**”); and

**WHEREAS**, the Project will be rented to the Company in one or more rental agreements (the “**Rental Agreement**”), it being understood by the Issuer that the Bonds will be initially issued in the Maximum Bond Amount; and

**WHEREAS**, the Company has requested that the Issuer express its official intent to issue the Bonds for the Project in order to permit proceeds of the Bonds to be used to acquire the Project and/or to reimburse original expenditures; and

**WHEREAS**, the Issuer has been advised that the Company expects the Project to retain and/or create new full-time jobs in the City and will otherwise have a favorable impact on the welfare of the City; and

**WHEREAS**, the Project, being a Project that will promote private sector employment in the City, may be acquired under the Act; and

**WHEREAS**, after careful study and investigation of the nature of the Project, the Issuer hereby determines that the Project may be financed as a “project,” as defined in O.C.G.A. §36-42-3(6); the Project will develop and promote trade, commerce, industry and employment

opportunities for the public good and the general welfare within the City and will promote the general welfare of the State and will revitalize and redevelop the central business district of the City and that the Project and the issuance of the Issuer's revenue bonds to finance all or a part of the cost thereof will be in the public interest of the inhabitants of the City and of the State and will be in furtherance of the public purposes for which the Issuer was created and is existing, as provided in the Act; and

**WHEREAS**, under the Act, the Issuer may issue the Bonds to pay costs of planning, development, equipping and carrying out of the Project; under the Act, and as determined by the Issuer, the Project will be acquired and owned by the Issuer and rented to the Company under a rental agreement (*i.e.*, the Rental Agreement), and the Issuer will grant to the Company an option to purchase the Project for a nominal price when the Bonds have been retired or defeased; and

**WHEREAS**, in view of the need to place the Project in operation as soon as possible and other factors, the Company desires to make expenditures, or to cause the Issuer to make expenditures with moneys advanced by the Company, relating to the Project prior to the issuance of the Bonds, which the Company desires to have reimbursed with proceeds of the Bonds and wishes to obtain assurances from the Issuer that, upon satisfaction of all requirements of law and other conditions imposed by the Issuer as specified in the Letter of Intent and Inducement Agreement, the Bonds will be issued and sold to acquire the Project and/or, to the extent of any available proceeds, to reimburse the Company for expenditures relating to the Project prior to the issuance of the Bonds; and

**WHEREAS**, the Company has requested that the Issuer express its willingness to issue the Bonds to acquire the Project, and the Issuer has determined that it is in the best interest of the inhabitants of the City that the Project be carried out and that the planning, development, equipping and carrying out thereof proceed without delay; and

**WHEREAS**, the Issuer further finds that the economic benefits that will inure to the City and the State from the Project and the operation thereof and the payments to be made by the Company under the Rental Agreement will be equal to or greater than the benefits to be derived by the Company under the Rental Agreement and under the related purchase option to be granted to the Company; therefore, the use of proceeds of the Bonds to pay costs of the Project, the rental of the Project under the Rental Agreement and the granting of the purchase option do not violate the prohibition in the Georgia Constitution on the payment by public bodies of gratuities to private sector persons or entities; and

**WHEREAS**, in order to provide inducement for the Company to establish or expand its facilities in the City, it is desirable for the Issuer to approve and authorize the execution of the Letter of Intent and Inducement Agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Kennesaw Downtown Development Authority as follows:

1. Recitals. The foregoing recitals are incorporated in the body of this resolution by this reference.

2. Authorization. In order to induce the Company to proceed with the Project and to indicate the Issuer's willingness to issue the Bonds to acquire and/or to finance, in whole or in part, the costs of the Project, the execution and delivery to the Company of the Letter of Intent and Inducement Agreement is hereby authorized. Such letter shall be executed by the Chairman or Vice Chairman of the Issuer in substantially the form attached hereto as Exhibit A, subject to such changes, corrections, insertions, and omissions as may be approved by the Chairman or Vice Chairman of the Issuer, with the advice of Issuer's counsel, and the execution of such instruments by the Chairman or Vice Chairman of the Issuer as herein authorized shall be conclusive evidence of such approval. The Chairman, Vice Chairman and other officials of the Issuer are hereby authorized to take any and all further action and to execute and deliver any and all other documents as may be necessary or appropriate to authorize, issue, and deliver the Bonds and to effect the undertaking for which the Bonds are proposed to be issued.

3. Issuance and Sale of Bonds. Subject to the conditions set forth in the Letter of Intent and Inducement Agreement, the Issuer will authorize the issuance of and will sell and issue the Bonds, in one or more series, in an aggregate principal amount not to exceed the Maximum Bond Amount. The Bonds shall be issued under, and in accordance with, the applicable laws of the State, including the Act and the Revenue Bond Law, in an aggregate principal amount necessary to acquire the Project and/or to finance, to the extent of the Maximum Bond Amount, the cost of planning, development, acquisition, construction, rehabilitation and equipping and carrying out of the Project and the expenses incidental thereto, including costs of issuance of the Bonds, upon such lawful terms and conditions as may be agreed upon by the Issuer, the Company, and the purchaser or purchasers of the Bonds. The Issuer finds, intends, and declares that the Letter of Intent and Inducement Agreement, when executed by the Issuer and the Company, will constitute a binding commitment on the part of the Issuer to issue the Bonds, subject, however, to the conditions set forth in the Letter of Intent and Inducement Agreement.

4. Pre-issuance Expenditures. The Company may, from time to time as it may deem necessary prior to the issuance of the Bonds, make expenditures with respect to the planning, development, acquisition, construction, rehabilitation, equipping and carrying out of the Project or advance to the Issuer funds for such purpose. Any such funds so advanced shall be kept by the Issuer in a separate bank account or accounts to be opened by it, or its designee. The Company will be responsible, as principal and not as agent for the Issuer, for the acquisition, construction and installation of the Project. Amounts so expended by the Company or advanced by the Company to the Issuer, shall be repaid to the Company by the Issuer, but solely from proceeds of the Bonds, if and when the same are issued and delivered.

5. [Reserved.]

6. Roles of Advisors. Nelson Mullins Riley and Scarborough, LLP (Earle Taylor) and Bentley Bentley and Bentley (Fred Bentley) serve as bond counsel and general counsel, respectively, to the Issuer. Raymond James & Associates, Inc. (Tom Owens) serves as Municipal Advisor to the Issuer. The Issuer's fees and expenses are to be paid by the Company, or its assigns or successors as the case may be, or from proceeds of the Bonds. Counsel to the Company in connection with the issuance of the Bonds shall be Alston & Bird LLP.

7. Effective Date. This resolution shall take effect immediately upon its adoption.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

**DULY ADOPTED** this 20<sup>th</sup> day of March, 2026.

**KENNESAW DOWNTOWN DEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
Vice Chairman

ATTEST:

\_\_\_\_\_  
Secretary

[SEAL]

**PROPERTY SUMMARY  
(CURRENT CONDITIONS)**

2690 Keene Street is a dirt pad. It was purchased from Core Capital Partners who acquired the property as part of a bigger mixed-use project. This sell to Lazy Guy satisfies Core’s commercial commitment.



**PROJECT SUMMARY  
(PROPOSED REDEVELOPMENT PLAN)**

Lazy Guy Brands, Inc. will construct, develop and install a capital project comprised of approximately 6,000 square feet, which will include dining, kitchen, distilling and storage space



**EXHIBIT A**

**LETTER OF INTENT AND INDUCEMENT AGREEMENT**

To: Mr. Mark Allen  
Lazy Guy Brands, Inc.  
2950 Moon Station Rd.  
Kennesaw, GA 30144

RE: Proposed Financing of the Lazy Guy Distillery Project in the Central Business District of Kennesaw, Georgia

Dear Mr. Allen:

The Kennesaw Downtown Development Authority (the “**Issuer**”) is a downtown development authority and public body corporate and politic duly created and activated under the Downtown Development Authorities Law of the State of Georgia, O.C.G.A. Sec. 36-42-1, *et seq.* (the “**Act**”). The Act provides that the Issuer is created to revitalize and redevelop the central business district of the City of Kennesaw (the “**City**”), in the State of Georgia (the “**State**”), and is authorized by the Act to issue its revenue bonds to acquire land, buildings and personal property, which revenue bonds are required to be validated pursuant to the provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60, *et seq.*).

The Issuer has been informed by LAZY GUY BRANDS, INC., a Georgia domestic profit corporation, that the foregoing entity, or any affiliate or subsidiary thereof, or any entity or entities to which the rights thereof under this Letter of Intent and Inducement Agreement may be assigned (any of the foregoing being referred to herein as the “**Company**”), desires for the Issuer to issue its revenue bonds (the “**Bonds**”) in one or more series in an aggregate principal amount not to exceed \$4,000,000 (hereinafter called the “**Maximum Bond Amount**”) to acquire a capital project (the “**Project**”) described on the “Project Summary” attached hereto and incorporated herein by reference (the “**Project Summary**”), for rent (the “**Rental Agreement**”) to the Company.

The Issuer has been advised that the Company expects the Project to promote economic development and revitalization and/or create new full-time jobs in the City and will otherwise have a favorable impact on the welfare of the City.

The Project constitutes a “project” under the Act, which may be acquired under the Act.

After careful study and investigation of the nature of the Project, the Issuer determined that the Project may be financed as a “project,” as defined in O.C.G.A. §36-42-3(6). The Issuer further determined that the Project will develop and promote trade, commerce, industry and employment opportunities for the public good and the general welfare within the City and will promote the general welfare of the State and that the Project and the issuance of the Issuer’s revenue bonds to finance all or a part of the cost thereof will be in the public interest of the inhabitants of the City and of the State and will revitalize and redevelop the central business district of the City and will be in furtherance of the public purposes for which the Issuer was created and is existing, as provided in the Act.

The Issuer has expressed its official intent to issue the Bonds to acquire the Project and/or to pay costs of the Project and to reimburse costs of the Project incurred prior to the issuance of the Bonds.

Accordingly, in order to induce the Company to locate the Project in the City and to operate, or cause to be operated, and continue to operate, the Project and in order to carry out the public purposes for which the Issuer was created and exists, the Issuer hereby makes the following proposals which, if accepted by the Company in writing as hereinafter provided, shall constitute an agreement having the following terms:

1. The Issuer will issue the Bonds, in one or more series or sub-series, having an aggregate principal amount not to exceed the Maximum Bond Amount for the purpose of providing funds to acquire the Project and/or to pay or reimburse the costs, in whole or in part, as the Company may determine, of the planning, development, acquisition, construction, renovation, installation, equipping and carrying out of the Project, including the cost of issuing the Bonds.

2. The Company shall be responsible for the arrangements pertaining to the sale of the Bonds. The Bonds may be sold to the Company or an affiliate of the Company or may be sold to one or more banks, insurance companies or financial institutions in a private placement, or if the Bonds are secured by a letter of credit from a bank (or branch of a bank) that is federally regulated or regulated by any state, the Bonds may be sold in a public offering so long as the Bonds and any embedded "separate securities" are exempt from registration under the federal securities laws. The Bonds shall be sold under a bond purchase agreement (the "**Bond Purchase Agreement**") to be executed by the Issuer, the Company and the original purchaser(s) or underwriter(s) of the Bonds (the "**Bond Purchaser**"). The Bonds may be, but (unless sold in a public offering) are not required to be, issued under a trust indenture (an "**Indenture**"). The Bonds may be, but are not required to be, issued as a single Bond. Any such single Bond may be issued in the form of a draw-down obligation providing for the Bond Purchaser to make a disbursement at the closing of the Bond issue of a portion of maximum principal amount of the Bond (the initial principal balance of the Bond being equal to such disbursement) and for subsequent disbursements (which will increase the principal balance of the Bond) from time to time as funds are needed to pay costs of the Project. The terms of the Bonds (principal amortization, final maturity, interest rate(s), redemption provisions, and other terms) shall be as provided for in the resolution of the Issuer authorizing the issuance of the Bonds (the "**Bond Resolution**"), in the Bond Purchase Agreement, in the Indenture, if any, or in a combination of the foregoing and shall be reflected in the form of the Bonds. The Bonds shall be issued and sold by the Issuer at such price and upon such terms as shall be provided in the Bond Purchase Agreement.

3. Simultaneously with the delivery of the Bonds, the Project will be acquired and owned by the Issuer and rented to the Company under a rental agreement (the "**Rental Agreement**"), and the Issuer will grant to the Company an option to purchase the Project for a nominal price when the Bonds have been retired or defeased. Under the foregoing financing structure, the Company would make periodic rental payments at the times and in the amounts required to pay the principal of, the redemption premium (if any), and the interest on the Bonds as the same become due and payable (after giving credit to other amounts for such purpose). The Rental Agreement and any related deed to secure debt, mortgage or security agreement (collectively, the "**Basic Security Documents**") shall contain terms and provisions substantially

of the type normally included in financing leases, installment sale agreements or loan agreements, as applicable, between “conduit” bond issuers and users of bond-financed property.

4. The Company may not transfer the Project or its interests and rights under the Basic Security Documents without the prior written consent of the Issuer, except as otherwise provided in the Basic Security Documents.

5. The Company shall pay all taxes and assessments, if any, which may be lawfully levied or assessed upon the Company, the Issuer, the Project, or the payments under the Basic Security Documents, but shall be entitled to contest such taxes or assessments so long as such contest does not expose the Project or the revenues received by the Issuer under the Basic Security Documents to risk of loss. If no *ad valorem* taxes are payable on the Project or on the Company’s interest therein, the Issuer may require the Company to pay payments in lieu of such taxes, or payments equivalent thereto, subject to the terms and conditions herein. Notwithstanding the foregoing or anything in this letter to the contrary, (i) the specific agreement between the Company and the Issuer with respect to PILOT Payments and property tax savings related to the Project is set forth on the “Term Sheet” attached hereto and by reference incorporated herein, which the Company and the Issuer agree will govern the transaction between the parties and will be reflected in the Basic Security Documents (the “**Term Sheet**”) and (ii) in no event will the payments in lieu of such taxes (including any PILOT Payments) exceed the *ad valorem* taxes and assessments that would be levied on the Project if the Company were fee simple owner of the Project.

6. The Company shall pay utility charges for utilities used at the Project and shall keep the Project insured against loss or damage or perils generally insured against by industries or businesses similar to the business of the Company and shall carry public liability insurance covering personal injury, death, or property damage with respect to the Project, in amounts and with deductibles that are customary for projects of the size and type of the Project, but it may be totally self-insured to the extent permitted by the Issuer in the Basic Security Documents.

7. The obligation of the Company to make all payments required under the Basic Security Documents shall be absolute and unconditional upon the issuance and delivery of the Bonds. The obligations of the Company under the Basic Security Documents shall be secured as agreed by the Company and the Bond Purchaser, provided, however, if the Bonds are to be sold through a public sale or underwriting, the security for the Bonds shall be agreed upon by the Issuer.

8. The Company shall be permitted to dispose of, replace or make substitutions for any obsolete or worn out fixtures, machinery, equipment, and related personal property constituting part of the Project.

9. Simultaneously with the delivery of the Bonds, the Company, or another person or entity, shall, if required by the Bond Purchaser, execute a guaranty agreement in favor of the Bond Purchaser or, if an Indenture is used, such guaranty may be in favor of the trustee for the Bonds, or if the Bonds are secured by a letter of credit or other credit enhancement, such guaranty may be in favor of the issuer of the credit enhancement, pursuant to which the guarantor or guarantors shall absolutely and unconditionally guarantee the Issuer’s obligations under the Bonds or the obligations of the Company under the Basic Security Documents or under documents pertaining to any such letter of credit or other credit enhancement.

10. The Bond Resolution, Indenture (if any) and Bond Purchase Agreement shall contain terms and provisions of the type generally utilized in connection with such financial undertakings, as agreed upon by the Issuer, by the Bond Purchaser and by the Company. The Issuer shall pledge, assign, and grant, subject to certain customary retained and unassigned rights, a security interest to the Bond Purchaser, to the trustee (if an Indenture is used) or to the issuer of any credit enhancement (in the case of a letter of credit or credit enhancement) in the Issuer's right, title, interest, and remedies in and to the Basic Security Documents, as security for its obligations under the Bonds. The Issuer shall further secure its obligations under the Bonds in a manner as shall be agreed upon by the Issuer, the Company, and the Bond Purchaser. The Bonds, the Bond Resolution and Indenture (if any) shall provide that in the performance of the covenants contained therein on the part of the Issuer, any obligations the Issuer may incur for the payment of money shall not be a general obligation on its part, but shall be a special or limited obligation payable solely from the specific payments received under the Basic Security Documents or from Bond proceeds, foreclosure proceeds, title insurance proceeds, casualty insurance proceeds, condemnation awards, or other proceeds collected under the Basic Security Documents, or from security for the Company's obligations under the Basic Security Documents, or from security otherwise pledged to the payment of debt service on the Bonds or from a combination of such sources.

11. The Company, in accepting this agreement, shall thereby agree to indemnify, defend, and hold the Issuer and the individual members, directors, officers, and agents thereof harmless against any claim of loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, development, acquisition, construction, renovation, equipping, and carrying out of the Project, other than as a result of the gross negligence or willful misconduct of any indemnified party. The indemnities set forth above specifically extend to, but are not limited to, governmental or other claims relating to any actual or alleged liability arising under or any violation of any federal, state and local laws, rules, regulations, ordinances, programs, permits, guidance, orders, and consent decrees (hereafter "**Environmental Laws**") relating to health, safety, and environmental matters, including, but not limited to, all Environmental Laws as of the date hereof, or as those Environmental Laws may be amended, revised or superseded, of any Governmental Authority having jurisdiction over the proposed Project addressing pollution or the protection of human health or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act, 42 U.S.C. § 7401, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701, *et seq.*; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; and all similar laws (including implementing regulations) of any Governmental Authority having jurisdiction over the proposed Project, and, regardless of whether or not any such liability or violation relates to any period prior to the acquisition of the proposed Project by the Issuer or its acquisition theretofore by the Company. The Company also agrees to reimburse the Issuer or otherwise pay on behalf of the Issuer any and all reasonable and necessary expenses, not hereinbefore mentioned, which have been authorized by the Company and incurred by the Issuer in connection with the Project and in connection with the issuance of the Bonds. This indemnity may be superseded (provided, such supersession shall not affect any accrued liability hereunder) by a similar indemnity in the Basic Security Documents; otherwise, it shall remain in full force

and effect, and if the Bonds are not issued and delivered, this indemnity shall survive the termination of the inducement agreement resulting from the Company's acceptance of this Agreement. Without limitation, it shall be a condition to the Issuer's accepting title to the Project, that the Issuer be satisfied with the environmental condition of the Project, which shall be deemed approved and satisfied in the event the Company provides to Issuer a Phase I Environmental Site Assessment and, if applicable, a Phase II Environmental Site Assessment, which reveals no recommended further action is needed with respect to the environmental condition of the Project.

12. The Company shall be responsible for the financing and carrying out of the Project, and the Company, in accepting this agreement, hereby agrees to perform all acts needed in connection with the financing (insofar as the Bonds are concerned) and carrying out of the Project.

13. The Issuer shall, upon the request of the Company, permit the financing and carrying out of the Project by the Company to begin and to continue prior to the issuance and delivery of the Bonds. Contracts or other documents for the financing and carrying out of the Project may be let by the Company. Any financial liability of the Issuer hereunder is limited to proceeds of the Bonds, if and when the same are issued, and if the Bonds are not issued, or the amount of proceeds thereof to be applied to payments under any such contract are not sufficient to fulfill the Issuer's obligations under the contract, the Company is to be the only source of payment thereof. The Company shall pay amounts due thereunder to the extent not paid from proceeds of the Bonds. The Company will be responsible, as principal and not as agent for the Issuer, for the acquisition, construction and installation of the Project. The Company may expend its own funds to pay costs of the Project prior to the issuance of the Bonds and may advance funds to the Issuer for such purpose. Any such funds so advanced shall be kept by the Issuer in a separate bank account or accounts to be opened by it, or its designee, until expended, at the direction of the Company, to pay costs of the Project. If the Company elects to exercise its rights granted in this Section, it is understood and agreed that expenditures of funds by the Company and advances by the Company of funds to the Issuer in connection with the Project shall be at the entire risk of the Company, and in the event costs are incurred by the Company or incurred by the Issuer with funds advanced by the Company, reimbursement by the Issuer for such costs or advances can only be made from the proceeds of the Bonds if and when the Bonds are issued.

14. The Company is hereby informed that numerous procedural and substantive actions must be undertaken and completed in order to conclude this transaction in accordance with applicable state and federal laws, rules, and regulations. Further, if the Company elects to exercise its rights granted in Section 13, above, it is understood and agreed that expenditures of funds shall be at the entire risk of the Company, and in the event costs are incurred by the Company, reimbursement for such costs or expenses can only be made from the proceeds of the Bonds if and when the Bonds are issued.

15. The Issuer and the Company shall assist in the prompt preparation by Bond Counsel of the Bond Purchase Agreement, a PILOT agreement, the Basic Security Documents, any Indenture, any guaranty agreement and any related documents needed to carry out the transaction (collectively called the "**Transaction Documents**"). It is anticipated that at closing, the Transaction Documents shall apply to the entirety of the Project, and post-closing, upon or based upon subdivision of the Project by the Company into 2 or more separate portions and/or sub-portions, the separate portions and sub-portions of the Project may, upon the Company's request,

be evidenced by separate Transaction Documents and separate Bonds applicable to each portion and/or sub-portion, all in substantially the form of the Transaction Documents, and the Issuer agrees to enter into such separate portion and sub-portion documents upon the Company's request in order to facilitate the development of the Project.

16. Upon the issuance and delivery of the Bonds, the agreement resulting from the Company's acceptance of this agreement shall have no further effect, and in the event of any inconsistency between the terms of this agreement and the terms of Transaction Documents, the provisions of the Transaction Documents shall control.

17. (a) If for any reason the Bonds are not issued and delivered by the Issuer on or before October 1, 2026, then, unless extended by an agreement between the Issuer and the Company, the provisions of this agreement and the agreement resulting from its acceptance by the Company shall, at the option of any party to be evidenced in writing, be canceled, and no party shall have any rights against the other, and no third parties shall have any rights against any party, except:

- (1) The Issuer shall convey to the Company any portion of the Project that was theretofore acquired by the Issuer from the Company or with funds provided by the Company;
  - (2) The Company shall pay or reimburse the Issuer for all expenses which shall have been authorized by the Company and incurred by the Issuer with funds of the Issuer in connection with the planning, development, acquisition, equipping and carrying out and financing of the Project; and
  - (3) The Company shall assume and be responsible for all contracts entered into by the Issuer at the request or direction of the Company in connection with the Project and any contracts heretofore assigned by the Company to the Issuer in connection with the Project.
- (b) The Company shall pay or reimburse any out-of-pocket expenses of the members, directors, officers, and agents of the Issuer, the municipal advisor for the Issuer, counsel for the Issuer and Bond Counsel actually and reasonably incurred at the direction of the Company in connection with the Project and the proposed issuance of the Bonds through and including the date of such termination, and the Company shall pay counsel for the Issuer and Bond Counsel's reasonable fees for legal services incurred through and including the date of such termination, and shall pay the municipal advisor for the Issuer's reasonable fees for municipal advisor services related to the proposed issuance of the Bonds, and the Company shall be responsible for the fees and expenses of its own counsel, regardless of whether or not the Bonds are sold.
- (c) If for any reason the Issuer or its counsel has not received a duplicate original of this letter of intent and inducement agreement, with the acceptance hereof signed by the Company, by 5:00 o'clock p.m., Kennesaw, Georgia, time, on April 30, 2026, then this letter of intent and inducement agreement shall expire and the

Issuer shall have no obligation to the Company as a result of the resolution that authorized this letter of intent or under its proposed provisions.

18. The Company shall apply for, and use its best efforts to obtain, all permits, licenses, authorizations, and approvals required by all governmental authorities in connection with the planning, development, acquisition, construction, renovation, installation, equipping and carrying out and use of the Project.

19. In the event title to the Project is vested in the Company, the Company shall pay *ad valorem* taxes with respect to the Project, as above provided. In the event title to the Project is vested in the Issuer and the Project is rented to the Company, the Company shall, with respect to its occupancy interest in the Project, if legally required to do so, pay *ad valorem* taxes relating to the Project. The foregoing shall not preclude the Company from asserting a claim for *ad valorem* tax exemption to which it would otherwise be entitled under the laws of the State, as a fee simple owner (or as if the Company were a fee simple owner) of the Project or the site thereof. If the Company is renting the Project from the Issuer and is not legally required to pay *ad valorem* taxes thereon, in order that the appropriate taxing entities shall not be totally deprived of revenues that they would receive from the Project if the title thereto were held by the Company, the Issuer may require the Company to make payments in lieu of taxes, or payments equivalent thereto, pursuant to a PILOT Agreement, to the extent required herein. In no event will the payments in lieu of taxes, or payments equivalent thereto, required by the Issuer exceed the *ad valorem* taxes that would be owed if the Company were fee simple owner of the Project.

20. The Company agrees to pay the Issuer's normal financing fee of 1/8 of 1 percent of the total bond issuance, unless the Issuer agrees to waive or reduce such fee, as detailed in the Transaction Documents.

21. All rights and benefits of the Company under this agreement and the Issuer's resolution authorizing this agreement may be transferred and assigned by the Company, in whole or in part, with the written approval of the Issuer, which approval shall not unreasonably be withheld, conditioned or delayed, to any one or more individuals, corporations or other entities which propose to acquire the Project, in either case with the same effect as if such affiliate or such individuals, corporations or other entities were named as the "Company" in this agreement and the Issuer's resolution authorizing this agreement. Unless otherwise agreed in writing by the Issuer, the assignment of the Company's rights shall not release the Company from its obligations for costs and indemnification and following any such assignment, the Company and such assignee shall be jointly and severally liable for costs and indemnification hereunder.

22. The Company shall bear all costs incurred by the Issuer pursuant to this agreement resulting from the Company's acceptance of this agreement if the Bonds are not sold.

23. The Issuer's willingness to issue the Bonds and to enter into the agreement resulting from the Company's acceptance of this agreement is based on the Issuer's knowledge of the Company and the Project as of the date of this agreement. In the event materially adverse information about the Company (including any assignee of the Company's rights hereunder) should come to the attention of the Issuer prior to the issuance of the Bonds which was not available to the Issuer as of the date of this agreement and which, in the reasonable judgment of the Issuer,

makes it unwise to proceed with the issuance of the Bonds, the Issuer shall so advise the Company (or the Company and any assignee of the Company's rights hereunder) in writing, whereupon the agreement resulting from the Company's acceptance of this agreement shall, except for the Company's obligations to pay expenses and the Company's (and any assignee's) indemnity contained herein, terminate and be of no further force and effect.

24. At any time prior to the issuance and delivery of the Bonds, the Company (or any assignee of the Company's rights hereunder) may, at its option, and upon written notice to the Issuer, direct the Issuer not to issue the Bonds and terminate this agreement, provided that such termination shall not terminate the Company's or any such assignee's obligations that are stated in this agreement relating to the reimbursement of the Issuer for expenditures incurred by the Issuer, and shall not terminate the Company's or any such assignee's indemnification obligations that are stated in this agreement.

25. Nelson Mullins Riley and Scarborough, LLP (Earle Taylor) shall serve as Bond Counsel in connection with the issuance of the Bonds and Bentley Bentley and Bentley (Fred Bentley) shall serve as the Issuer's General Counsel; their reasonable fees and expenses are to be paid by the Company or from proceeds of the Bonds, such combined fees estimated to be (1) in the range of \$144,000 to \$162,000 if no trust indenture or security deed are used and (2) in the range of \$198,000 to \$216,000 if a trust indenture and security deed are used. Counsel to the Company in connection with the issuance of the Bonds shall be either another firm engaged at its expense or the Company's in-house counsel.

26. The Company's decision to carry out the Project in the City is based, in part, on certain incentives that may be provided by the Issuer in connection with the Rental Agreement and the issuance of the Bonds. Such incentives, if provided, would be provided to induce the Company to carry out the Project in the central business district of the City, with attendant job creation, and also investment on the part of the Company, and to contribute to the revitalization and redevelopment of the central business district of the City, all of which constitutes valuable, non-cash consideration to the Issuer and the citizens of the City and of the State. The Company acknowledges that any incentives provided for in connection with the Rental Agreement and the issuance of the Bonds serve a public purpose through the job creation, investment generation and contribution to the revitalization and redevelopment of the central business district of the City represented by the Project. The Company further acknowledges that the cost/benefit requirements applicable to the Issuer in the course of providing any such incentives dictate that some measure of recovery must be applied in the event that the anticipated jobs and investment do not for any reason fully materialize. Any such incentives to be provided by the Issuer shall be governed by the Transaction Documents. The Transaction Documents shall contain economic development goals and recovery provisions satisfactory to the Issuer, in its sole discretion, to be applied in the event such economic development goals do not for any reason fully materialize.

27. Notwithstanding anything else herein contained, the Company shall not be responsible for or obligated to pay or reimburse the Issuer, Bond Counsel, counsel to the Issuer or any other party or entity pursuant to this Agreement for any fees or other amounts unless and until it shall have (a) obtained reasonable assurances regarding the availability, type and amount of the incentives being provided with respect to the Project and (b) reviewed and approved the PILOT Agreement or any other similar agreement detailing such incentives.

If the foregoing proposal is satisfactory to the Company, you may so indicate by executing this agreement as a duly authorized representative of the Company and by returning a copy to the Issuer. By so executing this agreement, you shall be deemed to have represented that your execution hereof has been duly authorized by the Company and that this agreement is binding upon the Company.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

This agreement and your acceptance will then constitute an agreement in principle with respect to the matters herein contained as of the date set forth above between the Issuer and the Company.

Yours very truly,

**KENNESAW DOWNTOWN DEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

[SE



**ACCEPTANCE OF PROPOSAL OF THE  
KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY**

The terms and conditions contained in the foregoing proposal of the Kennesaw Downtown Development Authority are hereby accepted this \_\_\_\_ day of March, 2026.

**LAZY GUY BRANDS, INC.**, a Georgia  
domestic profit coporation.

\_\_\_\_\_(SEAL)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SECRETARY’S CERTIFICATE**

The undersigned, being the duly appointed, qualified, and acting Secretary of the Kennesaw Downtown Development Authority (the “**Issuer**”), **DOES HEREBY CERTIFY** that the foregoing pages of typewritten matter constitute a true and correct copy of the resolution adopted on March 20, 2026, by the Board of Directors of the Issuer in a meeting duly called and assembled, after due and reasonable public notice was given in accordance with the procedures of the Issuer and with the applicable provisions of law, which was open to the public and at which a quorum was present and acting throughout, and that the original of such resolution appears of public record in the minute book of the Issuer, which is in my custody and control.

I do hereby further certify that all members of the Issuer were present at said meeting except the following members who were absent:

\_\_\_\_\_

and that the Resolution was duly adopted by the following vote:

The following voted “Aye”: \_\_\_\_\_  
\_\_\_\_\_;

The following voted “Nay”: \_\_\_\_\_  
\_\_\_\_\_;

The following Did Not Vote: \_\_\_\_\_  
\_\_\_\_\_.

Given under my hand and the seal of the Kennesaw Downtown Development Authority this 20<sup>th</sup> day of March, 2026.

\_\_\_\_\_  
Secretary

[SEAL]

**EXHIBIT A**  
Abatement Schedule

Year	Real Property Assessed Value	Property Taxes (Before Abatement Savings)	Abatement %	Abated Property Taxes	PILOT Payments Due	Net Abated Savings
1	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
2	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
3	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
4	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
5	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
6	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
7	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
8	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
9	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
10	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
11	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
12	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
13	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
14	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
15	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
16	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
17	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
18	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
19	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
20	\$ 1,280,000.00	\$ 51,008.00	100.00%	\$ 51,008.00	\$ 2,500.00	\$ 48,508.00
<b>TOTAL</b>		<b>\$ 1,020,160.00</b>		<b>\$ 1,020,160.00</b>	<b>\$ 50,000.00</b>	<b>\$ 970,160.00</b>